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LEGISLATIVE ASSEMBLY

OF ONTARIO

**FIRST SESSION
THIRTY-FIFTH PARLIAMENT**

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

SESSION

**November 19, 1990 to December 20, 1990
March 18, 1991 to June 27, 1991
September 23, 1991 to December 19, 1991**

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Bill 1

An Act to amend the Retail Sales Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading November 20th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

GENERAL. The Bill implements the Government's policy not to have purchasers pay retail sales tax on top of the proposed Goods and Services Tax as well as the proposals contained in the Budget of April 24th, 1990. It also contains administrative amendments required to parallel similar provisions on the proposed Goods and Services Tax legislation.

SECTION 1. The amendment to paragraph 4 of section 1 of the Act ensures that the proposed Goods and Services Tax will be excluded from the calculation of the fair value on which retail sales tax is payable.

SECTION 2. The amendments in this section and sections 9, 10 and 14 are made for administrative purposes to parallel similar provisions in the proposed Goods and Services Tax legislation.

Subsection 1. This provision increases the time within which an application for refund of tax paid in error by a purchaser under the Act may be made from three years to four years from the date of payment.

Subsection 2. This amendment is consequential to the one provided in subsection (1).

Subsection 3. This provision increases the time within which a vendor can make a refund of tax to a purchaser from three years to four years from the date of the sale transaction.

SECTION 3. This amendment repeals section 2a of the Act which authorizes the Minister to pay a rebate of tax paid on tangible personal property purchased in Ontario and taken outside the province for permanent use outside Ontario, and a rebate of tax paid on transient accommodation by a person not resident in Ontario.

Subsection 15 (2) of the Bill will amend subsection 45 (3) of the Act to enable the Minister to make regulations providing for both types of rebates. The provision of these tourist rebates by regulation will provide the Minister with flexibility in prescribing terms and conditions of rebates similar to those provided for rebates to be made under the proposed Goods and Services Tax legislation.

SECTION 4.—Subsection 1. This amendment removes the restriction that the tire tax imposed under subsection 2b (1) of the Act in respect to rentals of tangible personal property to which the tire is attached or in connection with which the tire is supplied is only payable where rentals of tangible personal property have been made for a term of seven days or more.

Subsection 2. This amendment will provide authority to the Minister to prescribe by regulation an apportionment of the tire tax payable under subsection 2b (1) of the Act amongst all purchasers who lease for a period of less than thirty days the tangible personal property that a new pneumatic tire has been attached to or in connection with which the tire has been supplied.

SECTION 5. This amendment removes the requirement for the tax exemption available to manufacturers or producers of tangible personal property under paragraph 45 of subsection 5 (1) of the Act that the production machinery or equipment be described in Part XIII of Schedule III to the *Excise Tax Act* (Canada). That Schedule provides a listing of the specific types of production machinery or equipment currently exempt from federal sales tax. With the removal of the federal sales tax and its replacement by a goods and services tax, the reference in the *Retail Sales Tax Act* to the Schedule in the federal statute will be removed.

The amendment also enables the Minister to prescribe by regulation the types of machinery, equipment and processing

materials that can be purchased tax exempt under paragraph 45 of subsection 5 (1) of the Act.

SECTION 6. This amendment, effective the 1st day of April, 1991, will increase the compensation afforded to vendors for collecting and remitting the tax due under the Act from 4 per cent of the tax collected in the twelve-month period with a maximum of \$1,000 per annum to 5 per cent of the tax collected with a maximum of \$1,500 per annum. The maximum compensation for the 1990-91 year is increased by \$100 to a maximum of \$1,100 payable in 1991.

SECTION 7. This amendment clarifies that every vendor of taxable services is required to keep, in addition to records of all purchases and sales of tangible personal property, records of all purchases and sales of taxable services made by that vendor, whether for consumption or use or for resale.

SECTION 8. This re-enactment of section 15 of the Act brings the provisions governing confidentiality of taxpayer information into line with the current provisions of other taxing statutes administered by the Minister of Revenue. The amendment creates an offence for breaching the confidentiality section which provides for a maximum court fine upon conviction of \$2,000.

SECTION 9. This amendment increases the time within which the Minister can assess the tax payable by a purchaser from three years to four years from the date the tax becomes payable.

SECTION 10. This amendment increases the time within which the Minister can assess a penalty against a vendor for non-collection of tax from three years to four years from the date the tax should have been collected.

SECTION 11. This re-enactment of section 32 of the Act provides for the compounding of interest daily or as otherwise prescribed by the Minister on all amounts owing under the Act. This amendment will parallel a similar provision in the proposed Goods and Services Tax legislation.

SECTION 12. This re-enactment of section 33 of the Act provides for the compounding of interest daily or as otherwise prescribed by the Minister on all overpayments made by a vendor or purchaser under the Act. This amendment will also parallel a similar provision in the proposed Goods and Services Tax legislation.

SECTION 13. This amendment provides for the joint and several liability of directors of a corporation for amounts owing and unpaid by the corporation under the Act.

The amendment is parallel to the proposed Goods and Services Tax legislation.

SECTION 14. This amendment increases from three to four years the period which the Minister can consider for the purposes of issuing a certificate of the amount of tax not collected for use in a prosecution under subsection 41 (2) of the Act.

SECTION 15.—Subsection 1. This amendment provides a specific authority for the Lieutenant Governor in Council to make a regulation prescribing circumstances and situations in which no tax is payable upon a transfer of tangible personal property between related persons.

Subsection 2. This amendment authorizes the Minister to make regulations providing for,

- (a) a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made; and
- (b) a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of

Ontario and prescribing the terms and conditions under which the rebate may be made.

SECTION 16. The amendments in sections 4, 7 and 8 and subsection 15 (1) of the Bill relate to tire tax, record keeping, confidentiality and transfers between related persons.

The amendments in the sections of the Bill listed in subsection 16 (2) relate to the proposed Goods and Services Tax. The intent is that these sections will not come into force until the Goods and Services Tax becomes law in Canada, but upon that happening the listed sections will be effective as of the 1st day of January, 1991.



An Act to amend the Retail Sales Tax Act

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

1. Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1 and amended by 1989, chapter 38, section 1, is repealed and the following substituted:

(ba) the tax imposed pursuant to any provision of the *Excise Tax Act* (Canada), except the tax imposed by Part IX of that Act, or the *Excise Act* (Canada) in respect of the tangible personal property or the taxable service or the sale or acquisition of either of them.

2.—(1) Subsection 2 (9) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1 and 1983, chapter 27, section 2, is repealed and the following substituted:

(9) An amount paid under this Act as tax that is not payable as tax and that was not paid to discharge liability under an assessment made under this Act shall be refunded if application for the refund is made to the Minister within four years after the date of payment of the amount.

(9a) Only one application may be made under subsection (9) in respect of the same amount.

(9b) If the amount that is the subject of an application under subsection (9) was paid in the course of performing a contract and was repaid by another party to the contract, the amount may be refunded to the other party.

(2) Subsection 2 (11) of the Act is amended by striking out “three” in the first line, in the eighth line and in the ninth line and substituting in each instance “four”.

(3) Subsection 2 (12) of the Act is amended by striking out “three” in the fifth line and substituting “four”.

3. Section 2a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 1, section 2, is repealed.

4.—(1) Subclause 2b (3) (b) (ii) of the Act, as enacted by the Statutes of Ontario,

1989, chapter 38, section 3, is amended by striking out “for a term of at least seven days” in the first and second lines.

(2) Subsection 2b (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 38, section 3, is amended by adding the following clause:

(d) despite clause (b), where the tangible personal property referred to in subclause (b) (ii) is ordinarily leased to different purchasers, each of whom will lease the tangible personal property for a period of less than thirty days, the tax imposed under subsection 2b (1) shall be apportioned among all purchasers who lease the tangible personal property during the period that a new pneumatic tire is attached thereto or in connection with which the tire has been supplied, in such manner as may be prescribed by the Minister.

5. Paragraph 45 of subsection 5 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 27, section 4, is repealed and the following substituted:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by the manufacturer or producer of either,

(a) goods for manufacture or production by the manufacturer or producer or for the manufacture or production of others, or

(b) manufacturing or production processes for use by the manufacturer or producer or the use of others,

if the machinery, equipment or processing materials are prescribed by the Minister, but the exemption conferred by this paragraph does not apply to any machinery or equipment used in any manner, process, industry, enter-

Application
for refund

Limitation

Refund to
contracting
party

prise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

6.—(1) Subsection 12 (1) of the Act is repealed and the following substituted:

Compensation to vendors

(1) For each twelve-month period during which tax is collected commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3, the lesser of,

- (a) \$1,500; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,
 - (ii) \$20 for each return with respect to tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and
 - (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct the compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

(2) Section 12 of the Act is amended by adding the following subsection:

Transitional

(1a) There may be paid to each vendor holding a valid and subsisting permit issued under section 3 for the twelve-month period during which tax was collected commencing on the 1st day of April, 1990 and ending on the 31st day of March, 1991, the lesser of,

- (a) \$1,100; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

- (ii) \$20 for each return with respect to the tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and
- (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

7. Subsection 14 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is repealed and the following substituted:

(2) Every vendor of taxable services shall keep records of all purchases and sales made by the vendor of tangible personal property, and records of all purchases and sales made by the vendor of taxable services, whether for consumption, use or resale, and any failure to do so constitutes an offence under this Act.

Records of vendors of taxable services

8. Section 15 of the Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 8, is repealed and the following substituted:

15.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

Confidentiality

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

Testimony

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Idem

(7) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to,

- (a) the person from whom the information, record or thing was obtained; or
- (b) any person,
 - (i) for the purpose of an objection or appeal that has been or may be taken by the person under this Act arising out of an assessment of tax under this Act in connection with which the information, record or thing was obtained, or
 - (ii) by whom an amount payable under this Act is payable or has been paid; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Tax policy

(9) The Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

Offence

(10) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

9. Subsection 16 (3) of the Act is amended by striking out "three" in the second line and substituting "four".

10. Subsection 17 (4) of the Act is amended by striking out "three" in the third line and in the twelfth line and substituting in each instance "four".

11. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 11, is repealed and the following substituted:

Interest

32.—(1) If on a particular date a debt as calculated under subsection (2) is payable by any person, the person shall be charged interest payable to the Treasurer at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister.

Calculation

(2) The amount of the debt payable by a person under this Act at a particular date is the amount by which,

- (a) the aggregate of,
 - (i) all tax under this Act collectable by the person as a vendor or payable by the person as a purchaser before that date,

- (ii) all amounts or penalties or both assessed under this Act against the person at any time before that date, and
- (iii) the total of all amounts of interest charged under this section against the person in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

- (i) the amount of all taxes remitted or paid by the person under this Act prior to that date, and
- (ii) the total of all amounts of interest credited to the person in respect of a period of time ending before that date.

Compounding

(3) The interest under subsection (1) shall be computed and compounded daily or as otherwise prescribed by the Minister to the date on which it is paid.

12. Section 33 of the Act, as amended by the Statutes of Ontario, 1986, chapter 1, section 11, is repealed and the following substituted:

Overpayment

33. If an amount in respect of an overpayment is refunded or applied on other liability or if by a decision of the Minister under section 22 or by a decision of a court, it is finally determined that the tax payable under this Act is less than the amount assessed in a notice of assessment under section 16, 16a or 17 to which objection was made or from which appeal was taken and the decision makes it appear that there has been an overpayment of tax, interest at the rate prescribed, computed and compounded daily, or as otherwise prescribed by the Minister, shall be paid or applied from the date the overpayment arose to the date of refund or application on other liability, unless the amount of interest is less than \$1, in which case no interest shall be paid or applied under this section.

13. The Act is amended by adding the following section:

Directors

40a.—(1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

(a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 35 (1) (b) and directed to the sheriff of the county or district in which any property of the corporation is located or situate and the warrant has been returned by the sheriff unsatisfied in whole or in part;

(b) the corporation has commenced liquidation or dissolution proceedings, or has been dissolved, or has lost control or possession of its property in proceedings described in subsection 20 (2), the amount of the corporation's liability described under subsection (1) has been proven or, in respect of proceedings described in subsection 20 (2), a claim for the amount has been made within six months after the earlier of the date of the commencement of the proceedings and the date of dissolution, or in the case of proceedings described in subsection 20 (2), the date when the remaining property of the corporation has been realized and the proceeds distributed; or

(c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

(3) A director of a corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Prudent director

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require.

Assessment

(5) Any assessment under subsection (4) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation.

Time limit

(6) Where execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Execution

(7) Where a director of a corporation pays an amount in respect of a corporation's lia-

Idem

bility described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings or in respect of which a claim has been made in proceedings described in subsection 20 (2), the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had the amount not been so paid and, where a warrant of execution has been issued and directed to the sheriff of the county or district in which any property of the corporation is located or situate, the director is entitled to an assignment of the warrant of execution to the extent of the director's payment, and the Minister is empowered to make the assignment.

(8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and any liability for tax payable by the corporation under section 2 including any penalty and interest relating thereto.

14. Subsection 41 (3) of the Act is amended by striking out "three" in the sixth line and substituting "four".

15.—(1) Subsection 45 (2) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, 1983, chapter 27, section 16 and 1986, chapter 1, section 13, is further amended by adding the following clause:

- (l) prescribing circumstances or situations in which no tax is payable upon a transfer of tangible personal property between related persons.

(2) Subsection 45 (3) of the Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16, 1986, chapter 66, section 12 and 1989, chapter 38, section 7, is further amended by adding the following clauses:

- (o) providing for a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made;
- (p) providing for a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of Ontario and prescribing the terms and conditions under which the rebate or partial rebate may be made.

16.—(1) Except as provided in subsection (2), this Act comes into force on the day it receives Royal Assent.

Commencement

(2) Sections 1, 2, 3, 5, 6, 9, 10, 11, 12, 13 and 14 and subsection 15 (2),

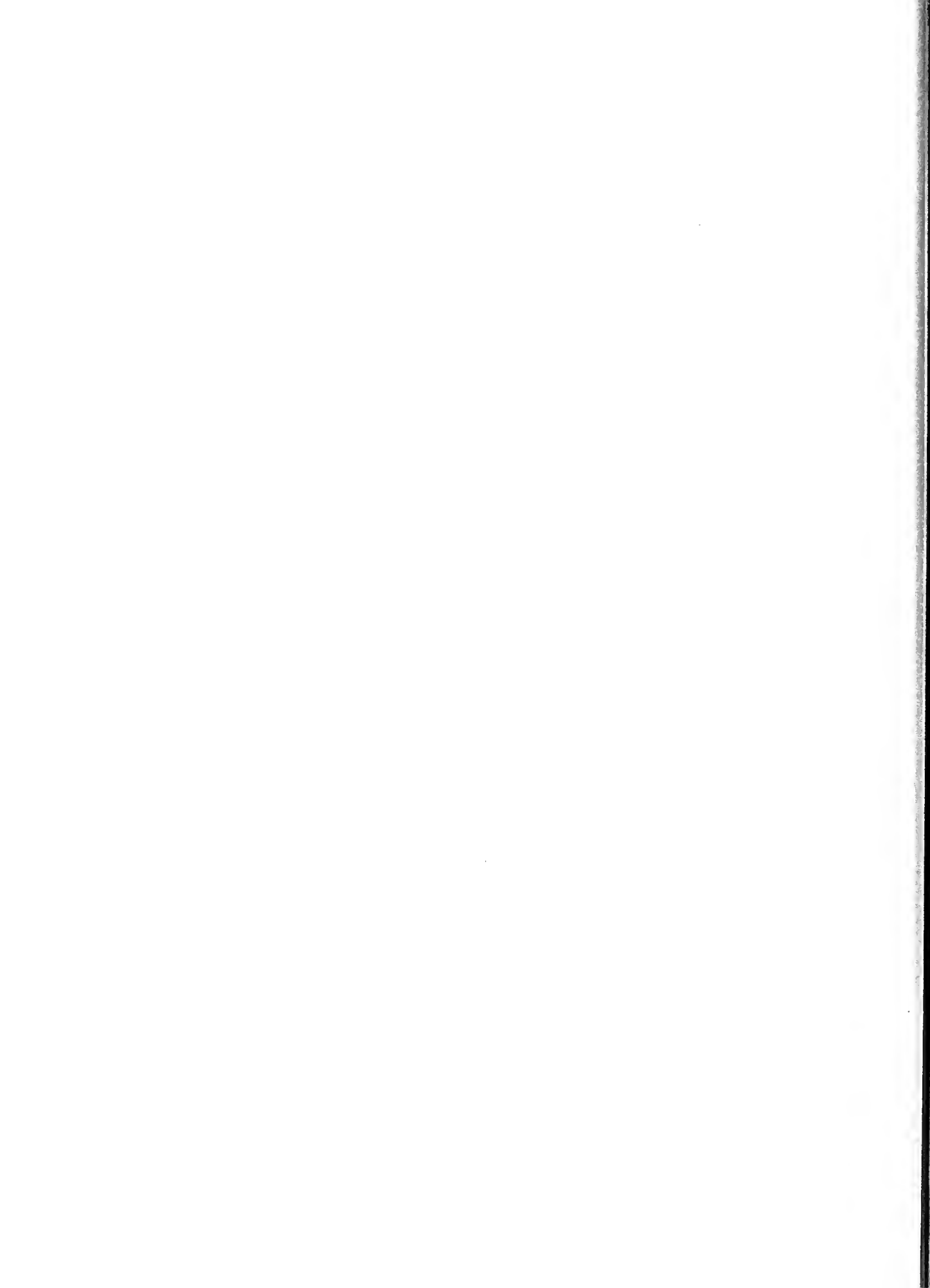
Commencement and application

- (a) come into force on the day Bill C-62 (an Act to amend the *Excise Tax Act* (Canada) and certain other Acts) passed on the 10th day of April, 1990 by the House of Commons of Canada receives Royal Assent; and
- (b) apply in respect of sales made or prices of admission paid, or both, on or after the 1st day of January, 1991.

17. The short title of this Act is the *Retail Sales Tax Amendment Act, 1990*.

Short title

Allocation by Minister



Bill 1

*(Chapter 20
Statutes of Ontario, 1990)*

An Act to amend the Retail Sales Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading	November 20th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Retail Sales Tax Act

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

1. Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1 and amended by 1989, chapter 38, section 1, is repealed and the following substituted:

(ba) the tax imposed pursuant to any provision of the *Excise Tax Act* (Canada), except the tax imposed by Part IX of that Act, or the *Excise Act* (Canada) in respect of the tangible personal property or the taxable service or the sale or acquisition of either of them.

2.—(1) Subsection 2 (9) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1 and 1983, chapter 27, section 2, is repealed and the following substituted:

(9) An amount paid under this Act as tax that is not payable as tax and that was not paid to discharge liability under an assessment made under this Act shall be refunded if application for the refund is made to the Minister within four years after the date of payment of the amount.

(9a) Only one application may be made under subsection (9) in respect of the same amount.

(9b) If the amount that is the subject of an application under subsection (9) was paid in the course of performing a contract and was repaid by another party to the contract, the amount may be refunded to the other party.

(2) Subsection 2 (11) of the Act is amended by striking out “three” in the first line, in the eighth line and in the ninth line and substituting in each instance “four”.

(3) Subsection 2 (12) of the Act is amended by striking out “three” in the fifth line and substituting “four”.

3. Section 2a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 1, section 2, is repealed.

4.—(1) Subclause 2b (3) (b) (ii) of the Act, as enacted by the Statutes of Ontario,

1989, chapter 38, section 3, is amended by striking out “for a term of at least seven days” in the first and second lines.

(2) Subsection 2b (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 38, section 3, is amended by adding the following clause:

(d) despite clause (b), where the tangible personal property referred to in subclause (b) (ii) is ordinarily leased to different purchasers, each of whom will lease the tangible personal property for a period of less than thirty days, the tax imposed under subsection 2b (1) shall be apportioned among all purchasers who lease the tangible personal property during the period that a new pneumatic tire is attached thereto or in connection with which the tire has been supplied, in such manner as may be prescribed by the Minister.

5. Paragraph 45 of subsection 5 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 27, section 4, is repealed and the following substituted:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by the manufacturer or producer of either,

(a) goods for manufacture or production by the manufacturer or producer or for the manufacture or production of others, or

(b) manufacturing or production processes for use by the manufacturer or producer or the use of others,

if the machinery, equipment or processing materials are prescribed by the Minister, but the exemption conferred by this paragraph does not apply to any machinery or equipment used in any manner, process, industry, enter-

Application for refund

Limitation

Refund to contracting party

prise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

6.—(1) Subsection 12 (1) of the Act is repealed and the following substituted:

(1) For each twelve-month period during which tax is collected commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3, the lesser of,

- (a) \$1,500; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,
 - (ii) \$20 for each return with respect to tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and
 - (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct the compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

(2) Section 12 of the Act is amended by adding the following subsection:

(1a) There may be paid to each vendor holding a valid and subsisting permit issued under section 3 for the twelve-month period during which tax was collected commencing on the 1st day of April, 1990 and ending on the 31st day of March, 1991, the lesser of,

- (a) \$1,100; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

(ii) \$20 for each return with respect to the tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and

(iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

7. Subsection 14 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is repealed and the following substituted:

(2) Every vendor of taxable services shall keep records of all purchases and sales made by the vendor of tangible personal property, and records of all purchases and sales made by the vendor of taxable services, whether for consumption, use or resale, and any failure to do so constitutes an offence under this Act.

8. Section 15 of the Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 8, is repealed and the following substituted:

15.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Compensation to vendors

Transitional

Records of vendors of taxable services

Confidentiality

Testimony

Exception

(3) Subsections (1) and (2) do not apply in respect of,

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act.

Communi-
cation

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Reciprocal
communi-
cation

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of
information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Idem

(7) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to,

- (a) the person from whom the information, record or thing was obtained; or
- (b) any person,
 - (i) for the purpose of an objection or appeal that has been or may be taken by the person under this Act arising out of an assessment of tax under this Act in connection with which the information, record or thing was obtained, or
 - (ii) by whom an amount payable under this Act is payable or has been paid; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

(8) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

(9) The Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

(10) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

9. Subsection 16 (3) of the Act is amended by striking out "three" in the second line and substituting "four".

10. Subsection 17 (4) of the Act is amended by striking out "three" in the third line and in the twelfth line and substituting in each instance "four".

11. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 11, is repealed and the following substituted:

32.—(1) If on a particular date a debt as calculated under subsection (2) is payable by any person, the person shall be charged interest payable to the Treasurer at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister.

(2) The amount of the debt payable by a person under this Act at a particular date is the amount by which,

- (a) the aggregate of,
 - (i) all tax under this Act collectable by the person as a vendor or payable by the person as a purchaser before that date,

- (ii) all amounts or penalties or both assessed under this Act against the person at any time before that date, and
- (iii) the total of all amounts of interest charged under this section against the person in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

- (i) the amount of all taxes remitted or paid by the person under this Act prior to that date, and
- (ii) the total of all amounts of interest credited to the person in respect of a period of time ending before that date.

Compounding (3) The interest under subsection (1) shall be computed and compounded daily or as otherwise prescribed by the Minister to the date on which it is paid.

12. Section 33 of the Act, as amended by the Statutes of Ontario, 1986, chapter 1, section 11, is repealed and the following substituted:

Overpayment **33.** If an amount in respect of an overpayment is refunded or applied on other liability or if by a decision of the Minister under section 22 or by a decision of a court, it is finally determined that the tax payable under this Act is less than the amount assessed in a notice of assessment under section 16, 16a or 17 to which objection was made or from which appeal was taken and the decision makes it appear that there has been an overpayment of tax, interest at the rate prescribed, computed and compounded daily, or as otherwise prescribed by the Minister, shall be paid or applied from the date the overpayment arose to the date of refund or application on other liability, unless the amount of interest is less than \$1, in which case no interest shall be paid or applied under this section.

13. The Act is amended by adding the following section:

Directors **40a.**—(1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts.

Exception (2) A director of a corporation is not liable under subsection (1) unless,

(a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 35 (1) (b) and directed to the sheriff of the county or district in which any property of the corporation is located or situate and the warrant has been returned by the sheriff unsatisfied in whole or in part;

(b) the corporation has commenced liquidation or dissolution proceedings, or has been dissolved, or has lost control or possession of its property in proceedings described in subsection 20 (2), the amount of the corporation's liability described under subsection (1) has been proven or, in respect of proceedings described in subsection 20 (2), a claim for the amount has been made within six months after the earlier of the date of the commencement of the proceedings and the date of dissolution, or in the case of proceedings described in subsection 20 (2), the date when the remaining property of the corporation has been realized and the proceeds distributed;

(c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

(3) A director of a corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Prudent director

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require.

Assessment

(5) Any assessment under subsection (4) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation.

Time limit

(6) Where execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Execution

(7) Where a director of a corporation pays an amount in respect of a corporation's lia-

Idem

bility described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings or in respect of which a claim has been made in proceedings described in subsection 20 (2), the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had the amount not been so paid and, where a warrant of execution has been issued and directed to the sheriff of the county or district in which any property of the corporation is located or situate, the director is entitled to an assignment of the warrant of execution to the extent of the director's payment, and the Minister is empowered to make the assignment.

(8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and any liability for tax payable by the corporation under section 2 including any penalty and interest relating thereto.

14. Subsection 41 (3) of the Act is amended by striking out "three" in the sixth line and substituting "four".

15.—(1) Subsection 45 (2) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, 1983, chapter 27, section 16 and 1986, chapter 1, section 13, is further amended by adding the following clause:

- (l) prescribing circumstances or situations in which no tax is payable upon a transfer of tangible personal property between related persons.

(2) Subsection 45 (3) of the Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16, 1986, chapter 66, section 12 and 1989, chapter 38, section 7, is further amended by adding the following clauses:

- (o) providing for a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made;
- (p) providing for a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of Ontario and prescribing the terms and conditions under which the rebate or partial rebate may be made.

16.—(1) Except as provided in subsection (2), this Act comes into force on the day it receives Royal Assent.

Commencement

(2) Sections 1, 2, 3, 5, 6, 9, 10, 11, 12, 13 and 14 and subsection 15 (2),

Commencement and application

- (a) come into force on the day Bill C-62 (an Act to amend the *Excise Tax Act* (Canada) and certain other Acts) passed on the 10th day of April, 1990 by the House of Commons of Canada receives Royal Assent; and
- (b) apply in respect of sales made or prices of admission paid, or both, on or after the 1st day of January, 1991.

17. The short title of this Act is the *Retail Sales Tax Amendment Act, 1990*.

Short title

Bill 2

**An Act to amend the
Regional Municipality of Ottawa-Carleton Act and
the Municipal Elections Act respecting the
Election of the Chairman of the Regional Council**

Mr. Chiarelli

1st Reading November 21st, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for the election of the chairman of the Regional Council of The Regional Municipality of Ottawa-Carleton by direct vote of the electors in the regional municipality.

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act respecting the Election of the Chairman of the Regional Council

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

1. Subsections 4 (2), (3) and (4) of the Regional Municipality of Ottawa-Carleton Act are repealed.

2. The Act is amended by adding the following sections:

4a.—(1) The chairman shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

(2) A person is qualified to hold office as chairman if he or she is entitled to be an elector in the regular election and is not disqualified to hold the office by this or any other Act.

(3) The clerk of the area municipality having the greatest number of electors is the returning officer for the election.

(4) Nominations for the office of chairman shall be filed with the clerk of the area municipality having the greatest number of electors, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of the area municipality having the greatest number of electors, who shall prepare the final summary and certify it under the seal of the area municipality to the clerk of the Regional Council.

(6) The clerk of the Regional Corporation shall announce the vote.

(7) The Regional Corporation shall reimburse the area municipalities for the costs incurred by them in relation to the election of the chairman.

(8) The Lieutenant Governor in Council may by regulation prescribe procedures and forms respecting the election of the chairman.

4b.—(1) Parts II and III of the Municipal Elections Act apply to an election under section 4a as though the candidates were candidates in an election for the office of head of council of the area municipality having the greatest number of electors.

(2) The clerk of the Regional Corporation shall make a copy of Parts II and III of the Municipal Elections Act available for inspection by the public at the clerk's office.

(3) The Regional Corporation may pass a by-law providing for lower limits on the campaign expenses that candidates for the office of chairman may incur and the contributions that any individual, corporation or trade union may make to candidates than are set out in the Municipal Elections Act.

(4) If a by-law is passed under subsection (3), the provisions of the Municipal Elections Act respecting campaign expenses and contributions to candidates shall be applied as if the lower limits set out in the by-law were specified in that Act.

3. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chairman, sections 45, 46 and 47 of the Municipal Act apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor.

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member's seat thereby becomes vacant.

4.—(1) Clause 2 (a) of the Municipal Elections Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is

Regulations

Application

Idem

Regional Corporation may pass by-laws

Idem

Vacancy in office of chairman

Vacancy filled by member of council of area municipality

Election of chairman

Qualifications of chairman

Returning officer

Nominations

Results of vote

Announcement of results

Costs of election

further amended by adding the following subclause:

(vi) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by striking out "or" in subclause (v), by adding "or" at the end of subclause (vi) and by adding the following subclause:

(vii) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

2b. In The Regional Municipality of Ottawa-Carleton, the elector is enti-

pled to vote once only for one candidate for chairman of the Regional Council.

(4) Section 49 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 10, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is further amended by adding the following subsection:

(1b) Notwithstanding subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in The Regional Municipality of Ottawa-Carleton shall not vote in more than one of the polling subdivisions in an election for the office of chairman of the Regional Council.

One vote for chairman of regional council

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

Commencement

6. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1990.*

Short title

Bill 3

An Act to provide for the Protection of Financial Consumers

Mr. Chiarelli

1st Reading November 22nd, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The purpose of the Bill is to provide greater protection than now exists for consumers who receive advice from financial planners or who invest in certain financial products offered by or through financial planners, agents and suppliers.

The Bill imposes a number of duties on financial planners, agents and suppliers, including a duty to provide suitable advice or a suitable product in light of certain information provided by a consumer, a duty to make certain disclosures and provide certain information to a consumer and a duty to use plain language in certain documents provided to a consumer. Certain business practices are prohibited, as are uses of financial information provided by a consumer that are not authorized by the consumer.

The Bill also provides that consumers have certain responsibilities, and states that the failure of a consumer to fulfil a responsibility, as well as the failure of a financial planner, agent or supplier to carry out a duty, may be taken into account in a claim for damages under this Act. The consumer and the financial planner, agent or supplier must attempt to resolve such claims between themselves, but if they are unable to do so, the claim may be arbitrated or the consumer may instead apply to court to recover damages. Consumer organizations are also given authority to start court proceedings.

Financial planners must be licensed under the Bill, which also authorizes the making of regulations respecting a licensing scheme. Authority is also given to make regulations allowing consumers to cancel agreements for the purchase of certain financial products within a specified period.

The Bill provides for the appointment of a Director and investigators to administer and enforce its provisions and sets out certain investigatory powers, as well as authorizing the establishment of regulatory boards. The Director may issue compliance orders against a financial planner, agent or supplier or may apply to court for such order against a financial planner, agent or supplier as the court considers appropriate; the Director may also apply to the court for an order preventing dispersal of or dealing with the assets of a financial planner, agent or supplier. The Bill creates certain offences involving contraventions of its provisions.

An Act to provide for the Protection of Financial Consumers

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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:

Definitions

- 1.** In this Act,
- “agent” means a person who sells or offers to sell to consumers named financial products not of that person’s own issue;
- “commission” means compensation, reward or benefit, but does not include salary;
- “consumer” means an individual;
- “Director” means the individual appointed as the Director under this Act;
- “financial planner” means any person who offers financial planning services to consumers;
- “financial planning” means preparing a plan to manage a consumer’s financial affairs in whole or in part by reviewing, analyzing or organizing personal financial information, if done for the direct or indirect financial benefit of the person who prepared the plan or that of the person’s employer or principal;
- “Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;
- “mutual fund unit” means a security that entitles the holder to receive, on demand or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the security;
- “named financial product” means,
- life insurance as defined in the *Insurance Act*, except life insurance that does not provide for a cash surrender value,
 - an account on which interest is payable on cash balances by a government savings office, credit union, trust corporation, bank or securities dealer,
 - an investment, commonly known as an “investment certificate”, “guaranteed investment certificate” or “term deposit”, on which a specified rate of interest is paid or guaranteed,
 - an investment or proposed investment in a mortgage made through a financial planner,
 - shares, bonds or other securities of a similar nature, or
 - any other investment designated as a named financial product in the regulations;

“regulations” means the regulations made under this Act;

“supplier” means a person who sells or offers to sell to consumers named financial products of that person’s own issue, and includes the employees of a supplier.

PART I

PURPOSE AND APPLICATION

- 2.** The purposes of this Act are,
- to require suppliers, agents and financial planners to disclose to consumers important information about named financial products;
 - to inform consumers that they have responsibilities as well as rights when they invest in named financial products;
 - to set standards for financial planners;
 - to make remedies available so that disputes about named financial products can be resolved efficiently and effectively; and
 - to encourage the use of readily understandable language in the financial marketplace.
- 3.**—(1) This Act and the regulations apply to,
- advice that is given to a consumer by an agent, financial planner or supplier in relation to a named financial product if the advice is given in Ontario or if the financial planner is a resident of Ontario; and
 - a purchase of or investment in a named financial product by a consumer if the purchase or investment is made in Ontario or if the agent or supplier from, through or with whom the consumer made the purchase or investment is a resident of Ontario.
- (2) The provisions of this Act and the regulations applicable to agents, suppliers and financial planners, respectively, apply to a person acting in the capacity of an agent, supplier or financial planner, as the case may be, even though the person may act in more than one capacity.
- (3) A person who practises as a barrister and solicitor or a public accountant and who does financial planning as an ancillary service shall not be considered to be a financial planner for purposes of this Act and the regulations.
- 4.** If there is a conflict between this Act and any other Act, this Act prevails to the extent of the conflict.

Purposes of Act

Application

Idem

Exception

This Act prevail

5.—(1) No person may waive a requirement of this Act or the regulations.

(2) Any attempt to waive a requirement of this Act or the regulations is invalid.

6.—(1) The failure of one person to comply with this Act or the regulations does not excuse any other person from complying with it.

(2) The failure of a person to comply with this Act or the regulations does not in itself invalidate a transaction involving a named financial product in which that person participated.

7. Nothing in this Act or the regulations shall be interpreted to limit any right or remedy a consumer may have under any other law.

PART II

RESPONSIBILITIES OF CONSUMERS

8. A consumer has the responsibility to do the following things before investing in a named financial product:

- 1. Provide to any agent, financial planner or supplier who gives the consumer advice about the product any information that the consumer knows or ought reasonably to know might have an effect on the advice that the agent, financial planner or supplier would give.
- 2. Become reasonably well-informed about the product.
- 3. Obtain and review information about the product.
- 4. Make a sensible decision about investing in the product.

9. If a consumer suffers a loss as a result of investing in a named financial product and believes that the loss was caused by a contravention of this Act or the regulations by an agent, financial planner or supplier, the consumer shall promptly try to minimize the loss and to come to an agreement with the agent, financial planner or supplier about who is responsible for the loss.

10. Failure by a consumer to fulfil the responsibilities referred to in this Part may be considered in assessing or apportioning the consumer's damages in claims for loss under this Act.

PART III

DUTIES OF AGENTS, FINANCIAL PLANNERS AND SUPPLIERS

11. An agent, supplier or financial planner who is giving advice to a consumer about a named financial product or who is selling a named financial product shall give advice or sell a product that is suitable in light of any information provided by the consumer about why he or she needs advice or about what he or she hopes to achieve by purchasing or investing in a financial product.

Duty to provide suitable advice or product

12.—(1) Before a financial planner gives advice to a consumer, the financial planner shall advise the consumer,

Duty of financial planner before giving advice

- (a) whether the financial planner receives a commission for giving advice about or bringing about an investment by the consumer in a named financial product or any other financial product;
- (b) whether there is anything in the relationship that the financial planner has with an agent, a supplier or any other financial planner that could cause a conflict of interest in the financial planner's dealings with the consumer; and
- (c) of any other information prescribed by regulation.

(2) Before a financial planner does financial planning for a consumer, the financial planner shall advise the consumer of the cost to the consumer of the financial planner's services and any other information prescribed by regulation.

Duty of financial planner before planning

13.—(1) An agent or supplier who offers to sell a consumer a named financial product or a financial planner who provides advice to a consumer about a named financial product shall give the consumer the following information:

Duty to provide information about named financial products

- 1. The supplier's name and, on request, the supplier's business address.
- 2. If the consumer is dealing with an agent or financial planner or both, the name and business address of the agent or financial planner or both.
- 3. If there is an existing plan under which the consumer can be compensated for a loss relating to a named financial product, how the consumer can obtain information about the plan.
- 4. If there is a right to cancel an agreement about an investment in a named financial product, how and when the right can be exercised.
- 5. If the named financial product can be redeemed or surrendered before the

end of its term, the cost of and procedure for doing so.

- 6. If the person with whom the consumer is dealing will receive a commission in respect of an investment by the consumer, the fact that he or she will receive a commission.
- 7. If the named financial product is life insurance, the premium payable.
- 8. If the named financial product is a mutual fund, the cost of purchase, the commission and any other fees that are or will be payable by the consumer.
- 9. Any other information that a supplier, agent or financial planner is required by regulation to tell a consumer.
- 10. The fact that the consumer has the right to receive in writing any of the information required to be provided under this section.

Information in writing

(2) An agent, financial planner or supplier referred to in subsection (1) shall inform the consumer that he or she has a right to be given the information referred to in that subsection in writing.

Idem

(3) If the consumer requests that the information be given in writing, it must be so given within a reasonable time.

Duty to provide financial statements

14. If a supplier is required by law to make or as a general practice makes audited financial statements available to the public, the supplier must provide to a consumer, on request and without charge, a copy of the most recent audited financial statement of the supplier.

Duty to use plain language

15.—(1) The following documents must be in readily understandable language and form:

- 1. Application forms for consumers who wish to invest in named financial products.
- 2. Agreements setting out the terms of purchase or investment in named financial products.
- 3. Any information provided to a consumer in writing under subsection 13 (3).
- 4. Any other documents prescribed in the regulations.

Exception

(2) Subsection (1) does not apply to language in documents or forms of documents that are required by any other Act or a regulation made under any other Act.

Defence

(3) Proof that reasonable efforts have been made to comply with subsection (1) is a complete defence in a prosecution under sub-

section (1) or in a dispute about whether subsection (1) has been complied with.

16.—(1) If a consumer signs a document at the request of an agent, financial planner or supplier, the agent, financial planner or supplier shall inform the consumer that he or she is entitled to be given a copy.

Copies of documents

(2) If a consumer requests a copy of a document referred to in subsection (1), the person asking the consumer to sign the document shall provide a copy.

Idem

17. An agent, financial planner or supplier shall not,

Prohibited business practices

- (a) put undue pressure on a consumer to invest in named financial products;
- (b) take unfair advantage of a consumer;
- (c) make representations or conduct himself, herself or itself in a way that could mislead or deceive a consumer; or
- (d) withhold from a consumer information about named financial products or about a supplier, agent or financial planner if he, she or it knows or ought reasonably to know that the consumer might be misled by not having the information.

18. An agent shall not accept payment from a consumer for a named financial product unless it is a cheque, money order or other negotiable instrument payable to the supplier.

Payment for named financial products

19.—(1) Personal financial information given by a consumer to a supplier, agent or financial planner for the purpose of obtaining advice about or investing in named financial products can only be used for that purpose unless,

Use of personal financial information

- (a) the consumer specifically consents in writing to another use;
- (b) the consent is clearly identifiable by the consumer; and
- (c) the consent specifically states the information to be released, the purpose of the release and to whom the information may be released.

(2) An application by a consumer to purchase or invest in a named financial product must not be refused because the consumer refuses to provide his or her consent under subsection (1).

Application not to be refused

(3) Subsection (1) does not prevent an agent, financial planner or supplier from giving personal financial information given by a consumer to,

Exception

- (a) a credit grantor to determine the credit worthiness of that consumer;

(b) a consumer reporting agency as defined in the *Consumer Reporting Act* to determine the credit worthiness of that consumer; or

(c) another person as required by law.

20. The failure by an agent, financial planner or supplier to carry out the duties imposed on an agent, financial planner or supplier by this Act is to be taken into account in assessing or apportioning damages in claims for loss under this Act and may be the subject of proceedings under Parts VI and VII.

PART IV

LICENSING OF FINANCIAL PLANNERS

21.—(1) No person shall engage in any financial planning to which this Act applies unless that person has been issued a licence to do so by the Director.

(2) The Director may in writing permit a person to engage in financial planning without a licence issued under this Act if the financial planning is carried on as part of an activity involving financial products in respect of which the person is licensed under some other Act.

(3) If the Director proposes to refuse to grant a licence or to revoke a licence, he or she shall advise the applicant or licensee of the proposal and of the right to make submissions concerning the proposal at a hearing.

(4) The Director shall hold a hearing if an applicant or licensee who has been advised by the Director under subsection (3) requests one.

PART V

CANCELLATION OF AGREEMENTS

22.—(1) The Lieutenant Governor in Council may make regulations allowing a consumer to cancel an agreement to purchase or invest in a named financial product within such period after the agreement is entered into as is specified in the regulations.

(2) Regulations made under subsection (1) may,

- (a) prescribe the named financial products in respect of which an agreement may be cancelled;
- (b) prescribe the particular circumstances in which an agreement may be cancelled;
- (c) prescribe the conditions under which an agreement may be cancelled.

PART VI

DISPUTE RESOLUTION

23.—(1) If a dispute arises between a consumer and an agent, financial planner or supplier about whether the consumer has suffered a loss because this Act and the regulations were not complied with, the parties to the dispute must attempt to resolve the dispute themselves before starting a court or arbitration proceeding.

(2) Every agreement between a consumer and an agent, financial planner or supplier about a named financial product and every agreement between a consumer and a financial planner about advice about a named financial product or any other financial product shall be deemed to include the arbitration clause set out in the Schedule to this Act.

(3) Subsection (2) does not apply if the agreement provides that if a dispute arises about whether the consumer suffered a loss because this Act or the regulations were not complied with and the consumer elects not to start a court proceeding, the parties shall arbitrate the dispute and that the *Arbitrations Act* will apply to the arbitration proceeding.

24.—(1) If the Director receives a notice to appoint an arbitrator under the arbitration clause referred to in subsection 23 (2) or an agreement referred to in subsection 23 (3), he or she shall appoint an arbitrator and advise the parties of the arbitrator's name within fourteen days of receiving the notice.

(2) The decision of the arbitrator is binding on the parties.

(3) As soon as possible after making a decision, the arbitrator shall file a copy of it with the Director.

(4) The Director shall make a copy of the decision available for inspection by members of the public.

(5) If a party to the arbitration requests that the decision be kept confidential, the Director may grant the request, deny it or make only a portion of the decision available for inspection.

25. If dispute arises about whether a consumer suffered a loss because this Act and the regulations were not complied with, the consumer may elect to apply to the court to recover damages instead of starting an arbitration proceeding.

26. A court or an arbitrator hearing a dispute shall consider,

- (a) whether each party to the dispute has complied with this Act and the regulations and, if not, why not;

Duty in event of dispute

Arbitration

Exception

Arbitration proceeding

Decision is binding

Decision to be filed

Inspection by public

Request that decision be kept confidential

Starting a court proceeding

Matters to be considered

Copies of documents
Effect of failure to carry out duties
Prohibited business practices
Licensing of financial planners
Exception
Refusal or revocation of licence
Payment named financial products
Use of personal financial information
Right to cancel agreement
Application not to be refused
Exception

- (b) the degree to which each party has failed to comply with this Act and the regulations;
- (c) the opportunity of the consumer to minimize the loss; and
- (d) any other factors that the court or the arbitrator considers appropriate.

Court proceeding by a consumer corporation

27.—(1) In this section, “consumer corporation” means a non-profit corporation that has as its primary objective the protection or advancement of the interests of consumers.

Idem

(2) A consumer corporation may start a court proceeding against an agent, financial planner or supplier whom it believes is contravening this Act or the regulations, whether or not it has an interest in or is affected by the subject-matter of the proceeding.

Security for costs

(3) If a proceeding is started under this section, the court may order the consumer corporation to give security for costs in an amount the court considers proper.

If consumer corporation successful

(4) If the court finds that the agent, financial planner or supplier is contravening this Act and the regulations or was contravening this Act and the regulations when the proceeding was started, it may,

- (a) declare that the supplier, agent or financial planner has contravened this Act or the regulations;
- (b) grant an injunction restraining the supplier, agent or financial planner from engaging in any activity that would contravene this Act or the regulations; and
- (c) award costs.

PART VII

ADMINISTRATION

Definition of “record”

28. In this Part, “record” includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the record is on paper or is in electronic, photographic or other form.

Appointment of Director

29.—(1) The Minister shall appoint a Director for the purpose of administering this Act and the regulations.

Appointment of investigators

(2) The Minister may appoint investigators for the purpose of determining whether this Act and the regulations are being complied with.

Certificate of appointment

(3) The Minister shall issue a certificate of appointment bearing the Minister’s signature or a facsimile of it to every investigator.

Production of certificate

(4) An investigator who is exercising any powers or performing any duties under this

Act shall produce his or her certificate of appointment upon request.

Duties of investigators

30.—(1) An investigator shall carry out the duties assigned to him or her by the Director.

Investigation may be carried out

(2) An investigator may carry out an investigation under this Act whether or not the investigator has any reason to believe that the person being investigated has contravened this Act and the regulations made under it.

Powers of investigators

(3) For the purpose of carrying out an investigation, an investigator may,

- (a) enter any place at any reasonable time;
- (b) require the production of any records or other things that may be relevant to the investigation;
- (c) inspect any records or other things referred to in clause (b); or
- (d) inquire into any matters that may be relevant to the investigation.

Power to remove things

(4) Upon giving a receipt for them, an investigator may remove from a place any records or other things relevant to the investigation,

- (a) to make copies of or extracts from them;
- (b) to examine or test them; or
- (c) to hold them as evidence.

Return

(5) An investigator shall promptly return any records or other things removed under subsection (4) unless they are being held as evidence.

Expert assistance

(6) An investigator may call upon any expert he or she considers necessary to assist in carrying out an investigation.

Powers not to be exercised

(7) An investigator shall not, except under the authority of a warrant issued under section 31,

- (a) use force to exercise any of his or her powers under this section; or
- (b) enter, or exercise any of his or her other powers under this section in, a place that is being used as a dwelling without the consent of the occupier.

Administrative warrant

31.—(1) With respect to a place that is not being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place and exercise any of his or her other powers under section 30 if satisfied by information upon oath that it is reasonably necessary for the investigator to do so in order to determine whether this Act and the regulations are being complied with.

Varrant if
ontravention
suspected

(2) With respect to any place, whether or not it is being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place, exercise any of his or her other powers under section 30 and search the place for any records or other things relevant to an investigation if satisfied by information upon oath that there are reasonable grounds to believe that a person in the place has contravened or is about to contravene this Act or the regulations made under it or that there are in the place records or other things that will afford evidence of a contravention.

Return of
things
removed

(3) An investigator acting under a warrant shall promptly return any records or things removed from a place unless they are being held as evidence.

Execution
and expiry

(4) A warrant shall specify the hours and days during which it may be executed and name a date on which it expires, which date shall not be later than thirty days after its issue.

Time of
execution

(5) A warrant shall be executed between the hours of 7 a.m. and 9 p.m., unless it provides otherwise.

Investigator
authorized by
warrant

- (6) A warrant authorizes the investigator,
 - (a) to use whatever force is necessary to execute the warrant;
 - (b) to call on police officers as necessary to assist in executing the warrant;
 - (c) to call upon any expert he or she considers necessary to assist in executing the warrant; and
 - (d) to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.

Extension of
time

(7) A justice of the peace may extend the date on which a warrant expires for a period of no more than thirty days before or after the warrant expires upon motion by the person named in it.

Search
without
warrant if
evidence
could be lost

32.—(1) Despite subsection 30 (7), an investigator may enter a place, whether or not it is being used as a dwelling, exercise any of his or her other powers under section 30 and search the place for any records or other things relevant to an investigation if the investigator believes on reasonable and probable grounds that there is sufficient evidence for the issue of a warrant but that evidence of a contravention of this Act or the regulations made under it could be destroyed, lost or removed before a warrant is obtained.

(2) Subsections 31 (3) and (6) apply with necessary modifications to an investigator acting under this section.

(3) An investigator who enters a place under this section and removes any records or other things shall appear before a justice of the peace as soon as is practicable and shall produce all records removed and, if requested by the justice, any other things removed.

Appearance
before justice

(4) A justice before whom an investigator appears under subsection (3) may by order detain any records or other things removed or direct them to be detained in the care of a person named in the order or direct them to be returned.

Idem

33. A copy of or extract from a record made as a result of an inspection is admissible in evidence as proof, in the absence of evidence to the contrary, of the original if it is certified as being a true copy of or extract from the original by the person who made it.

Admissibility
of copies

34.—(1) No person shall,

Obstruction

- (a) obstruct an investigator who is exercising a power or performing a duty under this Act;
- (b) withhold or refuse permission for an investigator to enter any place that is not being used as a dwelling;
- (c) withhold or refuse to provide any information required by an investigator for the purposes of an inspection; or
- (d) withhold, refuse to produce or destroy any record or other thing required by an investigator for the purposes of an inspection.

(2) A person who is required to produce a record for an investigator shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

Person to
assist with
records

35.—(1) If the Director is of the opinion that an agent, financial planner or supplier is not complying with this Act or the regulations, he or she may invite the agent, financial planner or supplier to give a written undertaking.

Undertakings

(2) An undertaking may include any of the following commitments:

Content of
undertakings

1. To stop engaging in or change the practice described in the undertaking.
2. To provide compensation to any consumers who have incurred a loss.
3. To publicize the undertaking or the action being taken, to stop engaging in or change a practice.
4. To pay the costs of the Director's investigation and any costs associated with the undertaking.

Jem

5. Any other commitment that the Director and the supplier, agent or financial planner, as the case may be, agree on.

Undertaking is binding

(3) An undertaking is binding on the agent, financial planner or supplier who enters into it.

Public record of undertaking

(4) The Director shall keep a register of undertakings given under this section and shall make it available to the public for inspection.

Director's order

36.—(1) If the Director has reason to believe that an agent, financial planner or supplier is contravening this Act or the regulations, he or she may order the agent, financial planner or supplier to stop the contravention.

Information

(2) Information about the right to appeal a Director's order must be provided with the order.

Service

(3) The Director must serve a copy of the order on the person who is the subject of it either personally or by registered mail.

Appeal of Director's order

37.—(1) A person who is affected by an order of the Director made under section 36 may appeal the order to the Divisional Court within thirty days of being served.

Court may confirm, change or cancel order

(2) The court may confirm, change or cancel the order on any terms or conditions it considers appropriate.

Court may suspend order while appeal pending

(3) The court may, on motion by the appellant, suspend all or part of the operation of the order on any condition it considers appropriate pending the appeal.

Application to court for an order

38.—(1) If the Director has reason to believe that an agent, financial planner or supplier is contravening, has contravened or is about to contravene this Act or the regulations, or has not complied with an undertaking given under section 35 or an order made under section 36, he or she may apply to the court for an order against the agent, financial planner or supplier.

Contents of order

(2) In a proceeding under this section, the court may make any order it considers appropriate, taking into consideration,

- (a) the purposes of this Act and the regulations;
- (b) the responsibilities and rights of persons under this Act and the regulations;
- (c) the need to protect the public against unfair practices; and
- (d) the appropriateness of an award of punitive damages.

Definition

39.—(1) In this section, "supplier" does not include,

- (a) a trust corporation or a loan corporation as defined in the *Loan and Trust Corporations Act, 1987*;
- (b) a credit union as defined in the *Credit Unions and Caisses Populaires Act*;
- (c) a bank as defined in the *Bank Act (Canada)*; or
- (d) an insurer to which the *Insurance Act* applies.

(2) If an agent or supplier has been paid by a consumer for a named financial product, or a financial planner has been paid by a consumer for financial planning, the Director may apply to the court for an order under subsection (3) if he or she has reason to believe that the agent, supplier or financial planner,

- (a) has absconded or is about to abscond from Ontario;
- (b) has attempted to dispose of property or to remove any property from Ontario in order to avoid satisfying legal liabilities; or
- (c) is misusing money or other assets provided by the consumer.

(3) If satisfied that there are reasonable and probable grounds to believe that an agent, supplier or financial planner has done or is about to do anything referred to in clause (2) (a), (b) or (c), the court may issue an order,

- (a) prohibiting any person who has on deposit, who has control over, or who has for safekeeping, any asset of an agent, financial planner or supplier from dispersing or otherwise dealing with the asset except as approved by the court;
- (b) appointing a trustee or receiver to take possession of and hold any asset of an agent, financial planner or supplier; or
- (c) directing the agent, financial planner or supplier not to disperse or otherwise deal with any asset except as directed by the trustee or receiver or as approved by the court.

(4) The court may make an order under this section on any terms it considers appropriate.

(5) Any person who is affected by an order made under subsection (3) may, on notice to the Director, apply to the court to have the order changed or cancelled.

(6) The court may refuse the application or may change or cancel the order on any terms it considers appropriate.

Freeze order

Idem

Idem

Application to change or cancel protection order

Idem

PART VIII

OFFENCES AND PENALTIES

40.—(1) A person is guilty of an offence who,

- (a) contravenes section 12, 13, 14, 15, 18, 19, 22 or 34;
- (b) contravenes a regulation made under clause 45 (m);
- (c) fails to comply with an undertaking given under section 35; or
- (d) fails to comply with a Director's order made under section 36.

(2) A prosecution under this section shall not be commenced more than two years after the commission of the offence.

(3) An individual convicted of an offence under this section is liable to a fine not exceeding the greater of \$25,000 and five times the loss incurred by a consumer as a result of the offence.

(4) An individual who fails to pay a fine imposed under subsection (3) is liable to imprisonment for not more than twelve months.

(5) A corporation convicted of an offence under this section is liable to a fine not exceeding the greater of \$200,000 and five times the loss incurred by a consumer as a result of the offence.

(6) Every director, employee, officer or other person who directs, authorizes, assents to, knowingly acquiesces in or knowingly participates in an offence committed by a corporation under this section, is also guilty of an offence and is liable to a fine not exceeding the greater of \$25,000 and five times the loss incurred by a consumer as a result of the offence.

PART IX

REGULATORY BOARDS

41.—(1) The Lieutenant Governor in Council may establish regulatory boards.

(2) A regulatory board is a corporation and consists of the members appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may determine the number of members of a regulatory board and the terms of office of the members.

(4) A regulatory board shall exercise the powers, duties and functions delegated to it under section 44.

42.—(1) A regulatory board may make by-laws respecting,

- (a) the conduct of the business and affairs of the board;
- (b) the calling of meetings of the members and conduct of business at those meetings;
- (c) the removal, functions, powers, duties, remuneration and benefits of members, officers and employees of the board;
- (d) the delegation to officers of the board, or any committee of it, any powers of the board required to manage the business and affairs of the board, except the power to make by-laws; and
- (e) the establishment, membership, duties and functions of special, standing and other committees.

(2) A by-law made by a regulatory board is not effective until it is approved by the Minister.

(3) The *Regulations Act* does not apply to a by-law of a board.

43. A regulatory board shall provide the Minister with any reports required by regulation.

PART X

GENERAL

44.—(1) The Minister may, in writing and with or without conditions, assign to an individual or a regulatory board under this Act or any other Act or regulation any or all of the Director's powers, duties or functions under this Act.

(2) With the approval of the Minister, the Director may, in writing and with or without conditions, delegate to a regulatory board under this Act or any other Act or regulation any or all of his or her powers, duties or functions under this Act.

45. The Lieutenant Governor in Council may make regulations,

- (a) designating an investment as a named financial product;
- (b) exempting an agent, financial planner or supplier or any class of agent, financial planner or supplier from any provision of this Act and the regulations;
- (c) providing that this Act and the regulations do not apply to a named financial product or class of named financial product or a part of a named financial product;

By-laws of regulatory board

By-laws not to be effective without approval
Non-application

Report

Assignment of Director's duties by Minister

Director may delegate

Regulations

offences

mitigation

penalty for individuals convicted

em

penalty for corporations

ability of individuals or offence

corporation

regulatory boards

em

Lieutenant Governor in Council may determine number of members,

board shall exercise delegated powers, etc.

- (d) prescribing information that a financial planner must provide to a consumer under section 12;
- (e) prescribing information that an agent, financial planner or supplier must tell a consumer under subsection 13 (1);
- (f) prescribing documents for the purpose of paragraph 4 of subsection 15 (1);
- (g) prescribing what is meant by "readily understandable language and form";
- (h) prescribing circumstances in which section 18 does not apply;
- (i) respecting the reports that a regulatory board must provide to the Minister;
- (j) prescribing conditions of eligibility for a financial planning licence, prescribing conditions on which a licence may be granted or revoked and prescribing licence fees;
- (k) prescribing what information must be given to a consumer by an agent, financial planner or supplier about a registered retirement savings plan, a registered education savings plan, a registered retirement income fund or any other plan or fund that the agent or supplier is seeking to have the consumer invest in or that the financial planner is giving the consumer advice about;
- (l) prescribing how the information referred to in clause (k) must be given;
- (m) prescribing words that shall or shall not be used by agents, financial planners and suppliers in relation to finan-

cial planning or named financial products;

- (n) respecting the conduct of arbitration proceedings;
- (o) amending the Schedule.

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

47. The short title of this Act is the *Financial Consumers Act, 1990.*

SCHEDULE

MODEL ARBITRATION CLAUSE

1. If we cannot resolve the dispute, either of us can serve on the other a written notice to arbitrate.

2. A notice to arbitrate must describe what the claim is about and the remedy sought and name the proposed arbitrator or state that the Director is to appoint the arbitrator, in which case a copy of the notice to arbitrate must be sent to the Director.

3.—(1) If a notice to arbitrate names the proposed arbitrator, whoever receives it must notify the other party within seven days of receipt whether the proposed arbitrator is acceptable and, if he or she is not acceptable, must also send a copy of the notice to arbitrate and the reply to the Director.

(2) If a consumer receives a notice to arbitrate and wishes to start a court proceeding instead of having the dispute go to arbitration, he or she must inform the person who gave the notice and, if the notice named a proposed arbitrator, he or she must also inform the Director.

4. Upon accepting appointment, the arbitrator has jurisdiction and will inquire into the claim and any matters relating to it.

5. The arbitrator need not give reasons for his or her decision.

6. The arbitrator's decision is binding on us.

Commencement

Short title

Notice to arbitrate

Contents of notice

Reply to notice

Idem

Jurisdiction of arbitrator

Reasons not be provided

Decision binding

Bill 4

An Act to amend the Residential Rent Regulation Act, 1986

The Hon. D. Cooke
Minister of Housing

1st Reading November 28th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The purpose of the Bill is to limit the circumstances under which landlords may obtain rent increases above the annual guideline. The Bill contains Part VI-A of the Act which establishes a complete code for all applications, orders and notices in which the first intended rent increase is on or after October 1st, 1990. The Bill provides that Part VI-A is to be repealed on January 1st, 1993.

The main differences between the present Act and Part VI-A are as follows:

1. The criteria the Minister must consider in determining the total justified rent increase of the residential complex are more limited than under the present Act. Under Part VI-A, the Minister may allow a guideline rent increase and may make findings only with respect to,
 - (a) extraordinary operating costs for municipal taxes, heating, hydro, water, insurance or cablevision, the details of which are set out in Part VI-A;
 - (b) increases or decreases in costs arising from changes in interest rate on renewal or refinancing of mortgages or loans, as specified in the Bill;
 - (c) financing costs allowed in a previous order that no longer exist; and
 - (d) a discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair.
2. The total justified rent increase is then to be apportioned among the rental units according to rules set out in the Bill.
3. The criteria the Minister is to consider in making an order respecting a tenant's application for reduction in rent below the guideline is somewhat more limited than under the present Act. Under Part VI-A, the Minister is to consider,
 - (a) a deterioration in the standard of maintenance;
 - (b) a discontinuance or reduction in services or facilities; and
 - (c) the degree to which the rental unit complies with maintenance standards.
4. The Minister may permit tenants to pay amounts they owe to landlords under an order by twelve equal monthly installments.
5. Where voided orders contain findings for which similar relief is available under Part VI-A, the Minister may make new orders with respect to those findings.
6. The relief available under sections 84, 85, 86, 88, 89, 90 and 92 of the Act is not available under Part VI-A.

The Bill also amends the definition of "rental unit" to make it clear that it includes a rented site for a mobile home or a single family dwelling even if the tenant of the site owns the mobile home or dwelling.

An Act to amend the Residential Rent Regulation Act, 1986

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

1.—(1) The definition of “rental unit” in section 1 of the *Residential Rent Regulation Act, 1986* is amended by inserting after “structure” in the third line “where the living accommodation or site is”.

(2) Section 1 of the Act is amended by adding the following subsection:

(2) A rented site for a mobile home or a single family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single family dwelling on the site is owned by the tenant of the site.

2. Subsection 5 (1) of the Act is repealed and the following substituted:

(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant notice in the prescribed form setting out the landlord’s intention to increase the rent and the amount of the increase intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

3.—(1) Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the limit imposed by section 71 or 100c, whichever is applicable,

(2) Section 7 of the Act is amended by adding the following subsection:

(2) On the 1st day of January, 1993, clause (1) (b) is amended by striking out “or 100c, whichever is applicable” at the end.

4.—(1) Subsection 20 (3) of the Act is amended by inserting after “subsection 71 (4)” in the fourth line “or clause 100c (1) (b), whichever is applicable”.

(2) Section 20 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (3) is amended by striking out “or clause 100c (1) (b), whichever is applicable” where it occurs.

Subs. (3) amended

5.—(1) Subsection 26 (1) of the Act is repealed and the following substituted:

(1) Subsection (2) applies where a landlord or a tenant makes an application under this Act, other than under section 74, 86 or 100d.

Application of subs. (2)

(1a) Except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

Filing of documents

(2) Section 26 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (1) is amended by striking out “86 or 100d” at the end and substituting “or 86”.

Subs. (1) amended

6.—(1) Subsection 30 (4) of the Act is amended by striking out “(whole building review)” in the second line and substituting “or 100d (whole building review), whichever is applicable”.

(2) Section 30 of the Act is amended by adding the following subsection:

(6) On the 1st day of January, 1993, subsection (4) is amended by striking out “or 100d (whole building review), whichever is applicable” where it occurs and substituting “(whole building review)”.

Subs. (4) amended

7. Section 83 of the Act is amended by adding the following subsections:

(6) The Minister may provide in an order made three months or more after the effective date of the first rent increase set out in the order that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Payment of order by installments

Rented sites are rental units

Notice of rent increase

Clause (1) (b) amended

Idem

(7) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

8. The Act is amended by adding the following Part:

PART VI-A

RENT REGULATION ON AND AFTER THE
1ST DAY OF OCTOBER, 1990

Definition

100a. In this Part, "gross potential rent" means the total, multiplied by twelve, of the monthly maximum rent for all rental units in the residential complex whether collected or not, for the month immediately preceding the effective date of the first rent increase applied for.

Application

100b.—(1) Subject to subsection (2), this Part applies to every rent increase that takes effect on or after the 1st day of October, 1990.

Exception

(2) This Part does not apply to a rent increase proposed in an application or set out in a notice issued under section 92 or an order of the Minister, the Board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order or notice is before the 1st day of October, 1990.

Part VI does not apply

(3) Part VI does not apply where this Part applies, unless this Part provides otherwise.

Maximum increase without application

100c.—(1) No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71 (1) unless,

- (a) an order has been made in accordance with this Part; or
- (b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

Twelve months between increases

(2) No landlord shall increase the rent charged for a rental unit unless twelve months have passed since the date that the last increase took effect.

Application to the Minister

100d.—(1) A landlord may apply in the prescribed form to the Minister for an order increasing the maximum rent by more than the amount permitted under section 100c.

Whole building review

(2) When the landlord applies to the Minister, the landlord shall, as part of the same application, apply for a determination of the maximum rents for all of the rental units situated in the residential complex during the twelve-month period following the effective date of the first intended rent increase in the application.

(3) Subsection (2) applies whether or not those rental units are the subject of tenancy agreements at the time the application is made under this section.

Idem

(4) Subsections 74 (3) to (6) apply with necessary modifications to the application.

Procedure on application

(5) A landlord may apply under this section before a notice of rent increase under section 5 has been given.

Landlord may apply without notice under s. 5

100e.—(1) In this section, "extraordinary operating cost" means a change in the cost of municipal taxes, heating, hydro, water, insurance or cablevision respecting the residential complex,

Definition

- (a) that creates a variance of at least 50 per cent from the same component set out in the Building Operating Cost Index; or
- (b) that would justify a variance in gross potential rent of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component.

(2) On an application under section 100d, the Minister shall determine, in the prescribed manner and for the prescribed periods,

Criteria for rent increase

- (a) an operating cost allowance equal to $A \times B$ where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first intended rent increase on the application, and

B = the gross potential rent;

- (b) any extraordinary operating costs;
- (c) any increase or decrease of costs arising from changes in interest rate occurring on the renewal or refinancing by the applicant landlord of a mortgage or loan,
 - (i) that is made between parties dealing at arms-length, and
 - (ii) that relates to the acquisition or construction of the residential complex;
- (d) subject to subsection (7), any financing costs no longer borne in an amount up to the amount that was allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*; and

(e) any discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair in respect of the residential complex or any rental unit in the complex.

justified rent increase

(3) The Minister shall calculate the justified rent increase for the complex on the basis of the determinations under subsection (2).

extraordinary operating costs considered together

(4) The landlord shall provide information for all of the cost categories of extraordinary operating costs where the application seeks to justify an increase in rent under clause (2) (b).

idem

(5) If the landlord does not comply with subsection (4), the Minister shall determine that there is no rent increase justified under clause (2) (b).

calculation of interest rate changes

(6) The Minister shall determine costs under clause (2) (c) according to the prescribed criteria and in doing so,

(a) the Minister shall not consider a total principal amount in excess of 75 per cent of the acquisition or construction cost of the residential complex; and

(b) the Minister shall not apply an amortization period that is less than twenty-five years.

application clause (d)

(7) Clause (2) (d) applies only where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985.

substance of transactions may be determined

(8) In determining the total rent increase that is justified on the application, the Minister shall determine as a matter of fact the real substance of all transactions and activities and the good faith of the participants and in so doing,

(a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and

(b) may have regard to the pattern of activities relating to the residential complex.

apportionment of total rent increase

100f.—(1) In the order, the Minister shall apportion the amount of the total rent increase found under section 100e among all the units that were the subject of the application in the manner set out in this section.

provisions on apportionment

(2) The total rent increase for the residential complex shall be apportioned to the rental units as follows:

1. Determine the justified rent increase for the residential complex.

2. Determine the gross potential rent for the residential complex.

3. Determine what proportion the justified rent increase is to the gross potential rent.

4. Apply that proportion to each rental unit's previous maximum rent to get the rent increase for each rental unit.

Rent increase less than guideline allowed

(3) The Minister may allow a rent increase for a rental unit that is less than the amount permitted under section 100c.

Increase made to maximum rent

(4) Subject to subsection (5), a rent increase that is justified shall be applied to the previous maximum rent.

No rent increase ordered above application

(5) The Minister shall not order a maximum rent for a rental unit greater than that proposed on an application.

Idem

(6) An order may provide that no rent increase is justified.

Tenant may dispute increase permitted under s. 100c

100g.—(1) A tenant may apply to the Minister in the prescribed form to dispute an intended rent increase that does not exceed the amount permitted under section 100c.

Rules on application

(2) Subsections 94 (2), (3) and (4) apply with necessary modifications to the tenant's application.

Minister's considerations on tenant's application

(3) The Minister shall consider the following factors on the application:

1. A deterioration in the standard of maintenance and repair that affects the rental unit.

2. A discontinuance or reduction in the services or facilities that are provided to the rental unit.

3. The degree to which the rental unit complies with the maintenance standards for the municipality in which the rental unit is located if maintenance standards have been established by by-law.

4. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board, if no by-law has been passed by the municipality.

Order of the Minister on the application

100h.—(1) The Minister's order under this Part shall provide,

(a) the maximum rent that may be charged for each rental unit; and

(b) the date on which the maximum rent for each unit takes effect.

Idem

(2) The Minister's order under this Part may also,

(a) provide that the landlord or the tenant shall pay to the other a sum of money that is owed as a result of the order; and

(b) set terms and conditions of the order.

Maximum rent effective for twelve months

(3) The maximum rent for a rental unit, once ordered, stays in effect for twelve months from the effective date set out in the order for that rental unit.

Payment of order by installments

100i.—(1) If an order on an application under section 100d or a new order under section 100o is made three months or more after the effective date of the first rent increase set out in the order, the Minister may provide that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Idem

(2) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

Remedy

100j. Nothing in this Part limits the right of a tenant or power of the Minister under section 95.

Separate charges

100k.—(1) Subsections 97 (1) to (5) apply with necessary modifications to separate charges under this Part.

Idem

(2) An increase in rent charged in accordance with subsections 97 (1) to (5) is not an increase in rent for the purpose of subsection 100c (2).

Sections in Part VI apply

100-L. Sections 98 and 99 apply to rents to which this Part applies.

Additional charges prohibited

100m. Section 100 applies to a landlord, a person acting on behalf of the landlord, a tenant and a person acting on behalf of a tenant under this Part.

Application of section

100n.—(1) This section applies to an order made by the Minister, the Board or a court under this Act, even if made before the 1st day of October, 1990.

Provisions in orders ineffective

(2) Any order, except an order under section 94 or 95, in which the first date that a rent increase takes effect in the residential complex is on or after the 1st day of October, 1990 shall be deemed to be void.

s. 84 order void

(3) An order made under section 84 shall be deemed to be void if the first effective date varying the maximum rent is on or after the 1st day of October, 1990.

s. 85 order void

(4) An order made under section 85 shall be deemed to be void if the effective date of the earliest maximum rent is on or after the 1st day of October, 1990.

ss. 88, 89 order not to be considered

(5) The Minister shall not consider any order made under section 88 or 89 in an

application for a rent increase to which this Part applies.

(6) A notice issued under section 92 shall be deemed to be void if the first effective date of rent increase is on or after the 1st day of October, 1990.

s. 92 notice of phase in void

(7) An application made to the Minister under section 85, 88 or 89 on or after the 1st day of October, 1990 shall be deemed to be discontinued.

Certain applications discontinued

(8) An application made to the Minister under section 86 shall be deemed to be discontinued if the effective date of the first rent increase applied for is on or after the 1st day of October, 1990.

Idem

(9) An application made to the Minister under section 84 shall be deemed to be discontinued if the first intended variation in rent in the application is on or after the 1st day of October, 1990.

Idem

100o.—(1) If an order rendered void under section 100n contains as a component of the justified rent increase set out in the reasons to that order relief under section 75 respecting an operating cost allowance and one or more of the matters enumerated in subsection (2), the findings in respect of the relief other than the operating cost allowance shall be adopted by the Minister and shall form part of a new order.

Transition

(2) Subsection (1) applies in respect of relief respecting,

Enumerated matters

(a) the findings under clause 75 (b) concerning extraordinary operating costs, but only with respect to municipal taxes, heating, hydro, water, insurance or cablevision;

(b) the findings under clause 75 (b) concerning financing costs;

(c) the findings under clause 75 (f) concerning changes in services and facilities or standard of maintenance and repair;

(d) the findings under clause 75 (h) concerning financing costs no longer borne by the landlord.

(3) The operating cost allowance referred to in subsection (1) shall form part of the new order and shall be equal to A x B where,

Operating cost allowance

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first rent increase set out in the void order, and

B = the gross potential rent.

(4) The Minister shall make an order based on the operating cost allowance calculated under subsection (3) and the adopted findings from the void order in respect of the matters set out in subsection (2).

(5) The Minister shall determine the total rent increase that is justified and apportion the total rent increase under section 100f.

(6) Despite sections 7 and 100n, a landlord may continue to collect the rent approved under the void order until the Minister makes a new order under this section.

(7) The landlord shall pay to each tenant the difference between the tenant's payment of rent to that landlord under the void order and the rent found to be properly payable under this section and shall do so not more than sixty days after the new order is made.

100p. If an order is rendered void under section 100n and no new order may be made under section 100o, the landlord who collected rent under the void order shall pay to the tenant the difference between the tenant's payment of rent under the void order and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent.

100q. Where a landlord has collected rent under a notice issued under section 92 that is rendered void by subsection 100n (6), that landlord shall pay to the tenant the difference between the tenant's payment of rent under the void notice and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent.

100r. If a landlord does not comply with subsection 100o (7) or section 100p or 100q, the affected tenant may deduct the amount owed by that landlord from subsequent rent payments to that landlord until the full amount is satisfied or may apply for repayment of the excess under section 95.

100s.—(1) Where the Minister has received an application from a landlord under section 74 that is an application for rent increase to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent, the application shall be deemed to be an application under section 100d.

(2) The landlord may make submissions to the Minister on the application not more than thirty days after the day the *Residential*

Rent Regulation Amendment Act, 1990 receives Royal Assent.

(3) Any tenant affected by the application may make submissions to the Minister on the application not more than thirty days after the last day the landlord is permitted to make submissions.

100t.—(1) Where the Minister has received an application from a tenant under section 94 that is an application to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent, the application shall be deemed to be an application under section 100g.

(2) The tenant who brought the application may make submissions to the Minister not more than thirty days after the day that the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent.

(3) The landlord may make submissions to the Minister not more than thirty days after the last day that the tenant is permitted to make submissions.

100u. Part VI-A is repealed on the 1st day of January, 1993.

9.—(1) Section 118 of the Act is amended by adding the following paragraphs:

- 35a. prescribing for the purposes of Part VI-A the form of a cost revenue statement;
- 35b. prescribing the manner in which the Minister shall determine the justified rent increase for the residential complex for the purpose of subsection 100e (2);
- 35c. prescribing the period of time for which the Minister shall consider each of the matters set out in clauses 100e (2) (a) to (e);
- 35d. prescribing criteria for determining costs under clause 100e (2) (c).

(2) Section 118 is further amended by adding the following subsections:

(2) A regulation made under paragraph 35d of subsection (1) may prescribe different criteria for,

- (a) different types of mortgage or loan;
- (b) different sources of mortgage or loan; and
- (c) different classes of residential complex in respect of which there is a mortgage or loan.

Submissions by tenant

Transition, tenant's application under Part VI

Tenant's submissions

Landlord's submissions

Repeal of Part VI-A

Idem

Mister's order
Determination of rent increase
Decision of
Payment of rent
Payment of rent
Payment amount under
rent may be in excess
Operation of no
Submissions by landlord

Repeal of
pars. 35a to
35d and
subs. (2)

(3) Paragraphs 35a to 35d of subsection (1) and subsection (2) are repealed on the 1st day of January, 1993.

10.—(1) Clause 122 (1) (d) of the Act is amended by inserting after “71” in the second line “or 100c, whichever is applicable”.

(2) Section 122 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 41, is further amended by adding the following subsection:

Clause (1) (d)
amended

(4) On the 1st day of January, 1993, clause (1) (d) is amended by striking out “or 100c, whichever is applicable” where it occurs.

11. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before the 29th day of November, 1990. Saving

12.—(1) This Act, except sections 1 and 7, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(3) Section 7 shall be deemed to have come into force on the 29th day of November, 1990. Idem

13. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1990*. Short title

Bill 4

An Act to amend the Residential Rent Regulation Act, 1986

The Hon. D. Cooke
Minister of Housing

1st Reading November 28th, 1990
2nd Reading December 18th, 1990
3rd Reading
Royal Assent

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

The purpose of the Bill is to limit the circumstances under which landlords may obtain rent increases above the annual guideline. The Bill contains Part VI-A of the Act which establishes a complete code for all applications, orders and notices in which the first intended rent increase is on or after October 1st, 1990. The Bill provides that Part VI-A is to be repealed on January 1st, 1993.

The main differences between the present Act and Part VI-A are as follows:

1. The criteria the Minister must consider in determining the total justified rent increase of the residential complex are more limited than under the present Act. Under Part VI-A, the Minister may allow a guideline rent increase and may make findings only with respect to,
 - (a) extraordinary operating costs for municipal taxes, heating, hydro, water, insurance, cablevision or other prescribed costs, the details of which are set out in Part VI-A;
 - (b) increases or decreases in costs arising from changes in interest rate on renewal or refinancing of mortgages or loans, as specified in the Bill;
 - (c) financing costs allowed in a previous order that no longer exist; and
 - (d) a discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair.
2. The total justified rent increase is then to be apportioned among the rental units according to rules set out in the Bill.
3. The criteria the Minister is to consider in making an order respecting a tenant's application for reduction in rent below the guideline is somewhat more limited than under the present Act. Under Part VI-A, the Minister is to consider,
 - (a) a deterioration in the standard of maintenance;
 - (b) a discontinuance or reduction in services or facilities; and
 - (c) the degree to which the rental unit complies with maintenance standards.
4. The Minister may permit tenants to pay amounts they owe to landlords under an order by twelve equal monthly installments.
5. Where voided orders contain findings for which similar relief is available under Part VI-A, the Minister may make new orders with respect to those findings.
6. The relief available under sections 84, 85, 86, 88, 89, 90 and 92 of the Act is not available under Part VI-A. However, Part VI will apply, with some modifications, to applications for whole building reviews filed before January 31, 1991 if they seek relief in respect of conditional orders made before November 29, 1990.

The Bill also amends the definition of "rental unit" to make it clear that it includes a rented site for a mobile home or a single family dwelling even if the tenant of the site owns the mobile home or dwelling.

An Act to amend the Residential Rent Regulation Act, 1986

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

1.—(1) The definition of “rental unit” in section 1 of the *Residential Rent Regulation Act, 1986* is amended by inserting after “structure” in the third line “where the living accommodation or site is”.

(2) Section 1 of the Act is amended by adding the following subsection:

(2) A rented site for a mobile home or a single family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single family dwelling on the site is owned by the tenant of the site.

2. Subsection 5 (1) of the Act is repealed and the following substituted:

(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant notice in the prescribed form setting out the landlord’s intention to increase the rent and the amount of the increase intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

3.—(1) Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the limit imposed by section 71 or 100c, whichever is applicable,

(2) Section 7 of the Act is amended by adding the following subsection:

(2) On the 1st day of January, 1993, clause (1) (b) is amended by striking out “or 100c, whichever is applicable” at the end.

4.—(1) Subsection 20 (3) of the Act is amended by inserting after “subsection 71 (4)” in the fourth line “or clause 100c (1) (b), whichever is applicable”.

(2) Section 20 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (3) is amended by striking out “or clause 100c (1) (b), whichever is applicable” where it occurs.

Subs. (3) amended

5.—(1) Subsection 26 (1) of the Act is repealed and the following substituted:

(1) Subsection (2) applies where a landlord or a tenant makes an application under this Act, other than under section 74, 86 or 100d.

Application of subs. (2)

(1a) Except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

Filing of documents

(2) Section 26 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (1) is amended by striking out “86 or 100d” at the end and substituting “or 86”.

Subs. (1) amended

6.—(1) Subsection 30 (4) of the Act is amended by striking out “(whole building review)” in the second line and substituting “or 100d (whole building review), whichever is applicable”.

(2) Section 30 of the Act is amended by adding the following subsection:

(6) On the 1st day of January, 1993, subsection (4) is amended by striking out “or 100d (whole building review), whichever is applicable” where it occurs and substituting “(whole building review)”.

Subs. (4) amended

7. Section 39 of the Act is repealed and the following substituted:

39. Members of the Board shall hold office during pleasure.

Term of office

8.—(1) Section 83 of the Act is amended by adding the following subsections:

(3a) If the effective date of the first rent increase in the residential complex applied for is on or after the 1st day of October, 1990,

Order capped at 15 per cent

Rented sites
rental
units

Nice of
rent increase

use (1) (b)
ended

(a) the Minister shall not order a rent increase for any rental unit, including a rent increase attributable to equalization, that is greater than 15 per cent of the maximum rent for that rental unit; and

(b) despite section 90, the Minister shall not order a maximum rent for a rental unit greater than that proposed on the application.

Subs. (3a) repealed

(3b) On the 1st day of January, 1993, subsection (3a) is repealed.

(2) Section 83 is further amended by adding the following subsections:

Payment of order by installments

(6) The Minister may provide in an order made three months or more after the effective date of the first rent increase set out in the order that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Idem

(7) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

9. The Act is amended by adding the following Part:

PART VI-A

RENT REGULATION ON AND AFTER THE 1ST DAY OF OCTOBER, 1990

Definition

100a. In this Part, "gross potential rent" means the total, multiplied by twelve, of the monthly maximum rent for all rental units in the residential complex whether collected or not, for the month immediately preceding the effective date of the first rent increase applied for.

Application

100b.—(1) Subject to subsections (2) and (3), this Part applies to every rent increase that takes effect on or after the 1st day of October, 1990.

Exception

(2) This Part does not apply to a rent increase proposed in an application or set out in a notice issued under section 92 or an order of the Minister, the Board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order or notice is before the 1st day of October, 1990.

Idem

(3) This Part does not apply to a rent increase proposed in an application made under section 74 before the 31st day of January, 1991 if the application seeks relief in respect of a conditional order made under subsection 89 (2) that was made before the 29th day of November, 1990.

(4) Part VI does not apply where this Part applies, unless this Part provides otherwise.

Part VI does not apply

100c.—(1) No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71 (1) unless,

Maximum increase without application

(a) an order has been made in accordance with this Part; or

(b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

(2) No landlord shall increase the rent charged for a rental unit unless twelve months have passed since the date that the last increase took effect.

Twelve months between increases

100d.—(1) A landlord may apply in the prescribed form to the Minister for an order increasing the maximum rent by more than the amount permitted under section 100c.

Application to the Minister

(2) When the landlord applies to the Minister, the landlord shall, as part of the same application, apply for a determination of the maximum rents for all of the rental units situated in the residential complex during the twelve-month period following the effective date of the first intended rent increase in the application.

Whole building review

(3) Subsection (2) applies whether or not those rental units are the subject of tenancy agreements at the time the application is made under this section.

Idem

(4) Subsections 74 (3) to (6) apply with necessary modifications to the application.

Procedure application

(5) A landlord may apply under this section before a notice of rent increase under section 5 has been given.

Landlord may apply without notice under s. 5

100e.—(1) In this section, "extraordinary operating cost" means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision or any other prescribed cost respecting the residential complex,

Definition

(a) that creates a variance of at least 50 per cent from the same component set out in the Building Operating Cost Index; or

(b) that would justify a variance in gross potential rent of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component.

(2) On an application under section 100d, the Minister shall determine, in the prescribed manner and for the prescribed periods,

Criteria rent increase

(a) an operating cost allowance equal to A x B where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first intended rent increase on the application, and

B = the gross potential rent;

(b) any extraordinary operating costs;

(c) any increase or decrease of costs arising from changes in interest rate that occur when the landlord renews or refinances a mortgage or loan if,

- (i) that landlord entered into or assumed the mortgage or loan,
- (ii) the mortgage or loan related to the acquisition or construction of the residential complex, and
- (iii) the renewal or refinancing relates to the acquisition or construction of the residential complex;

(d) subject to subsection (8), any financing costs no longer borne in an amount up to the amount that was allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*; and

(e) any discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair in respect of the residential complex or any rental unit in the complex.

(3) The Minister shall calculate the justified rent increase for the complex on the basis of the determinations under subsection (2).

(4) The landlord shall provide information for all of the cost categories of extraordinary operating costs where the application seeks to justify an increase in rent under clause (2) (b).

(5) If the landlord does not comply with subsection (4), the Minister shall determine that there is no rent increase justified under clause (2) (b).

(6) In determining whether a rent increase is justified under clause (2) (b), the Minister shall not consider any portion of an increase in municipal taxes that results from non-compliance with a municipal or other proprietary standards order.

(7) The Minister shall determine costs under clause (2) (c) according to the prescribed criteria and in doing so,

Calculation of interest rate changes

(a) the Minister shall not consider a total principal amount in excess of 75 per cent of the acquisition or construction cost of the residential complex; and

(b) the Minister shall not apply an amortization period that is less than twenty-five years.

(8) Clause (2) (d) applies only where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985.

Application of clause (2) (d)

(9) In determining the total rent increase that is justified on the application, the Minister shall determine as a matter of fact the real substance of all transactions and activities and the good faith of the participants and in so doing,

Substance of transactions may be examined

(a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and

(b) may have regard to the pattern of activities relating to the residential complex.

100f.—(1) In the order, the Minister shall apportion the amount of the total rent increase found under section 100e among all the units that were the subject of the application in the manner set out in this section.

Apportionment of total rent increase

(2) The total rent increase for the residential complex shall be apportioned to the rental units as follows:

Steps on apportionment

1. Determine the justified rent increase for the residential complex.
2. Determine the gross potential rent for the residential complex.
3. Determine what proportion the justified rent increase is to the gross potential rent.
4. Apply that proportion to each rental unit's previous maximum rent to get the rent increase for each rental unit.

(3) The Minister may allow a rent increase for a rental unit that is less than the amount permitted under section 100c.

Rent increase less than guideline allowed

(4) Subject to subsection (5), a rent increase that is justified shall be applied to the previous maximum rent.

Increase made to maximum rent

(5) The Minister shall not order a maximum rent for a rental unit greater than that proposed on an application.

No rent increase ordered above application

Idem (6) An order may provide that no rent increase is justified.

Tenant may dispute increase permitted under s. 100c. **100g.**—(1) A tenant may apply to the Minister in the prescribed form to dispute an intended rent increase that does not exceed the amount permitted under section 100c.

Rules on application (2) Subsections 94 (2), (3) and (4) apply with necessary modifications to the tenant's application.

Minister's considerations on tenant's application (3) The Minister shall consider the following factors on the application:

1. A deterioration in the standard of maintenance and repair that affects the rental unit.
2. A discontinuance or reduction in the services or facilities that are provided to the rental unit.
3. The degree to which the rental unit complies with the maintenance standards for the municipality in which the rental unit is located if maintenance standards have been established by by-law.
4. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board, if no by-law has been passed by the municipality.

Order of the Minister on the application **100h.**—(1) The Minister's order under this Part shall provide,

- (a) the maximum rent that may be charged for each rental unit; and
- (b) the date on which the maximum rent for each unit takes effect.

Idem (2) The Minister's order under this Part may also,

- (a) provide that the landlord or the tenant shall pay to the other a sum of money that is owed as a result of the order; and
- (b) set terms and conditions of the order.

Maximum rent effective for twelve months (3) The maximum rent for a rental unit, once ordered, stays in effect for twelve months from the effective date set out in the order for that rental unit.

Payment of order by installments **100i.**—(1) If an order on an application under section 100d or a new order under section 100o is made three months or more after the effective date of the first rent increase set out in the order, the Minister may provide that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Idem (2) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

100j.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part. Tenant not liable to pay illegal rent increase

(2) Nothing in this Part limits the relief available to a tenant or the power of the Minister under subsections 95 (2) and (3). Remedy

100k.—(1) Subsections 97 (1) to (5) apply with necessary modifications to separate charges under this Part. Separate charges

(2) An increase in rent charged in accordance with subsections 97 (1) to (5) is not an increase in rent for the purpose of subsection 100c (2). Idem

100-L. Sections 98 and 99 apply to rents to which this Part applies. Sections in Part VI apply

100m. Section 100 applies to a landlord, a person acting on behalf of the landlord, a tenant and a person acting on behalf of a tenant under this Part. Additional charges prohibited

100n.—(1) This section applies to an order made by the Minister, the Board or a court under Part VI, other than an order to which subsection 83 (3a) applies, even if made before the 1st day of October, 1990. Application of section

(2) Any order, except an order under section 94 or 95, in which the first date that a rent increase takes effect in the residential complex is on or after the 1st day of October, 1990 shall be deemed to be void. Provisions orders ineffective

(3) An order made under section 84 shall be deemed to be void if the first effective date varying the maximum rent is on or after the 1st day of October, 1990. s. 84 order void

(4) An order made under section 85 shall be deemed to be void if the effective date of the earliest maximum rent is on or after the 1st day of October, 1990. s. 85 order void

(5) Any order made by the Divisional Court on an appeal from an order referred to in subsection (2), (3) or (4) shall be deemed to be void. Court order void

(6) The Minister shall not consider any order made under section 88 or 89 in an application for a rent increase to which this Part applies. ss. 88, 89 order not to be considered

(7) A notice issued under section 92 shall be deemed to be void if the first effective date of rent increase is on or after the 1st day of October, 1990. s. 92 notice of phase void

(8) An application made to the Minister under section 85, 88 or 89 on or after the 1st day of October, 1990 shall be deemed to be void. Certain applications discontinued

day of October, 1990 shall be deemed to be discontinued.

(9) An application made to the Minister under section 86 shall be deemed to be discontinued if the effective date of the first rent increase applied for is on or after the 1st day of October, 1990.

(10) An application made to the Minister under section 84 shall be deemed to be discontinued if the first intended variation in rent in the application is on or after the 1st day of October, 1990.

100o.—(1) If an order rendered void under section 100n contains as a component of the justified rent increase set out in the reasons to that order relief under section 75 respecting an operating cost allowance and one or more of the matters enumerated in subsection (2), the findings in respect of the relief other than the operating cost allowance shall be adopted by the Minister and shall form part of a new order.

(2) Subsection (1) applies in respect of relief respecting,

- (a) the findings under clause 75 (b) concerning extraordinary operating costs, but only with respect to municipal taxes, heating, hydro, water, insurance, cablevision or other costs prescribed for the purposes of subsection 100e (1);
- (b) the findings under clause 75 (b) concerning financing costs;
- (c) the findings under clause 75 (f) concerning changes in services and facilities or standard of maintenance and repair;
- (d) the findings under clause 75 (h) concerning financing costs no longer borne by the landlord.

(3) The operating cost allowance referred to in subsection (1) shall form part of the new order and shall be equal to A x B where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first rent increase set out in the void order, and

B = the gross potential rent.

(4) The Minister shall make an order based on the operating cost allowance calculated under subsection (3) and the adopted findings from the void order in respect of the matters set out in subsection (2).



(5) For the purposes of subsection (1), the Minister shall determine the total rent increase that is justified and apportion the total rent increase under subsections 100f (2) to (6).

Determination of total rent increase

(6) Despite subsection (1), if in an order rendered void under section 100n the Minister has allowed an amount in respect of a capital expenditure that was the subject of an order under subsection 89 (2) made before the 29th day of November, 1990, the Minister shall make a new order that,

Certain conditional orders

- (a) subject to clause (c), adopts the findings made in the void order;
- (b) apportions the total rent increase amongst the rental units in the residential complex in accordance with section 82 and subsections 83 (1) to (3);
- (c) subject to clause (d), provides that the rent increase for each rental unit, including the rent increase attributable to equalization, shall be the lesser of the rent increase allowed in the void order for that rental unit and 15 per cent of the maximum rent for that rental unit; and
- (d) does not order a maximum rent for a rental unit greater than that proposed on the application.

(7) Despite sections 7 and 100n, a landlord may continue to collect the rent approved under the void order until the Minister makes a new order under this section.

Collection of rent

(8) The landlord shall pay to each tenant the difference between the tenant's payment of rent to that landlord under the void order and the rent found to be properly payable under this section and shall do so not more than sixty days after the new order is made.

Repayment of rent

100p. If an order is rendered void under section 100o, the landlord who collected rent under the void order shall pay to the tenant the difference between the tenant's payment of rent under the void order and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Repayment of rent

100q. Where a landlord has collected rent under a notice issued under section 92 that is rendered void by subsection 100n (7), that landlord shall pay to the tenant the difference between the tenant's payment of rent under the void notice and the rent properly payable under section 100c and shall do so not more than sixty days after the day the

Repayment of amount paid under s. 92

Residential Rent Regulation Amendment Act, 1991 receives Royal Assent.

Tenant may deduct excess

100r. If a landlord does not comply with subsection 100o (8) or section 100p or 100q, the affected tenant may deduct the amount owed by that landlord from subsequent rent payments to that landlord until the full amount is satisfied or may apply for repayment of the excess under section 95.

Transition, procedure where no order

100s.—(1) Where the Minister has received an application from a landlord under section 74 that is an application for rent increase to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100d.

Submissions by landlord

(2) The landlord may make submissions to the Minister on the application not more than thirty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Submissions by tenant

(3) Any tenant affected by the application may make submissions to the Minister on the application not more than thirty days after the last day the landlord is permitted to make submissions.

Transition, tenant's application under Part VI

100t.—(1) Where the Minister has received an application from a tenant under section 94 that is an application to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100g.

Tenant's submissions

(2) The tenant who brought the application may make submissions to the Minister not more than thirty days after the day that the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Landlord's submissions

(3) The landlord may make submissions to the Minister not more than thirty days after the last day that the tenant is permitted to make submissions.

Repeal of Part VI-A

100u. Part VI-A is repealed on the 1st day of January, 1993.

10.—(1) Section 118 of the Act is amended by adding the following paragraphs:

35a. prescribing, for the purposes of Part VI-A, the form of a cost revenue statement;

35b. prescribing the manner in which the Minister shall determine the justified rent increase for the residential com-

plex for the purpose of subsection 100e (2);

35c. prescribing the period of time for which the Minister shall consider each of the matters set out in clauses 100e (2) (a) to (e);

35d. prescribing criteria for determining costs under clause 100e (2) (c);

35e. prescribing, for the purposes of Part VI-A, the method of determining maximum rent;

35f. prescribing, for the purposes of section 100g, the manner in which the Minister shall determine the reduction of the rent increase;

35g. prescribing criteria that the Minister may consider in determining the real substance of transactions and activities and the good faith of participants under subsection 100e (9).

(2) Section 118 is further amended by adding the following subsections:

(2) A regulation made under paragraph 35d of subsection (1) may prescribe different criteria for, Idem

(a) different types of mortgage or loan;

(b) different sources of mortgage or loan; and

(c) different classes of residential complex in respect of which there is a mortgage or loan.

(3) Paragraphs 35a to 35g of subsection (1) and subsection (2) are repealed on the 1st day of January, 1993. Repeal of pars. 35a to 35g and subsection (2)

11.—(1) Clause 122 (1) (d) of the Act is amended by inserting after "71" in the second line "or 100c, whichever is applicable".

(2) Section 122 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 41, is further amended by adding the following subsection:

(4) On the 1st day of January, 1993, clause (1) (d) is amended by striking out "or 100c, whichever is applicable" where it occurs. Clause (1) amended

12. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before the 29th day of November, 1990. Saving

13.—(1) This Act, except section 1 and subsection 8 (2), comes into force on the day it receives Royal Assent. Commencement

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(3) Subsection 8 (2) shall be deemed to have come into force on the 29th day of November, 1990.

14. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1991*. Short title

Bill 4

*(Chapter 4
Statutes of Ontario, 1991)*

An Act to amend the Residential Rent Regulation Act, 1986

The Hon. D. Cooke
Minister of Housing

1st Reading	November 28th, 1990
2nd Reading	December 18th, 1990
3rd Reading	April 22nd, 1991
Royal Assent	April 22nd, 1991

An Act to amend the Residential Rent Regulation Act, 1986

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

1.—(1) The definition of “rental unit” in section 1 of the *Residential Rent Regulation Act, 1986* is amended by inserting after “structure” in the third line “where the living accommodation or site is”.

(2) Section 1 of the Act is amended by adding the following subsection:

(2) A rented site for a mobile home or a single family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single family dwelling on the site is owned by the tenant of the site.

2. Subsection 5 (1) of the Act is repealed and the following substituted:

(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant notice in the prescribed form setting out the landlord’s intention to increase the rent and the amount of the increase intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

3.—(1) Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the limit imposed by section 71 or 100c, whichever is applicable,

(2) Section 7 of the Act is amended by adding the following subsection:

(2) On the 1st day of January, 1993, clause (1) (b) is amended by striking out “or 100c, whichever is applicable” at the end.

4.—(1) Subsection 20 (3) of the Act is amended by inserting after “subsection 71 (4)” in the fourth line “or clause 100c (1) (b), whichever is applicable”.

(2) Section 20 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (3) is amended by striking out “or clause 100c (1) (b), whichever is applicable” where it occurs.

Subs. (3) amended

5.—(1) Subsection 26 (1) of the Act is repealed and the following substituted:

(1) Subsection (2) applies where a landlord or a tenant makes an application under this Act, other than under section 74, 86 or 100d.

Application of subs. (2)

(1a) Except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

Filing of documents

(2) Section 26 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (1) is amended by striking out “86 or 100d” at the end and substituting “or 86”.

Subs. (1) amended

6.—(1) Subsection 30 (4) of the Act is amended by striking out “(whole building review)” in the second line and substituting “or 100d (whole building review), whichever is applicable”.

(2) Section 30 of the Act is amended by adding the following subsection:

(6) On the 1st day of January, 1993, subsection (4) is amended by striking out “or 100d (whole building review), whichever is applicable” where it occurs and substituting “(whole building review)”.

Subs. (4) amended

7. Section 39 of the Act is repealed and the following substituted:

39. Members of the Board shall hold office during pleasure.

Term of office

8.—(1) Section 83 of the Act is amended by adding the following subsections:

(3a) If the effective date of the first rent increase in the residential complex applied for is on or after the 1st day of October, 1990,

Order capped at 15 per cent

Rented sites
a rental
units

Notice of
rent increase

Clause (1) (b)
amended

- (a) the Minister shall not order a rent increase for any rental unit, including a rent increase attributable to equalization, that is greater than 15 per cent of the maximum rent for that rental unit; and
- (b) despite section 90, the Minister shall not order a maximum rent for a rental unit greater than that proposed on the application.

Subs. (3a) repealed

(3b) On the 1st day of January, 1993 subsection (3a) is repealed.

(2) Section 83 is further amended by adding the following subsections:

Payment of order by instalments

(6) The Minister may provide in an order made three months or more after the effective date of the first rent increase set out in the order that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly instalments or in a lump sum.

Idem

(7) Where the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated.

9. The Act is amended by adding the following Part:

PART VI-A

RENT REGULATION ON AND AFTER THE 1ST DAY OF OCTOBER, 1990

Definition

100a. In this Part, "gross potential rent" means the total, multiplied by twelve, of the monthly maximum rent for all rental units in the residential complex whether collected or not, for the month immediately preceding the effective date of the first rent increase applied for.

Application

100b.—(1) Subject to subsections (2) and (3), this Part applies to every rent increase that takes effect on or after the 1st day of October, 1990.

Exception

(2) This Part does not apply to a rent increase proposed in an application or set out in a notice issued under section 92 or an order of the Minister, the Board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order or notice is before the 1st day of October, 1990.

Idem

(3) This Part does not apply to a rent increase proposed in an application made under section 74 before the 31st day of January, 1991 if the application seeks relief in respect of a conditional order made under subsection 89 (2) that was made before the 29th day of November, 1990.

(4) Part VI does not apply where this Part applies, unless this Part provides otherwise.

Part VI not appl

100c.—(1) No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71 (1) unless,

Maximum increase without applicati

(a) an order has been made in accordance with this Part; or

(b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

(2) No landlord shall increase the rent charged for a rental unit unless twelve months have passed since the date that the last increase took effect.

Twelve months between increases

100d.—(1) A landlord may apply in the prescribed form to the Minister for an order increasing the maximum rent by more than the amount permitted under section 100c.

Applicati to the Minister

(2) When the landlord applies to the Minister, the landlord shall, as part of the same application, apply for a determination of the maximum rents for all of the rental units situated in the residential complex during the twelve-month period following the effective date of the first intended rent increase in the application.

Whole building review

(3) Subsection (2) applies whether or not those rental units are the subject of tenancy agreements at the time the application is made under this section.

Idem

(4) Subsections 74 (3) to (6) apply with necessary modifications to the application.

Procedure application

(5) A landlord may apply under this section before a notice of rent increase under section 5 has been given.

Landlord may apply without notice under s. 5

100c.—(1) In this section, "extraordinary operating cost" means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision or any other prescribed cost respecting the residential complex,

Definition

(a) that creates a variance of at least 50 per cent from the same component set out in the Building Operating Cost Index; or

(b) that would justify a variance in gross potential rent of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component.

(2) On an application under section 100d, the Minister shall determine, in the prescribed manner and for the prescribed periods,

Criteria for rent increas

(a) an operating cost allowance equal to A x B where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first intended rent increase on the application, and

B = the gross potential rent;

(b) any extraordinary operating costs;

(c) any increase or decrease of costs arising from changes in interest rate that occur when the landlord renews or refinances a mortgage or loan if,

(i) that landlord entered into or assumed the mortgage or loan,

(ii) the mortgage or loan related to the acquisition or construction of the residential complex, and

(iii) the renewal or refinancing relates to the acquisition or construction of the residential complex;

(d) subject to subsection (8), any financing costs no longer borne in an amount up to the amount that was allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*; and

(e) any discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair in respect of the residential complex or any rental unit in the complex.

(3) The Minister shall calculate the justified rent increase for the complex on the basis of the determinations under subsection (2).

(4) The landlord shall provide information for all of the cost categories of extraordinary operating costs where the application seeks to justify an increase in rent under clause (2) (b).

(5) If the landlord does not comply with subsection (4), the Minister shall determine that there is no rent increase justified under clause (2) (b).

(6) In determining whether a rent increase is justified under clause (2) (b), the Minister shall not consider any portion of an increase in municipal taxes that results from non-compliance with a municipal or other property standards order.

(7) The Minister shall determine costs under clause (2) (c) according to the prescribed criteria and in doing so,

(a) the Minister shall not consider a total principal amount in excess of 75 per cent of the acquisition or construction cost of the residential complex; and

(b) the Minister shall not apply an amortization period that is less than twenty-five years.

(8) Clause (2) (d) applies only where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985.

(9) In determining the total rent increase that is justified on the application, the Minister shall determine as a matter of fact the real substance of all transactions and activities and the good faith of the participants and in so doing,

(a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and

(b) may have regard to the pattern of activities relating to the residential complex.

100f.—(1) In the order, the Minister shall apportion the amount of the total rent increase found under section 100e among all the units that were the subject of the application in the manner set out in this section.

(2) The total rent increase for the residential complex shall be apportioned to the rental units as follows:

1. Determine the justified rent increase for the residential complex.

2. Determine the gross potential rent for the residential complex.

3. Determine what proportion the justified rent increase is to the gross potential rent.

4. Apply that proportion to each rental unit's previous maximum rent to get the rent increase for each rental unit.

(3) The Minister may allow a rent increase for a rental unit that is less than the amount permitted under section 100c.

(4) Subject to subsection (5), a rent increase that is justified shall be applied to the previous maximum rent.

(5) The Minister shall not order a maximum rent for a rental unit greater than that proposed on an application.

Calculation of interest rate changes

Application of clause (2) (d)

Substance of transactions may be examined

Apportionment of total rent increase

Steps on apportionment

Rent increase less than guideline allowed

Increase made to maximum rent

No rent increase ordered above application

Idem (6) An order may provide that no rent increase is justified.

Tenant may dispute increase permitted under s. 100c **100g.**—(1) A tenant may apply to the Minister in the prescribed form to dispute an intended rent increase that does not exceed the amount permitted under section 100c.

Rules on application (2) Subsections 94 (2), (3) and (4) apply with necessary modifications to the tenant's application.

Minister's considerations on tenant's application (3) The Minister shall consider the following factors on the application:

- 1. A deterioration in the standard of maintenance and repair that affects the rental unit.
- 2. A discontinuance or reduction in the services or facilities that are provided to the rental unit.
- 3. The degree to which the rental unit complies with the maintenance standards for the municipality in which the rental unit is located if maintenance standards have been established by by-law.
- 4. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board, if no by-law has been passed by the municipality.

Order of the Minister on the application **100h.**—(1) The Minister's order under this Part shall provide,

- (a) the maximum rent that may be charged for each rental unit; and
- (b) the date on which the maximum rent for each unit takes effect.

Idem (2) The Minister's order under this Part may also,

- (a) provide that the landlord or the tenant shall pay to the other a sum of money that is owed as a result of the order; and
- (b) set terms and conditions of the order.

Maximum rent effective for twelve months (3) The maximum rent for a rental unit, once ordered, stays in effect for twelve months from the effective date set out in the order for that rental unit.

Payment of order by instalments **100i.**—(1) If an order on an application under section 100d or a new order under section 100o is made three months or more after the effective date of the first rent increase set out in the order, the Minister may provide that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly instalments or in a lump sum.

(2) Where the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated.

100j.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part.

(2) Nothing in this Part limits the relief available to a tenant or the power of the Minister under subsections 95 (2) and (3).

100k.—(1) Subsections 97 (1) to (5) apply with necessary modifications to separate charges under this Part.

(2) An increase in rent charged in accordance with subsections 97 (1) to (5) is not an increase in rent for the purpose of subsection 100c (2).

100-L. Sections 98 and 99 apply to rents to which this Part applies.

100m. Section 100 applies to a landlord, a person acting on behalf of the landlord, a tenant and a person acting on behalf of a tenant under this Part.

100n.—(1) This section applies to an order made by the Minister, the Board or a court under Part VI, other than an order to which subsection 83 (3a) applies, even if made before the 1st day of October, 1990.

(2) Any order, except an order under section 94 or 95, in which the first date that a rent increase takes effect in the residential complex is on or after the 1st day of October, 1990 shall be deemed to be void.

(3) An order made under section 84 shall be deemed to be void if the first effective date varying the maximum rent is on or after the 1st day of October, 1990.

(4) An order made under section 85 shall be deemed to be void if the effective date of the earliest maximum rent is on or after the 1st day of October, 1990.

(5) Any order made by the Divisional Court on an appeal from an order referred to in subsection (2), (3) or (4) shall be deemed to be void.

(6) The Minister shall not consider any order made under section 88 or 89 in an application for a rent increase to which this Part applies.

(7) A notice issued under section 92 shall be deemed to be void if the first effective date of rent increase is on or after the 1st day of October, 1990.

(8) An application made to the Minister under section 85, 88 or 89 on or after the 1st day of October, 1990 shall be deemed to be discontinued.

Idem

Tenant not liable to pay illegal rent increase

Remedy

Separate charges

Idem

Sections in Part VI apply

Additional charges prohibited

Application of section

Provisions orders ineffective

s. 84 order void

s. 85 order void

Court order void

ss. 88, 89 order not be consid

s. 92 not of phase void

Certain applicati-discontin

(9) An application made to the Minister under section 86 shall be deemed to be discontinued if the effective date of the first rent increase applied for is on or after the 1st day of October, 1990.

(10) An application made to the Minister under section 84 shall be deemed to be discontinued if the first intended variation in rent in the application is on or after the 1st day of October, 1990.

100o.—(1) If an order rendered void under section 100n contains as a component of the justified rent increase set out in the reasons to that order relief under section 75 respecting an operating cost allowance and one or more of the matters enumerated in subsection (2), the findings in respect of the relief other than the operating cost allowance shall be adopted by the Minister and shall form part of a new order.

(2) Subsection (1) applies in respect of relief respecting,

- (a) the findings under clause 75 (b) concerning extraordinary operating costs, but only with respect to municipal taxes, heating, hydro, water, insurance, cablevision or other costs prescribed for the purposes of subsection 100e (1);
- (b) the findings under clause 75 (b) concerning financing costs;
- (c) the findings under clause 75 (f) concerning changes in services and facilities or standard of maintenance and repair;
- (d) the findings under clause 75 (h) concerning financing costs no longer borne by the landlord.

(3) The operating cost allowance referred to in subsection (1) shall form part of the new order and shall be equal to $A \times B$ where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first rent increase set out in the void order, and

B = the gross potential rent.

(4) The Minister shall make an order based on the operating cost allowance calculated under subsection (3) and the adopted findings from the void order in respect of the matters set out in subsection (2).

(5) For the purposes of subsection (1), the Minister shall determine the total rent

increase that is justified and apportion the total rent increase under subsections 100f (2) to (6).

(6) Despite subsection (1), if in an order rendered void under section 100n the Minister has allowed an amount in respect of a capital expenditure that was the subject of an order under subsection 89 (2) made before the 29th day of November, 1990, the Minister shall make a new order that,

- (a) subject to clause (c), adopts the findings made in the void order;
- (b) apportions the total rent increase amongst the rental units in the residential complex in accordance with section 82 and subsections 83 (1) to (3);
- (c) subject to clause (d), provides that the rent increase for each rental unit, including the rent increase attributable to equalization, shall be the lesser of the rent increase allowed in the void order for that rental unit and 15 per cent of the maximum rent for that rental unit; and
- (d) does not order a maximum rent for a rental unit greater than that proposed on the application.

(7) Despite sections 7 and 100n, a landlord may continue to collect the rent approved under the void order until the Minister makes a new order under this section.

(8) The landlord shall pay to each tenant the difference between the tenant's payment of rent to that landlord under the void order and the rent found to be properly payable under this section and shall do so not more than sixty days after the new order is made.

100p. If an order is rendered void under section 100n and no new order may be made under section 100o, the landlord who collected rent under the void order shall pay to the tenant the difference between the tenant's payment of rent under the void order and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

100q. Where a landlord has collected rent under a notice issued under section 92 that is rendered void by subsection 100n (7), that landlord shall pay to the tenant the difference between the tenant's payment of rent under the void notice and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

100r. If a landlord does not comply with subsection 100o (8) or section 100p or 100q,

Certain conditional orders

Collection of rent

Repayment of rent

Repayment of rent

Repayment of amount paid under s. 92

Tenant may deduct excess

the affected tenant may deduct the amount owed by that landlord from subsequent rent payments to that landlord until the full amount is satisfied or may apply for repayment of the excess under section 95.

Transition procedure where no order

100s.—(1) Where the Minister has received an application from a landlord under section 74 that is an application for rent increase to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100d.

Submissions by landlord

(2) The landlord may make submissions to the Minister on the application not more than thirty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Submissions by tenant

(3) Any tenant affected by the application may make submissions to the Minister on the application not more than thirty days after the last day the landlord is permitted to make submissions.

Transition tenant's application under Part VI

100t.—(1) Where the Minister has received an application from a tenant under section 94 that is an application to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100g.

Tenant's submissions

(2) The tenant who brought the application may make submissions to the Minister not more than thirty days after the day that the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Landlord's submissions

(3) The landlord may make submissions to the Minister not more than thirty days after the last day that the tenant is permitted to make submissions.

Repeal of Part VI-A

100u. Part VI-A is repealed on the 1st day of January, 1993.

10.—(1) Section 118 of the Act is amended by adding the following paragraphs:

- 35a. prescribing, for the purposes of Part VI-A, the form of a cost revenue statement;
- 35b. prescribing the manner in which the Minister shall determine the justified rent increase for the residential complex for the purpose of subsection 100e (2);
- 35c. prescribing the period of time for which the Minister shall consider each of the matters set out in clauses 100e (2) (a) to (e);

- 35d. prescribing criteria for determining costs under clause 100e (2) (c);
- 35e. prescribing, for the purposes of Part VI-A, the method of determining maximum rent;
- 35f. prescribing, for the purposes of section 100g, the manner in which the Minister shall determine the reduction of the rent increase;
- 35g. prescribing criteria that the Minister may consider in determining the real substance of transactions and activities and the good faith of participants under subsection 100e (9).

(2) Section 118 is further amended by adding the following subsections:

(2) A regulation made under paragraph 35d of subsection (1) may prescribe different criteria for,

Idem

- (a) different types of mortgage or loan;
- (b) different sources of mortgage or loan; and
- (c) different classes of residential complex in respect of which there is a mortgage or loan.

(3) Paragraphs 35a to 35g of subsection (1) and subsection (2) are repealed on the 1st day of January, 1993.

Repeal of pars. 35a to 35g and s. (2)

11.—(1) Clause 122 (1) (d) of the Act is amended by inserting after "71" in the second line "or 100c, whichever is applicable".

(2) Section 122 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 41, is further amended by adding the following subsection:

(4) On the 1st day of January, 1993, clause (1) (d) is amended by striking out "or 100c, whichever is applicable" where it occurs.

Clause 1 amended

12. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before the 29th day of November, 1990.

Saving

13.—(1) This Act, except section 1 and subsection 8 (2), comes into force on the day it receives Royal Assent.

Commentment

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Subsection 8 (2) shall be deemed to have come into force on the 29th day of November, 1990.

Idem

14. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1991*.

Short title

Bill 5

An Act to regulate Alarm Systems

Mr. McLean

1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The purpose of the Bill is to regulate alarm systems installed on real property.

The Bill establishes a licensing system for persons engaged in the business of providing alarm services and persons employed as alarm installers. The Bill provides for investigations regarding the suitability of persons applying for licences and investigations of complaints against persons providing alarm services.

In addition, the Bill prohibits the sale of alarm systems not meeting minimum technical standards and requires occupiers of real property on which an alarm system is installed to notify the local police of the installation.

The Bill establishes a system of fines for false alarms that cause the unnecessary response of the police, a fire department or an ambulance service. Higher fines are specified for subsequent false alarms occurring within twelve months of a first false alarm. The Bill also permits a court to order the disconnection of an alarm system after the third false alarm within any twelve-month period.

An Act to regulate Alarm Systems

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,

“alarm installer” means a person who installs, maintains or repairs alarm systems while employed by a person engaged in the business of providing alarm services;

“alarm services” means services involving the installation, maintenance or repair of alarm systems;

“alarm system” means a device or series of devices installed on real property for the purpose of detecting an emergency that requires a response by the police, a fire department or an ambulance service;

“licence” means a licence under this Act;

“licensee” means the holder of a licence under this Act;

“prescribed” means prescribed by the regulations;

“Registrar” means the Registrar under the *Private Investigators and Security Guards Act*;

“regulations” means the regulations made under this Act.

2.—(1) No person shall engage in the business of providing alarm services unless the person holds a licence for that purpose.

(2) No person shall act as an alarm installer unless the person is licensed for that purpose.

(3) No person shall hold out as acting as an alarm installer or as being engaged in the business of providing alarm services unless the person is licensed under this Act.

3.—(1) A person may apply to the Registrar for a licence to engage in the business of providing alarm services or a licence to act as an alarm installer.

(2) An application for a licence shall be made on the form supplied by the Registrar and shall be accompanied by the prescribed fees.

(3) No person engaged in the business of providing alarm services shall employ as an alarm installer a person who is not the holder of a licence.

4.—(1) Every applicant for a licence shall state in the application an address for service in Ontario.

(2) Every person licensed to engage in the business of providing alarm services shall within five days notify the Registrar in writing of any change in the person’s address for service or in the address of any place at which the person carries on business.

(3) All notices under this Act or the regulations are sufficiently given or served for all purposes if sent by registered mail or delivered to the latest address given under this section.

5.—(1) The Registrar or any person authorized by the Registrar may make such inquiry and investigation as he or she considers sufficient regarding the character, financial position and competence of an applicant or licensee and may require an applicant to try such examinations to determine competence as the Registrar considers necessary.

(2) The Registrar may require verification by statutory declaration of any information or material submitted in relation to an application.

6.—(1) The Registrar shall issue a licence or renewal of a licence if, in the opinion of the Registrar, the proposed licensing is not against the public interest.

(2) A licence is subject to such conditions as may be imposed by the Registrar or The Commercial Registration Appeal Tribunal or as may be prescribed.

7. A licence is not transferable.

8. Every licence and renewal of a licence expires on the 31st day of March in each year.

9.—(1) Every applicant for renewal of a licence shall, on or before the 1st day of March in each year, apply to the Registrar for the renewal of the licence.

Employer to ensure employees licensed

Address for service

Notice of change in address

Service

Investigation of applicant

Verification

Issuance of licence

Conditions attaching to licence

Transfers

Expiry of licences

Renewals

Definitions
 Licences
 Application for licence
 Renewals

Idem	(2) An application for renewal of a licence shall be made on the form supplied by the Registrar and be accompanied by the prescribed fees.	13. If the Registrar receives a complaint in respect of the carrying on of the business of providing alarm services and so requests in writing, the person carrying on the business shall furnish the Registrar with such records or information respecting the matter complained of as the Registrar may require. Complaints
Suspension and revocation of licence	10. Subject to section 11, the Registrar may suspend or revoke a licence if, (a) the licensee is convicted of an offence under the <i>Criminal Code</i> (Canada) or under this Act; (b) the licensee is in breach of a term or condition of the licence; or (c) in the opinion of the Registrar, to do so is in the public interest.	14. No person shall offer for sale, sell or lease an alarm system not meeting the prescribed technical standards for alarm systems. Technical standards—prohibition 15. The occupier of real property on which an alarm system is installed shall give notice of the installation to the police force having jurisdiction in the area where the property is located, Notice to local police force of alarm system
Proposal	11. —(1) If the Registrar proposes to refuse to issue or renew a licence, proposes to impose conditions on a licence or proposes to suspend or revoke a licence, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or the licensee.	(a) within ninety days after the day this Act comes into force, if the alarm system was installed before that day; or (b) within thirty days after the date of installation, if the alarm system is installed on or after the day this Act comes into force.
Notice	(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by The Commercial Registration Appeal Tribunal if the applicant or licensee mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the applicant or licensee, notice in writing requiring a hearing and the applicant or licensee may so require such a hearing.	16. —(1) The occupier of real property on which an alarm system is installed is guilty of an offence if the alarm system is activated, whether intentionally or not, when there is no emergency requiring response by the police, a fire department or an ambulance service and there is a response to the alarm by the police, a fire department or an ambulance service. False alarm offence
No hearing	(3) If an applicant or licensee does not require a hearing by the Tribunal, the Registrar may carry out the proposal stated in the notice to the applicant or licensee.	(2) On conviction for an offence under subsection (1), the convicted person is liable to a fine of, Penalty
Hearing	(4) If an applicant or licensee requires a hearing, the Tribunal shall appoint a time for and hold a hearing.	(a) not more than \$500 for the first offence within any twelve-month period;
Order	(5) After holding a hearing, the Tribunal may by order direct the Registrar to carry out the proposal or refrain from carrying out the 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.	(b) not less than \$250 and not more than \$1,000 for the second offence within any twelve-month period; or (c) not less than \$500 and not more than \$2,000 for the third offence or any further subsequent offence within any twelve-month period.
Conditions	(6) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.	(3) In convicting a person of a third offence or any further subsequent offence under subsection (1) within any twelve-month period, a court may, in addition to the fine imposed under subsection (2), order the disconnection of the alarm system relating to the offence. Disconnection of alarm system
Parties	(7) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.	17. —(1) Every person who, Offences
Records and information	12. Every person engaged in the business of providing alarm services shall maintain such records and information as are prescribed.	(a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act;

- (b) fails to comply with any order, direction or other requirement made under this Act;
- (c) contravenes a condition of a licence; or
- (d) contravenes subsection 2 (1), (2), (3), 3 (3) or 4 (2) or section 13, 14 or 15,

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 one year, or to both.

(2) If a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed is \$25,000 and not as provided therein.

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) exempting any person or class of persons from any provision of this Act or the regulations;
- (b) prescribing fees for licences and the renewal of licences;
- (c) prescribing conditions that attach to a licence;

- (d) prescribing records and information to be kept by licensees;
- (e) prescribing technical standards for alarm systems;
- (f) requiring licensees to maintain liability insurance and prescribing the amount thereof;
- (g) requiring licensees to be bonded;
- (h) prescribing the amount, form and terms of bonds;
- (i) providing for the forfeiture of bonds and the disposition of the proceeds on forfeiture.

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and may require compliance with any code or standard adopted.

(3) A regulation may be general or particular in its application.

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

20. The short title of this Act is the *Alarm Systems Act, 1990*.

Adoption of codes by reference

Scope of regulations

Commencement

Short title

Corporations

Regulations





Bill 6

An Act respecting Heritage Day

Mr. McLean

1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to establish a new holiday on the third Monday in the month of February to celebrate "Heritage Day".

An Act respecting Heritage Day

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

1. Clause 1 (l) of the *Employment Standards Act*, as amended by the Statutes of Ontario, 1989, chapter 4, section 1, is repealed and the following substituted:

- (l) "public holiday" means New Year's Day, Heritage Day, being the third Monday in February in each year, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and the 26th day of December.

2. Clause 1 (l) (a) of the *Retail Business Holidays Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 1, is amended by adding the following subclause:

- (ia) Heritage Day, being the third Monday in February in each year.

3. Paragraph 11 of section 30 of the *Interpretation Act*, is amended by striking out "Dominion Day" in the fifth line and substituting "Heritage Day, being the third Monday in February in each year".

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

5. The short title of this Act is the *Heritage Day Act, 1990*. Short title

Bill 7

An Act to amend the Powers of Attorney Act

Mr. Sterling

1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for a durable power of attorney with respect to consent and withdrawal of consent to medical treatment.

An Act to amend the Powers of Attorney 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 *Powers of Attorney Act* is amended by adding the following subsection:

(2) A provision in a power of attorney ^{Idem} may authorize another person to give consent or directions respecting,

- (a) the medical treatment of the person giving the authorization; or
- (b) the withdrawal of medical treatment for the person giving the authorization.

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

3. The short title of this Act is the *Powers of Attorney Amendment Act, 1990*. ^{Short title}



Bill 8

An Act respecting Natural Death

Mr. Sterling

1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to recognize the right of an adult person to make a written declaration (living will) that instructs a physician or other health-care provider to withhold or withdraw life-sustaining procedures in the event of a terminal condition.

Criteria are established to execute a valid living will and to revoke it.

The Bill protects from civil liability and disciplinary action physicians and other health-care providers who withhold or withdraw life-sustaining procedures in accordance with a patient's wishes as set out in a living will.

Penalties are provided in situations where the physician or other health-care provider refuses to follow the living will and also refuses to make reasonable effort to transfer the patient to another physician or health-care provider willing to follow the living will.

An Act respecting Natural Death

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,

“life-sustaining procedure” means a medical procedure or treatment that is performed or applied for the purpose of postponing the moment of death, but does not include a medical procedure or treatment that is performed or applied for the purpose of alleviating pain;

“living will” means a written declaration that sets out that the person executing the declaration does not wish to have a life-sustaining procedure carried out on him or her if the person is suffering from a terminal condition and is no longer mentally competent;

“mentally competent” means able to understand,

- (a) the subject-matter in respect of which consent may be given or withheld, and
- (b) the consequences of giving or withholding consent;

“physician” means a legally qualified medical practitioner;

“terminal condition” means an incurable or irreversible condition such that death is imminent and may only be postponed by the performance of a life-sustaining procedure.

2. A person who attains the age of majority and is mentally competent may execute a living will.

3.—(1) The living will of a person is valid for the purposes of this Act if,

- (a) it is in writing;
- (b) it is signed by the person;
- (c) it is signed by the person in the presence of two or more witnesses who are present at the same time;
- (d) it is signed by two or more of the witnesses in the presence of the person; and
- (e) it is dated on the day it is executed.

(2) The living will of a person is not valid if the witnesses are related to the person, are potential beneficiaries of the person’s estate or are financially responsible for the person.

Witnesses as beneficiaries

(3) The living will of a person is not valid while the person is pregnant.

Pregnancy

4.—(1) The living will of a person is revoked if the person,

Revocation

- (a) destroys, defaces or directs another person who is not related to him or her to destroy or deface the living will with the intention of revoking it;
- (b) signs a document directing the revocation of the living will before one witness who is not related to the person; or
- (c) indicates to another person who is not related to him or her, orally or by other non-written means of communication, an intention to revoke it.

(2) Subsection (1) applies despite the fact that the person was not mentally competent at the time of the revocation.

Application of subs. (1)

5.—(1) The living will of a person takes effect for the purposes of this Act when it is given to a physician who is responsible for the person’s medical care and treatment.

When living will effective

(2) The physician who is given the living will of a person shall record its existence in the person’s medical record and insert it in the person’s medical record.

To be included in record

(3) The living will of a person that is given to a physician ceases to be effective for the purposes of this Act when the physician or another physician who is responsible for the person’s medical care and treatment is notified that the living will is revoked under subsection 4 (1).

Physician notified of revocation

(4) A physician who is notified under subsection (3) that the living will of a person is revoked shall immediately record the fact in the person’s medical record and shall immediately remove the living will from the medical record.

To be included in the record

6.—(1) A person is not liable for damages to a person who executes a living will

Liability

Definitions

Living will

Validity of living will

or subject to disciplinary action for the withdrawal or withholding of a life-sustaining procedure under the living will.

Idem

(2) Subsection (1) applies even if the living will is not valid, if the person acted in accordance with the living will believing it to be valid.

Transfer of care and treatment

(3) A health-care provider who is responsible for the medical care and treatment of a person and who is unwilling to comply with the living will of the person shall, as promptly as is practicable, take all reasonable steps to transfer the care and treatment of the person to another health-care provider who is willing to comply with the living will.

Life insurance

7. A death that occurs because of the withdrawal or withholding of a life-sustaining procedure under a living will shall be deemed not to be a suicide or self-induced death for the purposes of any legal document.

Offence

8.—(1) Except as provided in clause 4 (1) (a) and subsection 5 (4), a person who knowingly conceals, defaces or destroys another person's living will is guilty of an offence.

(2) A health-care provider who is unwilling to comply with a living will and who does not promptly act to take all reasonable steps to transfer the care and treatment of the person to another health-care provider is guilty of an offence. Idem

(3) A person who is convicted of an offence under this Act is liable to a fine of not more than \$1,000 and to imprisonment for a term of not more than one year. Idem

9.—(1) This Act does not create a presumption as to the intention or wishes of a person who has revoked or has not executed a living will. No presumption created

(2) This Act does not impose an obligation to perform a life-sustaining procedure if the obligation does not otherwise exist at law. No obligations created

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

11. The short title of this Act is the *Natural Death Act, 1990*. Short title

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 9

**An Act to authorize borrowing on the
credit of the Consolidated Revenue
Fund**

The Hon. F. Laughren
Treasurer of Ontario and
Minister of Economics

1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

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Projet de loi 9

**Loi autorisant des emprunts garantis
par le Trésor**

L'honorable F. Laughren
Trésorier de l'Ontario et
ministre de l'Économie

1^{re} lecture 4 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

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1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 9

*(Chapter 21
Statutes of Ontario, 1990)*

An Act to authorize borrowing on the credit of the Consolidated Revenue Fund

The Hon. F. Laughren
Treasurer of Ontario and
Minister of Economics

Projet de loi 9

*(Chapitre 21
Lois de l'Ontario de 1990)*

Loi autorisant des emprunts garantis par le Trésor

L'honorable F. Laughren
Trésorier de l'Ontario et
ministre de l'Économie

1st Reading December 4th, 1990
2nd Reading December 12th, 1990
3rd Reading December 18th, 1990
Royal Assent December 20th, 1990

1^{re} lecture 4 décembre 1990
2^e lecture 12 décembre 1990
3^e lecture 18 décembre 1990
sanction royale 20 décembre 1990

*This Bill has been reprinted to conform to the new
printing format*

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nouveau format d'impression*

An Act to authorize borrowing on the credit of the Consolidated Revenue Fund

Loi autorisant des emprunts garantis par le Trésor

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1.—(1) The Lieutenant Governor in Council may borrow in any manner provided by the *Financial Administration Act* such sums, not exceeding a total aggregate amount of \$5,000,000,000, as are considered necessary to discharge any indebtedness or obligation of Ontario, to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund or to reimburse the Consolidated Revenue Fund for money expended for any of such purposes.

1 (1) Le lieutenant-gouverneur en conseil peut, conformément à la *Loi sur l'administration financière* et pour un montant total ne dépassant pas 5 000 000 000 \$, contracter les emprunts jugés nécessaires afin d'acquitter une dette ou un engagement de l'Ontario, d'effectuer un paiement prélevé sur le Trésor qui est autorisé ou requis par une loi ou de rembourser le Trésor des sommes d'argent utilisées à ces fins.

(2) The authority to borrow conferred by this Act is in addition to that conferred by any other Act.

(2) L'autorisation d'emprunter que confère la présente loi s'ajoute aux autorisations conférées par d'autres lois.

2. No order in council authorizing borrowing under this Act shall be made after the 30th day of September, 1991.

2 Nul décret autorisant un emprunt en vertu de la présente loi n'est pris après le 30 septembre 1991.

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

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

4. The short title of this Act is the *Ontario Loan Act, 1990*.

4 Le titre abrégé de la présente loi est *Loi de 1990 sur les emprunts de l'Ontario*.

Autorisation d'emprunter

Autres lois

Cessation d'effet

Entrée en vigueur

Titre abrégé

Borrowing authorized

Other Acts

Expiry

Commencement

Short title

Bill 10

An Act to amend the Corporations Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Budgets of April 20, 1988, May 17, 1989 and April 24, 1990 and amends the *Corporations Tax Act* (the "CTA"), consequential upon the passage of amendments to the *Income Tax Act* (Canada) (the "Federal Act"), in order to maintain the provisions of the CTA in conformity with existing policies of Ontario for the taxation of corporations.

SECTION 1. The repeal of subclause 1 (1) (aa) (i) of the CTA is consequential upon amendments to the Federal Act and eliminates a redundant reference to paragraph 125 (7) (d) of the *Income Tax Act* (Canada), the definition of "personal services business".

The repeal of clause 1 (1) (ja) is consequential upon elimination and replacement of the special small corporation rules with the exempt from filing rules in clause 67 (1) (d) of the CTA.

The enactment of clause 1 (1) (ab) makes it clear that the Federal Act provision deeming things received on the date mailed does not apply for CTA purposes.

The re-enactment of sub-subclause 1 (2) (d) (iv) (A) adds sections of the Federal Act which contain references to other sections of the Federal Act which will apply for the purposes of the CTA.

The enactment of subsection 1 (1a) is consequential upon and parallels amendments to the Federal Act which permit private corporations to establish their year-ends immediately prior to the application of the new taxable capital gain inclusion proportions brought about by tax reform.

The amendment to subsection 1 (7) of the Act permits retroactivity of regulations that modify and apply the Act to give effect to provisions of international tax agreements.

The enactment of subsection 1 (8) will permit the use of any form of postal delivery service for which a receipt is obtained from the addressee.

SECTION 2. The enactment of section 5a adds a general anti-avoidance provision to the CTA. This reflects the 1988 Budget proposal to parallel federal tax reform measures. This section can be used to deny the tax benefit that would result from a transaction unless the transaction may reasonably be considered to have been undertaken or arranged primarily for purposes other than to obtain the tax benefit.

SECTION 3. The re-enactment of section 7 makes it clear that there may be additions as well as deductions in computing taxable income.

SECTION 4.—Subsections 1, 3 and 4. The re-enactment of subsection 12 (2), amendment to subsection 12 (7) and repeal of clause 12 (7) (c) are consequential upon and parallel amendments to the Federal Act which generally disallow deductions for interest and property taxes on vacant land held but not used in connection with a business and for land used in the course of a business of development and resale except to the extent of income from the land.

Subsection 2. The re-enactment of subsection 12 (6) adds an exemption from the 5/15.5 add-back for payments to non-residents for certain types of rights related to television news programs produced in Canada. The add-back is being expanded to include any other means of reproduction for use in connection with television.

Subsection 5. The re-enactment of clause 12 (7) (d) implements the 1988 Budget proposal to extend the resource allowance to mining profits.

Subsection 6. The re-enactment of subsection 12 (9b) is consequential upon amendments to the Federal Act providing transitional rules for phasing out deductions for bank reserves under the pre-federal tax reform rules. An existing Ontario policy difference is taken into account.

Subsection 7. The repeal of subsections 12 (14) and (15) is consequential upon amendments to sub-subclause 1 (2) (d) (iv) (A) which provide an automatic link with Federal Act provisions.

Subsection 8. The enactment of subsection 12 (6c) replaces reference in a provision adopted from the Federal Act with the appropriate CTA reference.

The enactment of subsection 12 (9c) is consequential upon amendments to the Federal Act and creates a regulation making authority to allow for federal and Ontario policy differences in transitional rules for the revised treatment of bank reserves.

The enactment of subsection 12 (10a) implements the 1988 Budget proposal that the International Banking Centre provisions in the Federal Act amendments would not be paralleled in the CTA.

The enactment of subsections 12 (18) and (19) parallel and are consequential upon amendments to the Federal Act which phase in over five years the disallowance of deduction for interest and property taxes on certain vacant land except to the extent of income from the land.

SECTION 5. The enactment of section 12a implements the 1988 Budget proposal for a research and development Super Allowance. The Super Allowance is a direct deduction from income based upon current and capital expenditures on scientific research and development incurred in Ontario.

The enactment of section 12b implements the 1988, 1989 and 1990 Budget proposals related to the Ontario current cost adjustment ("the OCCA"). The OCCA is a direct deduction from income otherwise subject to tax in Ontario calculated as a percentage of the tax depreciable cost of new manufacturing and processing machinery and equipment used in Ontario. The OCCA rate is equal to 10 per cent for eligible assets acquired in 1989, 15 per cent for eligible assets acquired in 1990 and 20 per cent for deductions claimed for taxation years commencing after 1990. Prescribed pollution control equipment acquired after May 17, 1989 is also eligible for the OCCA. Manufacturing and processing assets acquired after 1991 will not qualify for the OCCA.

SECTION 6. The enactment of clause 13 (4) (e) requires adjustments to the adjusted cost base of a partnership interest in respect of research and development Super Allowance and Ontario current cost adjustment deductions claimed by a corporate partner, which relate to expenditures by the partnership.

SECTION 7. The enactment of section 16a reinstates the rule for calculating reserves for resource property disposals as a complement to Ontario's adoption of the new federal successor rules for resource corporations.

SECTION 8.—Subsection 1. The repeal of subsection 18 (1) is consequential upon amendments to the Federal Act which revise the existing rules for the deduction of Canadian exploration and development expenses by successor corporation and move the rules to section 66.7 of the Federal Act. The new rules are adopted in section 18c of the CTA.

Subsection 2. The re-enactment of subsection 18 (7) removes references to repealed sections of the Federal Act. The enactment of subsection (7a) parallels amendments to the Federal Act and changes cross-references to the Federal Act related to successor rules for Canadian resource properties.

Sections 3 and 4. The amendment to subsection 18 (14) adopts the new Federal Act definitions relating to Canadian resource properties and adds a reference to section 18c of the CTA which adopts the new Federal Act successor rules.

SECTION 9. The amendment to subclause 18a (b) (iii) is consequential upon amendments to the Federal Act and will ensure that Canadian development expenses incurred in Ontario with respect to which the underlying resource properties have been transferred to a successor corporation will no longer qualify the predecessor corporation for the additional 70 per cent write-off for Ontario development expenses.

The amendments to section 18a make it clear that the Minister referred to in clause 66.1 (6) (a) (ii.1) (D) of the Federal Act shall be read as a reference to the Minister of National Revenue.

The amendment to clause 18a (b) prorates, for short tax years, the additional 70 per cent deduction allowed for Canadian development expenses incurred in Ontario.

SECTION 10. The amendment to section 18b and clause 66.1 (6) (a) adopts a provision in the Federal Act which allows the filing of forms in respect of flow-through share arrangements.

The amendments to clauses 18b (b), (c) and (d) adopt a provision in the Federal Act which allows the flow-through of land and gas exploration expenditures made after 1987 and incurred before October 14, 1988.

SECTION 11. The enactment of section 18c parallels and is consequential upon amendments to the Federal Act which permit successor corporations beyond a second successor to deduct from income resource expenditures acquired from a predecessor corporation.

The enactment of section 18d parallels and is consequential upon amendments to the Federal Act which prorate deductions for Canadian development expenses and Canadian land gas property expenses.

The enactment of section 18e parallels and is consequential upon amendments to the Federal Act which limit the deduction of resource expenditures by a limited partner of a partnership to the partner's "at-risk amount" with respect to the partnership.

SECTION 12. The enactment of subsection 20 (3) parallels and is consequential upon amendments to the Federal Act and applies federally prescribed interest rates to refundable deposits to limit deductions for lease expenses of passenger vehicles.

The enactment of subsection 20 (4) prevents corporations from receiving a tax benefit from unrelated parties through the transfer of foreign resource property in an amalgamation or merger.

SECTION 13. The re-enactment of section 21 is similar to amendments to the Federal Act and ensures that the amount of benefit conferred on a corporation will be included in the corporation's income for tax purposes.

SECTION 14. The enactment of subsection 25 (7) requires adjustments to the calculation of a limited partnership loss in respect of the research and development Super Allowance and Ontario current cost adjustment deductions claimed by a corporate partner, which relate to expenditures by the partnership.

SECTION 15. The enactment of section 26a parallels and is consequential upon amendments to the Federal Act which allow depreciation to be recaptured from beneficiaries of mutual fund trusts who received the benefit of the CCA deduction.

SECTION 16.—Subsections 1 and 2. The re-enactment of subsections 27 (2) and (3), which is consequential upon amendments to the Federal Act, changes cross-references to the provisions of the Federal Act with respect to the filing of receipts to support charitable gifts and related definitions.

Subsection 3. The enactment of subsections 27 (10) and (11) contain technical changes consequential upon amendments to the Federal Act rules dealing with the deductibility of losses where there is a change in control of a corporation.

The enactment of subsection 27 (12) requires certain adjustments to the amount of limited partnership losses that can be deducted by a corporate partner. The adjustments pertain to the research and development Super Allowance and the Ontario current cost adjustment deductions claimed by the partner, which relate to expenditures by the partnership.

SECTION 17. The enactment of section 27a allows the Minister to determine the maximum amount of a loss that may be deducted in a year in certain cases where the loss has been created from the Super Allowance or current cost adjustment deductions.

SECTION 18. The enactment of subsection 29 (4) parallels the deferral of income tax allowed in the Federal Act to certain foreign corporations that have undertaken corporate reorganizations.

SECTION 19. The enactment of subsection 32 (4) disallows the interest income from an eligible loan arising in an international banking centre business from qualifying for the Ontario foreign tax credit.

SECTION 20. The re-enactment of subsections 33a (1) and (2) provide transitional rules for the phasing out of the three-year small business corporate income tax exemption.

SECTION 21.—Subsection 1. The re-enactment of clause 40 (2) (b) is consequential upon amendments to the Federal Act and alters the rate of effective tax applied to capital gains dividends and capital gains redemptions for the purpose of calculating the capital gains refund of a mutual fund corporation.

Subsection 2. The re-enactment of clause 40 (2) (c) and the repeal of clause 40 (2) (d) of the Act are consequential on changes that extend the time limits for reassessing corporations.

Subsection 3. The re-enactment of subsection 40 (4) is consequential upon amendments to the Federal Act which alter the current rate of tax and capital gains inclusion rate. The provision changes the gross-up rate used in calculating the "capital gains redemption" and in keeping a running "capital gains dividend account" for mutual fund corporations.

SECTION 22. The enactment of subsection 45 (3) implements the 1988 Budget proposal to disallow a CTA deduction for the new federal tax on investment income of life insurers.

SECTION 23.—Subsections 1 to 4. The amendment to clause 49 (1) (a) parallels and is consequential upon amendments to the Federal Act which provide an exemption for "master trusts" that hold investments exclusively for registered pension funds or plans and that elect to have the exemption apply. The amendment to clause 49 (1) (b), repeal of clause 49 (1) (c), re-enactment of subsection 49 (4) and enactment of subsection 49 (4a) generally parallel and are consequentially upon amendments to the Federal Act which limit the income tax exemption for insurers to that portion of taxable income which is related to farming risks.

Subsection 5. The re-enactment of subsection 49 (6) clarifies an existing policy difference from the Federal Act and makes the deemed disposition rules for foreign resource properties applicable for Ontario purposes.

SECTION 24.—Subsection 1. The re-enactment of subsection 53 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision requires bank mortgage subsidiaries to continue to use the special Loan and Trust formula to compute taxable paid-up capital even though the subsidiaries are no longer required to be registered under the *Loan and Trust Corporations Act, 1987*.

Subsections 2 and 3. The re-enactment of subsections 53 (5) and (6) provides for the exclusion of stock dividends received from a subsidiary or controlled corporation from the calculation of taxable paid-up capital.

SECTION 25. The re-enactment of subclause 54 (1) (c) (iv) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision ensures that deposits held by a bank mortgage subsidiary continue to qualify as eligible investments if held more than 120 days.

SECTION 26.—Subsection 1. The amendment to subsection 58 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision ensures that bank mortgage subsidiaries continue to pay capital tax at the same rate as loan and trust corporations.

Subsection 2. The amendment to subsection 58 (3) implements the Treasurer's 1988 Budget proposal to increase the capital tax rate for loan and trust corporations and bank mortgage subsidiaries for a taxation year to four-fifths of 1 per cent from three-fifths of 1 per cent.

SECTION 27.—Subsection 1. The amendment to subsection 59 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provisions ensure that the formula for allocating taxable capital outside Ontario currently used by loan and trust corporations continues to be applicable to bank mortgage subsidiaries.

Subsection 2. The amendment to subsection 59 (3) is consequential upon the increase in the capital tax rate for loan and trust corporations.

SECTION 28. The re-enactment of section 60 repeals the previous minimum annual capital tax of \$50 and exempts corporations from capital tax if total assets and gross revenue as recorded in the books and records do not exceed \$1,000,000.

SECTION 29. The re-enactment of subsections 61 (1), (2) and (4) and the repeal of subsections 61 (5) and (6) implement the Treasurer's 1988 Budget proposal for a new capital tax rate structure.

SECTIONS 30 and 31. The amendments to sub-subclauses 61a (2) (a) (ii) (A) and 61a (2) (b) (i) (B) and subsection 63 (1) change internal cross-references due to changes to the capital tax rate structure.

The re-enactment of subsection 63 (2) increases the flat rate of capital tax paid by specified types of corporations from \$50 to \$100 unless they are exempt.

SECTION 32. The amendment to section 64 is consequential upon the repeal of section 60 and provides generally for the apportionment of capital tax where the taxation year of a corporation is less than 365 days.

SECTION 33. The amendment to section 65 recognizes that the minimum \$50 capital tax has been eliminated where an exempt corporation is subject to tax for part of a year.

SECTION 34. The repeal of subsection 66 (9) of the Act removes the provision which deems the taxation year of every insurance company to end on the 31st day of December.

SECTION 35. The re-enactment of subsections 67 (1) and (1a) and enactment of subsections (1b), (1c) and (1d) eliminate references to special small corporations and provide an exemption from the requirement to deliver a return for certain

Canadian-controlled private corporations that filed a return under the Federal Act and had no taxable income or tax payable for the taxation year. The exemption does not apply where the corporation is claiming a loss carry back to a previous taxation year. The amendment to subsection 67 changes a subsection reference consequential upon renumbering in the section.

SECTION 36.—Subsections 1 and 2. The re-enactment of subsections 68 (1) and (2) increases the penalties for failure to deliver a return.

The enactment of subsections 68 (3), (3a) and (4a) parallels Federal Act amendments which increase the prosecution penalty for tax evasion and create a saving provision which provides that where a person has been convicted of tax evasion, that person is not liable to administrative penalties for the same offence unless assessed before the prosecution proceedings had commenced.

The re-enactment of subsection 68 (4) parallels and is consequential upon increases in the penalty in the Federal Act for gross negligence to the greater of \$100 and 50 per cent of the tax attributable to the understated income or any other subject of tax.

Subsection 3. The enactment of subsections 68 (6) and (7) and parallel and are consequential upon amendments to the Federal Act which levy a penalty for repeated failure to report a return an amount required to be included in computed income. The penalty is 25 per cent of the unreported amount.

SECTION 37. The re-enactment of sub-subclauses 70 (2) (a) (i) (A) and 70 (2) (a) (ii) (A) provide authority for charging interest on deficient instalments based on actual payable.

The re-enactment of subclause 70 (2) (b) (i) eliminates the due date requirements for the payment of tax for special small corporations.

SECTION 38. The re-enactment of subsection 72 (5a) is consequential upon the repeal of the special small corporation concept.

SECTION 39.—Subsection 1. The re-enactment of clause 73 (1) (b) eliminates the assessment requirements for special small corporations.

Subsection 2. The re-enactment of subsection 73 (3) is consequential upon the addition of the general anti-avoidance provision. The subsection extends certain provisions relating to assessments to a notice of determination issued in respect of determination of tax consequences made under the general anti-avoidance rule.

Subsection 3. The re-enactment of sub-subclauses 73 (7) (a) (iv) (A) of the Act is consequential upon the addition of the definition of normal reassessment period in proposed subsection 73 (6a) of the Act.

Subsection 4. Part of subsection 73 (7) of the Act is re-enacted to make minor revisions to terminology.

Subsection 5. Clause 73 (7) (b) of the Act is re-enacted to add certain circumstances in which the extended time limit for issuing reassessments may apply.

Subsections 6 and 7. Clause 73 (7) (b) and subclauses 73 (7) (c) (i) are re-enacted consequential to the addition of the definition of normal reassessment period in proposed subsection 73 (6a) of the Act.

Subsection 8. New subsections 73 (2a), (2b) and (4a) are consequential upon the addition of the general anti-avoidance provision. Subsection 73 (2a) allows the Minister to issue a notice of determination. Under subsection 73 (4a) the determination is binding on both the Minister and the corporation, subject

the corporation's right of objection and appeal and the Minister's power to make a redetermination.

Subsection 9. Subsection 73 (6a) is added to the Act to define the normal reassessment period for a corporation.

Subsection 10. New subsection 73 (7b) of the Act provides a defined assessment date for corporations that do not file a return under subsection 67 (1a) of the Act. New subsection 73 (7c) of the Act states that subsection 73 (7b) does not apply if the Minister sends an original notice of assessment.

Subsection 11. New subsection 73 (7d) of the Act limits reassessments under clause 73 (7) (b) to matters specifically described in that clause.

SECTION 40.—Subsection 1. The amendment to subsection 73 (1) eliminates the requirements to make refunds to special dividend corporations.

Subsection 2. The re-enactment of clause 75 (1) (b) of the Act is consequential on changes to the time limits in subsection 73 (7) for reassessing corporations.

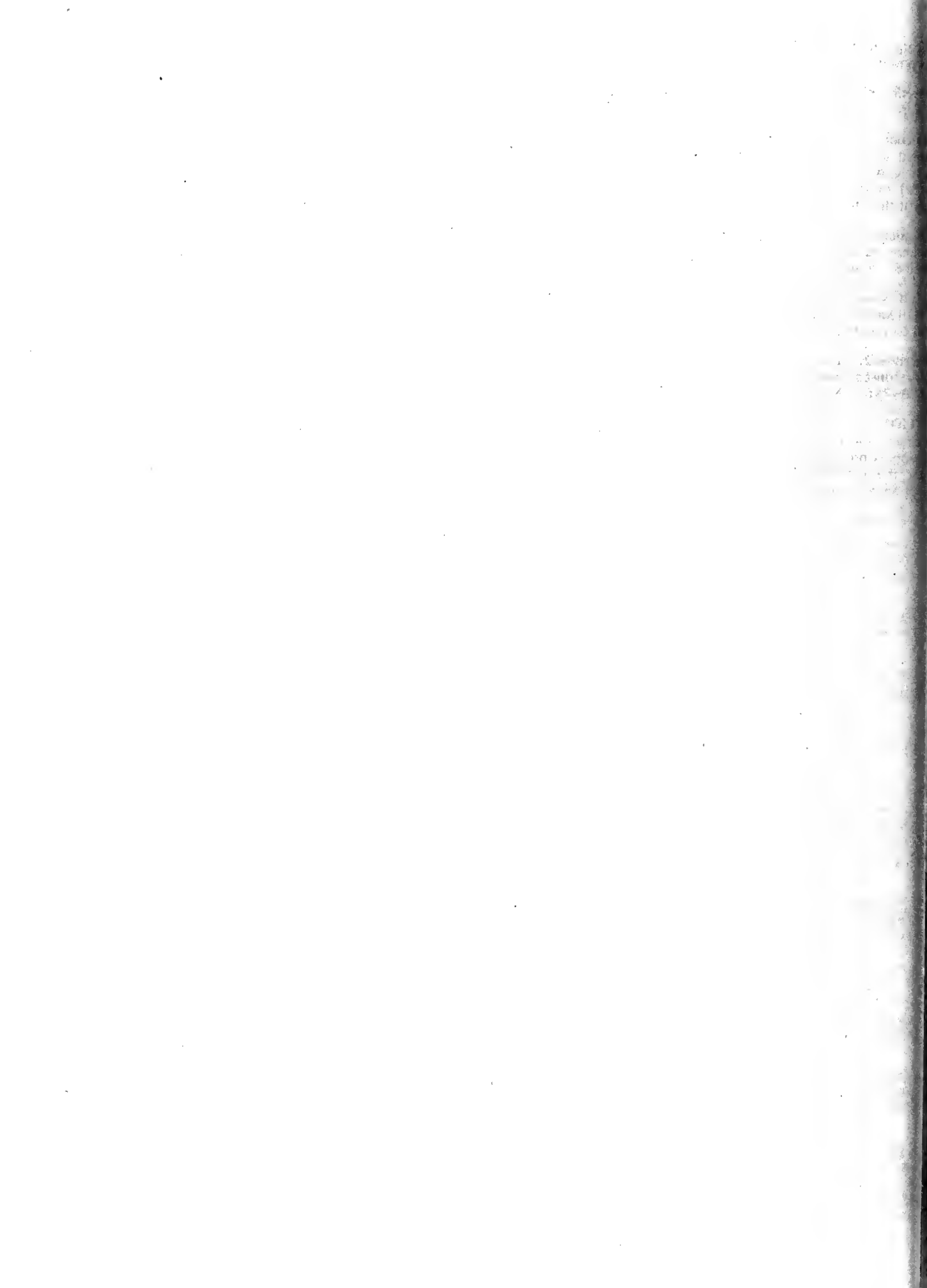
SECTION 41. The re-enactment of subsection 77 (1) and subsection 77 (1a) generally extend the objection and appeal procedures to assessments or determinations made under the general anti-avoidance provision subject to the exception contained in subsection 85 (3).

SECTION 42. The amendments to subsections 85 (2), (3) and (5) relate to the addition of the general anti-avoidance provision. Subsection 85 (2) provides that the corporation and the Minister will be bound by the resolution to an objection or an appeal at the federal level to a specified assessment. Subsection 85 (3) removes the right to file an Ontario notice of objection to a specified assessment which has been objected to at the federal level. Subsection 85 (5) provides a definition for "specified assessment".

SECTION 43. The amendment to subsection 86 (1) eliminates the authority of the Minister to remove books and records and retain them until they are produced in a court hearing. The repeal of subsection 86 (4) eliminates the authority of the Minister to, with the permission of a judge, enter premises and search and seize documents.

SECTION 44. The amendments to subsections 88 (1) and (2) increase the court fines from \$25 per day to \$200 per day for failure to file a return, failure to keep books and records, hindering an audit or investigation and failure to produce information and books and records.

SECTION 45. The re-enactment of subsection 91 (1) of the Act permits the communication of information to the Ministry of Treasury and Economics and the Government of Canada for use in the development and evaluation of tax policy. The re-enactment of subsection 91 (2) increases the fine for breach of confidentiality from \$200 to \$2,000.



An Act to amend the Corporations Tax Act

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

1.—(1) Subclause 1 (1) (aa) (i) of the *Corporations Tax Act*, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(2) Clause 1 (1) (ja) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(3) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1 and 1985, chapter 11, section 1, is further amended by adding the following clause:

(ab) subsection 248 (7) of the *Income Tax Act* (Canada) does not apply for the purposes of this Act.

(4) Sub-subclause 1 (2) (d) (iv) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 1, is repealed and the following substituted:

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii), subsection 14 (3), section 20, paragraphs 37 (1) (d) and (e), subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 66.8, paragraph 67.1 (2) (d), paragraph 84 (1) (c.3), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 110 (1) (k), 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k), section 248 and subsection 258 (5) of the *Income Tax Act* (Canada) for the purposes of this Act.

(5) Subsection 1 (7) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 39,

section 1, is amended by adding at the end “and regulations related to this subsection may have retroactive application if they so state”.

(6) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1, 1985, chapter 11, section 1, 1986, chapter 39, section 1 and 1988, chapter 42, section 1, is further amended by adding the following subsections:

(1a) Section 194 of *An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts*, being the Statutes of Canada, 1988, chapter 55, applies for the purposes of this Act with respect to the end of taxation years of private corporations and in the application thereof,

Private
corporation
year-end
election

(a) references therein to “the said Act” shall be read as references to the *Income Tax Act* (Canada);

(b) any election made thereunder by a private corporation shall be deemed,

(i) to be an election made under the *Income Tax Act* (Canada) for the purposes of the application of subsection 1 (4), and

(ii) to have been made under both that Act and this Act; and

(c) any fiscal period referred to therein shall be the same for the purposes of the *Income Tax Act* (Canada) and this Act.

(8) Where a receipt is obtained from the addressee on the delivery of anything required or permitted by this Act to be delivered by registered mail, the delivery shall be deemed to have been made by registered mail for the purposes of this Act, and a “registered letter” includes any letter deemed by this subsection to have been delivered by registered mail.

Deemed
delivery by
registered
mail

2. The Act is amended by adding the following section:

Definitions

5a.—(1) In this section and in subsection 73 (2a),

“avoidance transaction” means any transaction,

- (a) that, but for this section, would result directly or indirectly in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit, or
- (b) that is part of a series of transactions which would result directly or indirectly in a tax benefit but for this section, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit;

“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable by a corporation under this Act or under the *Income Tax Act* (Canada) or an increase in a refund of tax or other amount under this Act or under the *Income Tax Act* (Canada);

“tax consequences”, to a corporation, means the amount of,

- (a) the corporation’s income, taxable income, taxable income earned in a jurisdiction other than Ontario, taxable income earned in Canada or taxable income earned in Canada in a jurisdiction other than Ontario,
- (b) the corporation’s paid-up capital, taxable paid-up capital, taxable paid-up capital that is deemed to be used by the corporation in a jurisdiction outside Ontario, paid-up capital employed in Canada, taxable paid-up capital employed in Canada or taxable paid-up capital employed in Canada that is deemed to be used by the corporation in a jurisdiction outside Ontario,
- (c) any gross premium referred to in Part IV that is payable to the corporation or its agent or agents,
- (d) any amount, other than an amount referred to in clause (a), (b) or (c), payable by or refundable to the corporation under this Act or that is relevant for the purposes of determining any other amount referred to in this subsection;

“transaction” includes an arrangement or event.

(2) If a transaction is an avoidance transaction, the tax consequences to a corporation shall be determined in a manner that is reasonable in the circumstances in order to deny the tax benefit under this Act that would otherwise result directly or indirectly from the transaction, or from a series of transactions that includes the transaction.

Determination of tax consequence

(3) Subsection (2) does not apply to a transaction if it is reasonable to consider that the transaction would not result directly or indirectly in a misuse or abuse of the provisions of this Act, having regard to the provisions of this Act, other than this section, read as a whole.

Saving

(4) Without restricting the generality of subsection (2), in any determination thereunder of the tax consequences of a transaction to a corporation,

Nature of determination

- (a) any deduction in computing an amount referred to in clause (a), (b), (c) or (d) of the definition of “tax consequences” in subsection (1) may be allowed or disallowed in whole or in part;
- (b) any deduction referred to in clause (a), any income or loss or other amount used in the determination of any amount payable or refundable under this Act may be allocated to any person;
- (c) the nature of any payment or other amount may be recharacterized; and
- (d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

(5) If a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to a transaction has been sent to a corporation, or a notice of determination under subsection 73 (2a) has been sent to the corporation, any other corporation is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2), or make a determination under subsection 73 (2a), with respect to the transaction.

Consequent adjustments

(6) On receipt of a request by a corporation under subsection (5), the Minister shall consider the request and make an assessment or a determination under subsection 73 (2a) with respect to the corporation, despite the expiry of any time limit under subsection 73 (7), except that an assessment or determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (5).

Duty of the Minister

(7) The tax consequences to any corporation after the application of this section shall be determined only through a notice of assessment, reassessment or additional assessment, or through a notice of determination under subsection 73 (2a), involving the application of this section.

3. Section 7 of the Act is repealed and the following substituted:

7. The taxable income of a corporation for a taxation year is its income for the taxation year plus the additions required by Division C and less the deductions permitted by Division C.

4.—(1) Subsection 12 (2) of the Act is repealed and the following substituted:

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act, the amount determined by a corporation for the purposes of that Act as the value of property described in an inventory shall apply for the purposes of this Act, except that if the Minister is of the opinion that the value has been incorrectly determined by the corporation, the Minister may determine the value under section 10 of that Act for the purposes of this Act.

(2) Subsection 12 (6) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 6, is repealed and the following substituted:

(6) Every corporation shall include in its income from a business or property for a taxation year an amount equal to 5/15.5 of all payments deducted in computing its income for the taxation year that are paid or payable to a non-resident person with whom the corporation was not dealing at arm's length in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or similar payment; or
- (c) a right in or to the use of,
 - (i) a motion picture film,
 - (ii) a film or video tape for use in connection with television, other than solely in connection with and as part of a news program produced in Canada, or
 - (iii) where the amount is paid or payable after the 31st day of December, 1988, any other means of reproduction for use in connection with television, other than solely in connection with and as part of a news program produced in Canada.

(6aa) Subsection (6) does not apply in respect of a payment paid or payable to a non-resident person if the non-resident person is a corporation liable for tax imposed by this Act and the amount of the payment has been included in computing the corporation's taxable income earned in Canada.

(3) Subsection 12 (7) of the Act is amended by striking out that portion before clause (a) and substituting the following:

(7) Paragraphs 20 (1) (a) and (v.1) of the *Income Tax Act* (Canada) are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

(4) Clause 12 (7) (c) of the Act is repealed.

(5) Clause 12 (7) (d) of the Act is repealed and the following substituted:

(d) such amount as is allowed to the corporation by the regulations in respect of oil or gas resources in Canada or mineral resources in Canada.

(6) Subsection 12 (9b) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, is repealed and the following substituted:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act,

- (a) despite subclause 1 (2) (d) (vi), the amounts referred to in subparagraphs 26 (1) (c) (i) and 26 (2) (c) (i) of the *Income Tax Act* (Canada) shall be the amounts that were deductible under subsection 26 (2) of that Act in computing the income of the bank for the taxation years referred to in those subparagraphs for the purposes of that Act, and not the amounts that were deductible under subsection 26 (2) of that Act as that subsection applied for the purposes of this Act in computing the bank's income for those years for the purposes of this Act;
- (b) no amount shall be deducted under paragraph 26 (2) (a), (b), (c) or (e) of that Act, for the purpose of computing the income of a bank for a taxation year for the purposes of this Act, in excess of the amount deducted by the bank under that paragraph for the purposes of computing its income for the taxation year for the purposes of that Act, unless all amounts deductible by the bank under that paragraph have been deducted in computing its income

Saving

Deductions allowed

Resource allowance

Banks

for a previous taxation year or years for the purposes of that Act; and

- (c) the reference to subsections 26 (1) and (2) of that Act in subsection 26 (4) of that Act shall be deemed not to be a reference to those subsections as they applied for the purposes of this Act under the predecessor of this subsection.

(7) Subsections 12 (14) and (15) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, are repealed.

(8) Section 12 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1, 1983, chapter 29, section 2, 1984, chapter 29, section 2, 1985, chapter 11, section 6 and 1986, chapter 39, section 2, is further amended by adding the following subsections:

Loans or
lending assets

(6c) In the application of paragraph 18 (1) (s) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "this Part" shall be read as a reference to Part II of this Act.

Net reserve
adjustment
and inclusion

(9c) In the application of section 12.3 and subsection 20 (26) of the *Income Tax Act* (Canada) for the purposes of this Act, the prescribed amount of a corporation's net reserve inclusion referred to in section 12.3 and the prescribed amount of a corporation's net reserve adjustment referred to in subsection 20 (26) are the amounts prescribed by the regulations under this Act.

Federal Act
not
applicable

(10a) Section 33.1 of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

Interest and
property tax
transition
rule

(18) In the application of subsection 18 (2) of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 10 (23) of the Statutes of Canada, 1988, chapter 55, as it applies for the purposes of the application of subsection 10 (6) of that Act (which repealed and re-enacted subsection 18 (2) of the *Income Tax Act* (Canada)), applies for the purposes of this Act.

Idem

(19) In the application of subsections 18 (2.3) and (2.4) of the *Income Tax Act* (Canada) for the purposes of this Act, any reference therein to "the Minister" shall be read as a reference to the Minister of National Revenue.

5. The Act is further amended by adding the following sections:

Definitions

12a.—(1) In this section,

"amalgamated corporation" means a corporation that is a new corporation for the purposes of section 87 of the *Income Tax Act* (Canada);

"base period", of a corporation for a particular taxation year, means the three previous taxation years of the corporation or, where the corporation has had fewer than three previous taxation years, the period commencing on the first day of its first taxation year and ending immediately before the particular taxation year, except that,

- (a) if the corporation is an amalgamated corporation that, after the amalgamation, has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of a predecessor corporation commenced, and

(ii) shall end immediately before the particular taxation year, or

- (b) if the corporation was a parent corporation in a winding-up to which subsection 88 (1) of the *Income Tax Act* (Canada) applied and has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of the parent corporation or of a subsidiary corporation commenced, and

(ii) shall end immediately before the particular taxation year;

"contract payment" has the meaning given to that expression by subsection 127 (9) of the *Income Tax Act* (Canada);

"eligible qualified expenditure" means a qualified expenditure made after the 20th day of April, 1988;

"eligible research property" means research property acquired after the 20th day of April, 1988;

"expenditure base", of a corporation for a particular taxation year, means the ratio of the number of days in the taxation year after the 20th day of April, 1988, to the number of days in the corporation's base period for the particular taxation year, multiplied by the amount if any by which the aggregate of,

- (a) all qualified expenditures made by the corporation during the base period, and
- (b) all amounts paid by the corporation during the base period that may reasonably be considered to be repayments of amounts referred to in clause (d) received by the corporation before or during the base period,

exceeds the aggregate of,

- (c) all amounts each of which was deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in determining the amount of tax payable for a taxation year if,

- (i) the amount deducted is reasonably attributable to a qualified expenditure made by the corporation in or before the base period, and

- (ii) the amount deducted was included under paragraph 12 (1) (i) of that Act, as applicable for the purposes of this Act, in computing the corporation's income for a taxation year ending in the base period or was first required to be included in an amount determined under paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii) or paragraph 37 (1) (e) of that Act, as applicable for the purposes of this Act, for a taxation year ending in the base period, and

- (d) all amounts received or receivable by the corporation in the base period as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to a qualified expenditure made by the corporation;

"government assistance" and "non-government assistance" have the meanings given to those expressions by subsection 127 (9) of the *Income Tax Act* (Canada);

"net eligible qualifying expenditures" of a corporation for a taxation year means that amount, if any, by which,

- (a) the aggregate of,
 - (i) all eligible qualified expenditures made by the corporation in the taxation year, and
 - (ii) all payments made by the corporation in the taxation year that may reasonably be considered to be repayments of amounts de-

scribed in subclause (b) (i) in respect of the taxation year or a prior taxation year,

exceeds,

- (b) the aggregate of,

- (i) all amounts received or receivable by the corporation in the taxation year as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to an eligible qualified expenditure made by the corporation,

- (ii) all amounts deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in computing tax payable under that Act for the previous taxation year, to the extent that the amounts deducted may reasonably be attributable to eligible qualified expenditures made by the corporation, and

- (iii) any amount by which the aggregate determined under this clause in respect of the immediately preceding taxation year exceeds the aggregate determined under clause (a) for the immediately preceding taxation year;

"Ontario allocation factor", of a corporation for a taxation year, means the fraction equal to "A/B" where,

- (a) "A" equals the amount of taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b and that would not be considered for the purposes of section 31 to have been earned in jurisdictions other than Ontario, except that the taxable income or the taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada, and

- (b) "B" equals the taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b, except that the taxable income or the

taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada;

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes any corporation in respect of which a predecessor corporation was an amalgamated corporation;

“qualified expenditure” means an expenditure made by a corporation in respect of scientific research and experimental development carried on in Ontario that is a qualified expenditure for the purposes of section 127 of the *Income Tax Act* (Canada), or that would have been a qualified expenditure for the purposes of that section but for the corporation previously specifying the expenditure for the purposes of clause 194 (2) (a) (ii) (A) of that Act, but does not include an expenditure of the type described in subparagraph 37 (7) (f) (i), (ii) or (iii) of that Act;

“research property” means property of a corporation referred to in subparagraph 37 (1) (b) (i) of the *Income Tax Act* (Canada);

“scientific research and experimental development” has the meaning prescribed by regulation made under the *Income Tax Act* (Canada) for the purposes of paragraph 37 (7) (b) of that Act;

“specified percentage”, in respect of a particular research property, is the percentage represented by the ratio of all amounts deducted under this section in respect of the research property to the capital cost of the research property;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

Research and
development
super
allowance

(2) A corporation may deduct a research and development super allowance in computing its income from a business for a taxation year in an amount calculated according to the following formula:

$$A = \frac{(B \times C) + (D \times E)}{F}$$

Where:

“A” is the research and development super allowance for the corporation for the taxation year;

“B” is 0.35 if the corporation is a Canadian-controlled private corpora-

tion throughout the taxation year, or 0.25 otherwise;

“C” is the lesser of the net eligible qualifying expenditures of the corporation for the taxation year or the expenditure base of the corporation for the taxation year;

“D” is 0.525 if the corporation is a Canadian-controlled private corporation throughout the taxation year, or 0.375 otherwise;

“E” is the amount, if any, by which the net eligible qualifying expenditures of the corporation for the taxation year exceed the expenditure base of the corporation for the taxation year;

“F” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “F” is 1.

(3) In determining the amount of the expenditure base of an amalgamated corporation for a particular taxation year, each amount determined under clauses (a) to (d) in the definition of “expenditure base” in subsection (1) includes all amounts described under those clauses in respect of any predecessor corporation in respect of all of its taxation years commencing in the base period of the amalgamated corporation.

Expenditure
base after
amalgamated

(4) If subsection 88 (1) of the *Income Tax Act* (Canada) applies with respect to a winding-up of a subsidiary corporation, the amount of the expenditure base of the parent corporation for a particular taxation year includes in each amount determined under clauses (a) to (d) in the definition of “expenditure base” in subsection (1), all amounts described under those clauses in respect of the subsidiary corporation in respect of its taxation years commencing in the base period of the parent corporation.

Expenditure
base after
winding-up
into parent

(5) The expenditure base for a taxation year of a corporation that is associated with one or more other corporations during the taxation year shall be determined according to the following formula:

Associated
corporation

$$B = A \times C / D$$

Where:

“B” is the expenditure base for the corporation for the particular taxation year;

“A” is the aggregate of,

- (a) the expenditure base of the corporation that would be determined, but for this subsection, for the particular taxation year, and

- (b) the expenditure base, as determined without reference to this subsection, of each corporation with which the corporation was associated at any time during the particular taxation year, for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year;

“C” is the net eligible qualifying expenditures of the corporation for the particular taxation year; and

“D” is the aggregate of “C” and the net eligible qualifying expenditures of each corporation with which the corporation was associated at any time during the particular taxation year for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year.

(6) Except as provided in subsections (7) and (8), if a corporation has disposed of an eligible research property at any time in a particular taxation year, there shall be included in computing the income of the corporation for the particular taxation year an amount equal to the lesser of,

- (a) the specified percentage of the lesser of the fair market value of the property at the time of the disposition or the capital cost to the corporation of the property immediately before the disposition; or

(b) the amount, if any, by which the aggregate of,

- (i) all amounts deducted under this section by the corporation in computing its income for any taxation year commencing before the disposition and by any corporation associated with the corporation in the particular taxation year in computing its income for any taxation year ending in or before the particular taxation year,

exceeds the aggregate of,

- (ii) all amounts included by virtue of this subsection in respect of any other eligible research property in computing the income of the corporation for any taxation year commencing before the disposition, or in computing the income of any corporation associated with the corporation in the particular taxation year, for any taxation year ending in or before the particular taxation year.

(7) If subsection 85 (1) or 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to the disposition of eligible research property by a corporation to another corporation that is associated with the corporation in the taxation year in which the disposition occurs,

- (a) the property shall be deemed to be eligible research property of the other corporation; and
- (b) if the capital cost of the eligible research property to the corporation exceeds the proceeds of disposition, the capital cost of the eligible research property to the other corporation shall be deemed to be the amount that was the capital cost thereof to the corporation.

(8) If section 87 or subsection 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to an amalgamation of two or more corporations or to a winding-up of a subsidiary corporation, the amalgamated corporation or the parent corporation, as applicable, shall be deemed,

- (a) to have deducted, in computing its income for a taxation year commencing before the amalgamation or winding-up, all amounts deducted under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year; and
- (b) to have included, in computing its income for any taxation year commencing before the amalgamation or winding-up, all amounts included under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year.

(9) If section 87 of the *Income Tax Act* (Canada) is applicable in respect of an amalgamation of two or more corporations, the capital cost to the amalgamated corporation of any property that was eligible research property of a predecessor corporation and that becomes the property of the amalgamated corporation because of the amalgamation shall be deemed to be the capital cost thereof to the predecessor corporation and the property shall be deemed to be eligible research property of the amalgamated corporation.

(10) If a corporation has in a taxation year ending in a particular calendar year made a payment to another corporation associated with the corporation in the taxation year, the following rules apply:

1. If the payment would, but for this subsection, be a qualified expenditure

Idem

Idem

Capital cost after amalgamation

Eligible qualified expenditures to associated corporation

Expenditure on disposition of eligible research property

Expenditure on disposition of eligible research property

Expenditure on disposition of eligible research property

made by the corporation in the taxation year, such portion of the payment as may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation, in a taxation year of the other corporation ending after the particular calendar year, shall be deemed, for the purposes of this section, not to have been paid at the time at which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

2. If the payment is received by the other corporation in a taxation year ending in a calendar year preceding the particular calendar year, the payment shall be deemed for the purposes of this section, if it may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation in a taxation year following the year in which the payment was received by it, not to have been paid to the other corporation in the taxation year in which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

Where
previously
associated

(11) If another corporation was not associated with a particular corporation in a taxation year, but was associated with the particular corporation at any time during the particular corporation's base period for the taxation year, and all or substantially all of the property of the previously associated corporation that was used by it in carrying on any business during the base period was acquired in any manner by the particular corporation, or by one or more corporations associated with the particular corporation in the taxation year, the following rules apply for the purposes of this section:

1. The previously associated corporation shall be deemed to continue to exist, if it has ceased to exist.
2. The previously associated corporation shall be deemed to be associated with the particular corporation in the taxation year.
3. The previously associated corporation shall be deemed to have had taxation years ending on the same day in each year as the last day of its taxation year in which it was last associated with the particular corporation.

(12) Subsection (11) does not apply if,

Exception

- (a) the previously associated corporation was a predecessor corporation of the particular corporation, or of a corporation associated with the particular corporation in the taxation year; or
- (b) the previously associated corporation was a subsidiary corporation that was wound up before the taxation year and whose parent corporation was either the particular corporation or a corporation associated with the particular corporation in the taxation year.

(13) If a corporation is a member of a partnership, the following rules apply for the purposes of this section:

Corporate
partners

1. If the partnership makes, during a fiscal period of the partnership, an expenditure that would be a qualified expenditure if made by a corporation, an amount equal to the proportion of the expenditure that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period shall be deemed to be a qualified expenditure made by the corporation in the taxation year of the corporation in which that fiscal period ends.
2. If the partnership disposes of a property that would be an eligible research property of the partnership if the partnership were a corporation, an amount equal to the proportion of the amount that would be included under this section, as a result of the disposition, in the income of the partnership, if the partnership were a corporation, that the corporation's share of the income or loss of the partnership for the fiscal period in which the property was disposed of bears to the total income or loss of the partnership in the fiscal period shall be included in computing the income of the corporation for the taxation year in which the fiscal period ends.

(14) If a corporation is a limited partner in a limited partnership at any time in a taxation year and is deemed by subsection (13) to have made a qualified expenditure that is an eligible qualified expenditure, the following rules apply:

Maximum
deduction by
limited
partner

1. The maximum amount deductible under subsection (2) by the corporation in the taxation year in respect of the corporation's share of a qualified expenditure made by the limited partnership shall not exceed the aggregate of,

- i. the share of the income, if any, of the limited partnership included in the computation of income of the corporation for the taxation year, and
 - ii. any amount included in the income of the corporation for the taxation year under paragraph 2 of subsection (13).
2. If the amount determined under paragraph 1 is less than the amount that would have been otherwise deductible under this section for the taxation year by the corporation in respect of its share of the eligible qualified expenditure made by the limited partnership, the amount of the difference shall be included in the determination of the corporation's limited partnership loss for the taxation year in respect of the limited partnership as otherwise determined under subsection 96 (2.1) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act.

(15) A corporation is not entitled to a deduction under this section during a year with respect to any expenditure made by it if, as a result of a transaction or an event, or a series of transactions or events, it is reasonable for the Minister to believe that one of the principal purposes of the carrying out of such a transaction or event or series of transactions or events is to enable the corporation to claim a deduction under this section that would not otherwise be allowed.

12b.—(1) In this section,

“amalgamated corporation” means a corporation that is a “new corporation” for the purposes of section 87 of the *Income Tax Act* (Canada);

“eligible asset”, of a corporation, means prescribed manufacturing and processing machinery or equipment acquired by the corporation after the 31st day of December, 1988 and before the 1st day of January, 1992, or prescribed pollution control equipment acquired by the corporation after the 17th day of May, 1989, that,

- (a) has not been used by any person for any purpose before being acquired by the corporation,
- (b) is first used by the corporation in Ontario, and
- (c) is used by the corporation for the purpose of earning income from a business;

“eligible asset pool”, of a corporation for a taxation year, means the amount, if any, by which the aggregate of,

- (a) the eligible cost to the corporation at the end of the taxation year of the eligible assets of the corporation for the taxation year or a prior taxation year,
- (b) the eligible cost to the corporation immediately before disposition of the eligible assets of the corporation for the taxation year or a prior taxation year that were acquired and disposed of by the corporation at any time before the end of the taxation year, and
- (c) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in the determination of the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,

exceeds,

- (d) the aggregate of,

- (i) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (vii) or (viii) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,

- (ii) all amounts each of which is an amount included in the income of the corporation, or of a subsidiary corporation or a predecessor corporation, for the taxation year, or for a prior taxation year, under paragraph 12 (1) (t) of the *Income Tax Act* (Canada), as made applicable for the purposes of this Act, in respect of an eligible asset, and

- (iii) all amounts each of which is the amount of the eligible asset pool of the corporation for a prior taxation year in respect of which the corporation was entitled under this section to deduct an amount in computing its income;

“eligible assets of the corporation for the taxation year” means the eligible assets that were acquired by the corporation in the taxation year or a prior taxation year and in respect of which,

- (a) the taxation year is the first taxation year in which the corporation may include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax*

Act (Canada) in respect of those assets in the determination of the undepreciated capital cost of depreciable property of a prescribed class, and

- (b) no amount has been included under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) by a subsidiary corporation or predecessor corporation in the determination of the undepreciated capital cost of depreciable property of a prescribed class of the corporation for a taxation year;

“eligible cost”, to a corporation at a particular date of eligible assets of the corporation for a taxation year, means,

- (a) in respect of eligible assets that are prescribed manufacturing and processing machinery or equipment, the capital cost to the corporation of the assets at that date, and
- (b) in respect of eligible assets that are prescribed pollution control equipment acquired in a particular taxation year by the corporation, or by a subsidiary corporation or predecessor corporation, the lesser of,

(i) the capital cost to the corporation of the assets at that date, or

(ii) the amount by which,

(A) \$20,000,000 multiplied by the ratio of the number of days in the particular taxation year to 365, or, if the particular taxation year commenced before the 18th day of May, 1989, by the ratio of the number of days in that taxation year after the 17th day of May, 1989, to 365,

exceeds,

(B) the capital cost to the corporation of the eligible assets acquired in the particular year that have been included in the eligible asset pool of the corporation for a prior taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, has the same meaning as in subsection 12a (1);

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes a corporation in

respect of which a predecessor corporation was an amalgamated corporation;

“specified rate”, of a corporation for a taxation year, means the rate calculated according to the following formula:

$$A = 0.1 \times (B / E) + 0.15 \times (C / E) + 0.3 \times (D / E)$$

Where:

“A” is the specified rate of the corporation for the taxation year,

“B” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation before the 1st day of January, 1990,

“C” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1989 and before the 1st day of January, 1991,

“D” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1990,

“E” is the aggregate of “B”, “C” and “D”;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

(2) A corporation may deduct in computing its income from a business for a taxation year a current cost adjustment deduction calculated according to the following formula:

Current cost
adjustment
deduction

$$A = (B / C) \times D$$

Where:

“A” is the current cost adjustment deduction for the taxation year;

“B” is the corporation’s eligible asset pool for the taxation year;

“C” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “C” is 1; and

“D” is the corporation’s specified rate for the taxation year.

(3) If the Minister believes, reasonably, that the corporation has delayed the acquisition of an asset primarily for the purposes of either claiming a deduction under this section or claiming a deduction at a higher specified rate, the Minister may, for the purposes of determining a deduction under this section, deem the acquisition to have occurred on another date.

Date of
acquisition

(4) If a corporation is a member of a partnership that has acquired property in a particular fiscal period that would be an eligible asset under this section if acquired by a corporation on the date of acquisition by the partnership, the following rules apply for the purposes of this section:

1. The property shall be deemed to have been acquired jointly by the partners, not by the partnership, on the date the property was acquired by the partnership.
2. The capital cost to the corporation of its interest in the property for the purposes of this section is that proportion of the capital cost of the property to the partnership at the end of the fiscal period of the partnership during which the property was acquired that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period.
3. The property shall be deemed to be an eligible asset of the corporation for the taxation year in which the fiscal period of the partnership ends in which the partnership may first include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) in respect of the property in the determination of the undepreciated capital cost of depreciable property of a prescribed class.
4. The amount of the corporation's eligible asset pool for a taxation year is increased by an amount equal to the proportion of any repaid assistance, included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the partnership of depreciable property of a prescribed class at the end of the fiscal period of the partnership ending in the taxation year, that is the corporation's share of the income or loss of the partnership for the fiscal period and reduced by the same proportion of any amount included by the partnership under subparagraph 13 (21) (f) (viii) of that Act for the fiscal period in determining the undepreciated capital cost of the partnership's depreciable property of a prescribed class.

(5) If a corporation claiming a deduction under this section is an amalgamated corporation or a parent corporation, the following rules apply for the purposes of this section:

1. Each eligible asset acquired on a particular date by a subsidiary corporation or a predecessor corporation shall be

deemed to have been acquired by the corporation on the same date.

2. The capital cost of the asset to the corporation shall be deemed to be the capital cost thereof to the predecessor corporation or the subsidiary corporation.
3. An eligible asset pool of a subsidiary corporation or a predecessor corporation for a prior taxation year shall be deemed to be an eligible asset pool of the corporation for a prior taxation year.

(6) A corporation is not entitled to a deduction under this section with respect to an asset if the acquisition or use of the asset was part of or related to a series of transactions or events and it is reasonable for the Minister to believe that one of the principal purposes for the acquisition of the asset was for use by another person or for use outside Ontario.

Anti-avoidance

6. Subsection 13 (4) of the Act is amended by adding the following clause:

(e) if the property is an interest in a partnership,

(i) there shall be deducted in respect of each fiscal period of the partnership ending before that time all amounts deducted by the corporation for a taxation year commencing before that time,

(A) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and

(B) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation, and

(ii) there shall be added in respect of each fiscal period of the partnership ending before that time all amounts included in the income of the corporation for a taxation year commencing before that time under subsection 12a (14),

except to the extent that all or a portion of any such amounts may reasonably be considered to have been included in the corporation's limited partnership loss in respect of the partnership for the taxation year in which the fiscal period of the partnership ended.

7. The Act is further amended by adding the following section:

Reserve on disposition of resource property

16a. For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act as they read on the 31st day of December, 1986 with respect to dispositions made by a corporation before the 1st day of January, 1987.

8.—(1) Subsection 18 (5) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed.

(2) Subsection 18 (7) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 7, is repealed and the following substituted:

Change in control

(7) Subsections 66 (11) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Idem

(7a) Subsections 66 (11.4) and (11.5) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act with respect to acquisitions of Canadian resource properties.

(3) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by striking out “in sections 18a and 18b” in the amendment of 1988 and substituting “in sections 18a, 18b and 18c”.

(4) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by relettering clause (ia) as clause (ic) and by adding the following clauses:

(ga) “original owner”, of a Canadian resource property, means the person who would be the “original owner” of that property under paragraph 66 (15) (g.11) of the *Income Tax Act* (Canada) if that paragraph were read without the references therein to “foreign resource property”, “foreign exploration and development expenses” and to subsections 66 (2), (3) and (4) and 66.7 (2) and (13) of that Act;

(ha) “predecessor owner”, of a Canadian resource property, means the person who would be the “predecessor owner” of that property under paragraph 66 (15) (g.4) of the *Income Tax Act* (Canada) if that paragraph

were read without the references therein to “foreign resource property” and to subsections 66.7 (2) and (15) of that Act;

(ia) “production”, from a Canadian resource property, has the meaning given to that expression by paragraph 66 (15) (h.01) of the *Income Tax Act* (Canada), except that with respect to iron ore, the production from a Canadian resource property means the iron ore produced from the property processed to any stage that is not beyond the prime metal stage or its equivalent;

(ib) “reserve amount” has the meaning given to that expression by paragraph 66 (15) (h.02) of the *Income Tax Act* (Canada).

9.—(1) Clause 18a (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by adding at the beginning “subject to section 18d”.

(2) Subclause 18a (b) (iii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by inserting after “(xi)” in the second line “and (xiii)”.

(3) Section 18a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) the reference to the Minister in clause 66.1 (6) (a) (ii.1) (D) of the *Income Tax Act* (Canada) shall be read as a reference to the Minister of National Revenue.

10.—(1) Section 18b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “to (12.73)” in the first line and substituting “to (12.74)”.

(2) Clause 18b (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “(12.69) and (12.73)” in the second line and substituting “(12.69), (12.73) and (12.74)”.

(3) Section 18b of the Act is further amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) expenditures described in subparagraph 66.1 (6) (a) (i) or (ii.1) of that Act renounced before the 14th day of October, 1988 shall be deemed to have been renounced within ninety days after the 31st day of December, 1987.

11. The Act is further amended by adding the following sections:

18c. Section 66.7 of the *Income Tax Act* (Canada), other than subsections (2), (8), (13) and (15) and paragraphs (10) (f) and (h), is applicable for the purposes of this Act, except that in the application thereof,

- (a) references to "Canadian exploration and development expenses" shall be read as references to only Canadian exploration and development expenses incurred before the 20th day of May, 1981; and
- (b) the section shall be read without the references to "foreign exploration and development expenses", "foreign resource property" and "foreign resource properties".

18d. Subsection 66 (13.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the reference to paragraph 66.2 (2) (c) of that Act shall be deemed to include a reference to clause 18a (b).

18e. Section 66.8 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the foreign exploration and development expenses referred to in clause (1) (a) (i) (D) of that Act shall be limited to only those foreign exploration and development expenses that are deductible.

12. Section 20 of the Act is amended by adding the following subsections:

(3) In the application of section 67.3 of the *Income Tax Act* (Canada) for the purposes of this Act, references in paragraphs (c) and (d) thereof to "this Act" shall be read as references to the *Income Tax Act* (Canada).

(4) In the application of subsection 69 (13) of the *Income Tax Act* (Canada) for the purposes of this Act, the proceeds of disposition of a foreign resource property shall be deemed to be the cost amount to the corporation of the foreign resource property immediately before the amalgamation or merger.

13. Section 21 of the Act, as amended by the Statutes of Ontario, 1988, chapter 42, section 7, is repealed and the following substituted:

21.—(1) If a person at any time confers a benefit on a corporation either directly or indirectly by any means, the amount of the benefit shall be included in computing the corporation's income or taxable income earned in Canada for the taxation year in which the benefit is conferred, to the extent that,

- (a) the amount of the benefit is not otherwise included in the corporation's income or taxable income earned in Canada; and
- (b) the amount of the benefit would be so included if the amount were a payment made directly by the person to the corporation and the corporation were resident in Canada.

(2) If it is established that a transaction was entered into by persons dealing at arm's length, in good faith and not pursuant to or as part of any other transaction, and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction shall be regarded for the purpose of this section as having conferred a benefit on a party with whom he or she was dealing.

14. Section 25 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 9, 1985, chapter 11, section 10, 1986, chapter 39, section 7 and 1988, chapter 42, section 10, is further amended by adding the following subsection:

(7) In the application of subsection 96 (2.1) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under paragraph 96 (2.1) (a) of that Act,

- (a) there shall be added all amounts deducted by the corporation for the taxation year,
 - (i) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (ii) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation; and

- (b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) in respect of dispositions made by the partnership.

15. The Act is further amended by adding the following section:

26a.—(1) A corporation that is required under paragraph 132.1 (1) (d) of the *Income Tax Act* (Canada) to include an amount in its income for a taxation year for the purposes of that Act shall include the amount in its income for the taxation year for the purposes of this Act.

(2) In computing the adjusted cost base to the corporation of a unit in a mutual fund trust, there shall be included any amount

Successor
resProration of
"DE" and
"OGPE"
if short
taxation
yearsLimited
partnership
resource
expendituresApplication
of Federal
ActTreatment of
foreign
resource
properties on
amalgamationBenefit
conferred on
corporation

Arm's length

Limited
partnership
lossesApplication
of Federal
ActMutual fund
trust unit

added to the adjusted cost base of the unit under subsection 132.1 (2) of that Act for the purposes of that Act.

16.—(1) Subsection 27 (2) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 10, is repealed and the following substituted:

Receipts for gifts to charities, etc.

(2) In the application of subsections 110.1 (2) and (3) of the *Income Tax Act* (Canada) for the purposes of this Act, a "receipt" includes a photostatic reproduction of the receipt.

(2) Subsection 27 (3) of the Act is repealed and the following substituted:

Interpretation

(3) In the application of the definition of "registered Canadian amateur athletic association" and "registered charity" in subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "Minister" shall be read as references to the Minister of National Revenue.

(3) Section 27 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, 1984, chapter 29, section 8, 1985, chapter 11, section 11, 1986, chapter 39, section 8 and 1988, chapter 42, section 11, is further amended by adding the following subsections:

Idem

(10) In the application of paragraph 111 (4) (e) of the *Income Tax Act* (Canada) for the purposes of this Act,

(a) the reference therein to the Minister shall be read as a reference to the Minister of National Revenue; and

(b) the paragraph shall be read without reference to the words "under this Part".

Idem

(11) In the application of subsections 111 (5.1), (5.2) and (5.3) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "this Part" shall be read as references to Part II of this Act.

Limited partnership losses

(12) In the application of paragraph 111 (1) (e) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under clause 111 (1) (e) (ii) (B) of that Act,

(a) there shall be included all amounts deducted by the corporation for the taxation year under,

(i) section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in that fiscal period, and

(ii) section 12b in respect of the portion of the property of the partnership deemed to be eligible

assets acquired by the corporation; and

(b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) with respect to dispositions made by the partnership.

17. The Act is further amended by adding the following section:

27a.—(1) The Minister may direct that the maximum amount that may be deducted by a corporation in a taxation year under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in respect of a non-capital loss incurred in a particular taxation year, shall not exceed the amount determined under subsection (2) if,

Reduction non-capital loss deductible

(a) the corporation deducted an amount under section 12a or 12b, or both, in determining the amount of its non-capital loss for the particular taxation year and the Ontario allocation factor of the corporation for the taxation year in which an amount in respect of the loss is to be deducted is greater than 120 per cent of the Ontario allocation factor for the particular taxation year in which the loss was incurred; or

(b) the Minister has directed the maximum amount deductible in respect of the loss for a prior taxation year.

(2) If the Minister makes a direction under subsection (1) in respect of a loss to be deducted in a taxation year of a corporation, the maximum amount that may be deducted by the corporation in respect of a non-capital loss incurred in a particular taxation year shall be determined according to the following formula:

Maximum amount

$$D = (A + B) - C$$

Where:

"D" is the maximum amount deductible by the corporation in the taxation year in respect of the non-capital loss incurred in the particular taxation year;

"A" is the amount by which the non-capital loss for the particular taxation year exceeds the total of any amounts deducted under section 12a or 12b or both sections for the particular taxation year;

"B" is the allocation adjustment as determined under clause (3) (c); and

"C" is the aggregate of all amounts, each of which is the amount by which the non-capital loss deducted under paragraph 111 (1) (a) of the *Income*

Tax Act (Canada), as applicable for the purposes of this Act, in computing the taxable income of the corporation for a prior taxation year, exceeds the allocation adjustment in respect of the loss for the prior taxation year.

- (3) For the purposes of this section,
- (a) "Ontario allocation factor" has the same meaning as in subsection 12a (1);
- (b) the allocation factor for the taxation year in which the loss arose is the allocation factor of the corporation that incurred the loss in that year;
- (c) the allocation adjustment is the product obtained where the amount of a non-capital loss incurred in a particular taxation year attributable to amounts deducted under section 12a or 12b is multiplied by the ratio of the Ontario allocation factor for the particular taxation year to the Ontario allocation factor for the year for which the allocation adjustment is being determined; and

- (d) the amount of a non-capital loss incurred in a particular taxation year which is attributable to amounts deducted under section 12a or 12b is the amount by which the lesser of,

- (i) the non-capital loss for the particular taxation year, or
- (ii) the total of all amounts, each of which is an amount deducted under section 12a or 12b,

exceeds,

- (iii) the aggregate of all amounts, each of which is the amount deducted under paragraph 111 (1) (a) of the *Income Tax Act (Canada)*, as applicable for the purposes of this Act, in computing its taxable income for a taxation year prior to the taxation year for which the allocation adjustment is being determined, in respect of the non-capital loss incurred in the particular taxation year, multiplied by the ratio of the Ontario allocation factor for the taxation year in which the amount in respect of the loss was deducted to the Ontario allocation factor for the particular taxation year in which the loss was incurred.

18. Section 29 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 8, 1985, chapter 11, section 12 and 1988, chapter 42, section 12, is further amended by adding the following subsection:

(4) Section 115.1 of the *Income Tax Act (Canada)* is applicable for the purposes of this Act where the purchaser referred to therein is not a non-resident individual or a non-resident partnership and, in the application thereof, references therein to the "Minister" shall be read as references to the Minister of National Revenue.

Tax deferral for non-resident organization

19. Section 32 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 9 and 1985, chapter 11, section 15, is further amended by adding the following subsection:

(4) In this section, "foreign investment income" of a corporation for a taxation year does not include interest income attributable to a loan for any period in the year during which the loan was an "eligible loan" as defined in subsection 33.1 (1) of the *Income Tax Act (Canada)*.

Idem

20. Subsection 33a (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 17, is repealed and the following substituted:

(1) There may be deducted from the tax otherwise payable by a corporation under this Part for the corporation's first, second or third taxation year ending after the date of its incorporation an amount equal to 15.5 per cent of the amount determined under subsection 33 (2), if,

New enterprise incentive

- (a) the corporation was incorporated after the 13th day of May, 1982 and before the 21st day of April, 1988;
- (b) the corporation commenced carrying on an active business in Canada before the 21st day of April, 1988; and
- (c) the corporation is eligible to claim and has claimed a deduction under section 125 of the *Income Tax Act (Canada)* from the tax otherwise payable by the corporation under that Act for the taxation year.

(2) For the purposes of subsection (1), a corporation incorporated after the 20th day of April, 1988 and before the 1st day of May, 1988 shall be deemed to have been incorporated before the 21st day of April, 1988 and to have commenced carrying on an active business in Canada before the 21st day of April, 1988 if,

Incorporation before the 1st day of May, 1988

- (a) arrangements for the incorporation of the corporation were substantially advanced and application for the incorporation of the corporation had been prepared and sent to the appropriate government authority prior to the 21st day of April, 1988;
- (b) one or more persons commenced carrying on an active business prior to the

21st day of April, 1988, in trust for the corporation to be incorporated; and

- (c) all agreements entered into before the date of incorporation of the corporation by the person or persons carrying on active business in trust for it were adopted by the corporation after its incorporation.

21.—(1) Clause 40 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, is repealed and the following substituted:

- (b) the percentage referred to in subparagraph (a) (i) thereof shall be read as,
- (i) 10 1/3 per cent in its application to taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990, and
- (ii) 11 5/8 per cent in its application to taxation years ending after the 31st day of December, 1989.

(2) Clauses 40 (2) (c) and (d) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 13, are repealed and the following substituted:

- (c) the reference to “paragraph 152 (4) (b) or (c)” in paragraph (b) thereof shall be read as “clause 73 (7) (b) or (c)”.

(3) Subsection 40 (4) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15 and 1985, chapter 11, section 19, is repealed and the following substituted:

(4) In the application of clauses 131 (6) (a) (i) (A) and 131 (6) (b) (ii) (C) of the *Income Tax Act* (Canada) for the purposes of this Act, the multiplication factor referred to therein shall be read as,

- (a) “9 21/31 times” for taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990; and
- (b) “8 56/93 times” for taxation years ending after the 31st day of December, 1989.

22. Section 45 of the Act is amended by adding the following subsection:

(3) Paragraph 138 (3) (g) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

23.—(1) Clause 49 (1) (a) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 14, is amended by striking out “(o.2) or (o.3)” in the third line and substituting “(o.2), (o.3), (o.4) or (t)”, and by adding at the end “or”.

(2) Clause 49 (1) (b) of the Act is amended by striking out “or” at the end.

(3) Clause 49 (1) (c) of the Act is repealed.

(4) Subsection 49 (4) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 16, is repealed and the following substituted:

(4) The rules in subsections 149 (2), (3), (4), (4.1), (4.2), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

(4a) In the application of paragraph 149 (1) (t) and subsection 149 (4.1) of the *Income Tax Act* (Canada), references to the Superintendent of Financial Institutions shall be read as references to the Superintendent of Financial Institutions for Canada.

(5) Subsection 49 (6) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 14, is repealed and the following substituted:

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be read as a reference to Part II of this Act and paragraph 149 (10) (b) of that Act, including any predecessor of that paragraph, shall be read without reference to “foreign resource property”.

24.—(1) Subsection 53 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

(3) Despite subsection (1), the taxable paid-up capital for a taxation year of a corporation registered under the *Loan and Trust Corporations Act, 1987*, or that is a bank mortgage subsidiary as defined in section 1 of that Act, is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

(2) Subsection 53 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

(5) In computing its taxable paid-up capital under subsection (2), a bank shall include all dividends, other than stock dividends, received from other corporations and shall exclude its share of all accumulated earnings and losses of other corporations.

(3) Subsection 53 (6) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

Application of rules in Federal Act

Idem

Idem

Idem

Loan and trust companies, bank mortgage subsidiaries

Federal investment tax not deductible

Computation of bank's paid-up capital

(6) In computing its taxable paid-up capital, a corporation referred to in subsection (3) shall include all dividends received from other corporations, other than stock dividends, and shall exclude its share of all accumulated earnings or losses of other corporations.

25. Subclause 54 (1) (c) (iv) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18 and amended by 1986, chapter 39, section 12, is repealed and the following substituted:

(iv) loans and advances that have been issued for a term of less than 120 days or that have been held by the corporation for a period of less than 120 days before the end of the taxation year are deemed not to be loans and advances to other corporations if the loans and advances are to a corporation, whether or not incorporated in Canada, that is,

- (A) carrying on the business of a bank,
- (B) a corporation registered under the *Loan and Trust Corporations Act, 1987*, or that would be required to be registered under that Act if it were carrying on business in Ontario, or
- (C) a bank mortgage subsidiary as defined in section 1 of the *Loan and Trust Corporations Act, 1987*.

26.—(1) Subsection 58 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second line and substituting “referred to in subsection 53 (3)”.

(2) Subsection 58 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fifth line and substituting “four-fifths of 1 per cent”.

27.—(1) Subsection 59 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second and third lines and in the sixth and seventh lines and substituting in each instance “referred to in subsection 53 (3)”.

(2) Subsection 59 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fourth line and substituting “four-fifths of 1 per cent”.

28. Section 60 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 26, is repealed and the following substituted:

60. Despite subsections 58 (1) and 59 (1), no tax is payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), where neither the corporation's total assets at the end of the taxation year nor its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000. Where no tax payable

29.—(1) Subsections 61 (1) and (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed and the following substituted:

(1) For the purposes of this section and section 60, Definitions

“gross revenue”, of a corporation for a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the gross revenue of the partnership, as recorded in the books and records of the partnership for all fiscal periods of the partnership ending in or coinciding with the taxation year, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership;

“total assets”, of a corporation at the end of a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the total assets of the partnership at the end of the partnership's last fiscal period ending in or coinciding with the taxation year of the corporation, as recorded in the books and records of the partnership for the fiscal period, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership.

(2) Despite subsections 58 (1) and 59 (1), and except as provided in subsections 63 (1) and (2), the tax payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), is, Flat tax

(a) the lesser of \$100 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, and

(ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year does not exceed \$1,000,000;

(b) the lesser of \$200 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, but neither its total assets nor its gross revenue exceed \$1,500,000, and

(ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year exceeds \$1,000,000 but does not exceed \$2,000,000;

(c) the lesser of \$500 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,500,000, and

(ii) the corporation's taxable paid-up capital as determined under Division B of this Part for the taxation year does not exceed \$2,000,000; and

(d) where the taxable paid-up capital of the corporation as determined under Division B of this Part for the taxation year exceeds \$2,000,000 but does not exceed \$2,300,000, the lesser of,

(i) the tax that would otherwise be payable under this Part, but for this subsection, and

(ii) the amount by which the tax that would otherwise be payable under this Part if no deduction was made under subsection 59 (1) exceeds 1.83 per cent of the amount by which \$2,300,000 exceeds the taxable paid-up capital.

(2) Subsection 61 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 16, is repealed and the following substituted:

(4) Section 60 and subsection (2) do not apply to a corporation if,

(a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$2,000,000; or

(b) the corporation is a member of a partnership or a connected partnership and the aggregate of,

(i) the taxable paid-up capital of the corporation, and

(ii) the aggregate of the shares of the taxable paid-up capital of the partnership or of the connected partnership that are allocated under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$2,000,000.

(3) Subsections 61 (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed.

30.—(1) Sub-subclause 61a (2) (a) (ii) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by striking out "subsection 61 (1) or (2)" in the second and third lines and substituting "section 60 or subsection 61 (2)".

(2) Sub-subclause 61a (2) (b) (i) (B) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by inserting after "section" in the third line "60 or".

31.—(1) Subsection 63 (1) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18, is amended by striking out "section 58 or 60" in the tenth line and substituting "this Part".

(2) Subsection 63 (2) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18 and amended by 1985, chapter 11, section 28, is repealed and the following substituted:

(2) Except as provided in section 60 and subsection (3), a family farm corporation, a family fishing corporation and every corporation referred to in sections 39 and 43 of this Act and paragraph 149 (1) (m) of the *Income Tax Act* (Canada) shall, in lieu of any tax otherwise payable under this Part, pay a tax of \$100.

Family
fishing and
family farm
corporation

32. Section 64 of the Act is amended by striking out "Subject to section 60" in the first line.

33. Section 65 of the Act is amended by striking out "except that the tax payable under this Part as reduced by this section shall in no case be less than \$50" in the sixth, seventh and eighth lines.

34. Subsection 66 (9) of the Act is repealed.

35.—(1) Subsection 67 (1), as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, and subsection (1a), as enacted by the Statutes of Ontario, 1985, chapter 11, section 29 and amended by 1986, chapter 39, section 14, of the Act are repealed and the following substituted:

(1) Every corporation shall deliver to the Minister on or before the last day of the sixth month following the end of the taxation year a return sufficient for the purposes of carrying out this Act.

(1a) Subsection (1) does not apply to a corporation that is exempt under subsection (1d) from the requirement to deliver a return for the taxation year.

(1b) Every corporation that is not required under subsection (1) to deliver a return for a taxation year shall deliver the return within the time required under subsection (1) if, by reason of a loss sustained by the corporation in the taxation year, the corporation is delivering an amended return for a prior taxation year for the purposes of subsection 73 (8).

(1c) Every corporation upon receipt of a notice or demand in writing from the Minister, or from any officer of the Ministry of Revenue authorized by the Minister to make such a demand, shall deliver to the Minister a return for each taxation year specified in the notice or demand, sufficient for the purposes of carrying out this Act.

(1d) A corporation, other than a bank, a corporation referred to in subsection 53 (3) or an insurance corporation to which Part IV applies, is exempt from the requirement to deliver a return for a taxation year to the Minister under subsection (1) if,

- (a) the corporation was a Canadian-controlled private corporation throughout the taxation year;
- (b) the corporation has filed a return for the taxation year with the Minister of National Revenue under Part I of the *Income Tax Act* (Canada);
- (c) the corporation had no taxable income under this Act for the taxation year; and
- (d) no tax was payable under this Act by the corporation for the taxation year.

(2) Subsection 67 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, is amended by striking out "Notwithstanding subsection (1)" in the first line and substituting "Despite subsection (1a)".

36.—(1) Subsection 68 (1) of the Act is repealed and the following substituted:

(1) Every corporation or person who fails to deliver a return for a taxation year as and when required under section 67 shall pay a penalty of,

Penalty for failure to deliver return

- (a) an amount equal to 10 per cent of the tax unpaid when the return is required to be delivered, if the amount of unpaid tax payable by the corporation for the taxation year is less than \$10,000; and
- (b) \$1,000, if at the time the return is required to be delivered the amount of unpaid tax payable by the corporation for the taxation year is \$10,000 or more.

(2) Subsections 68 (2), (3) and (4) of the Act are repealed and the following substituted:

(2) No corporation is liable to a penalty under subsection (1) for failing to file a return as and when required under subsection 67 (1) if it is reasonable at the time when the corporation would otherwise be required to deliver a return under subsection 67 (1) to consider the corporation to be exempt under subsection 67 (1d) from the requirement to file the return.

Saving

(3) Every person is guilty of an offence who,

Offence, false statements

- (a) makes, participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade the payment of a tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of records or books of account;
- (c) makes, assents to or acquiesces in the making of, false or deceptive entries or omits, or assents to or acquiesces in the omission, to enter a material particular in records or books of account; or
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the payment of taxes imposed by this Act.

(3a) Every person who is guilty of an offence under subsection (3) is, in addition to any penalty otherwise provided by this Act, liable on conviction to a fine of not less than the greater of \$500 and 50 per cent of the tax payable under this Act and sought to be evaded and not more than double the amount of such tax, or to imprisonment for a

Penalty

Annual tax return

Exemption

Amended return for prior taxation year

Notice or demand

Exemption to requirement to deliver a return

Penalty

term of not more than two years, or to both the fine and the imprisonment.

Penalty for false statements

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") delivered or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of the greater of \$100 and 50 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income for the year, or other subject of tax reported by it in its return for the year, that portion of the understatement of income, or of any other subject of tax, for the year, as applicable, that is reasonably attributable to the false statement, and if the tax payable for the year under this Act were computed by subtracting from the deductions from tax otherwise payable by the corporation for the year such portion of any such deduction that may reasonably be attributable to the false statement,

exceeds,

- (b) the tax for the year that would be payable by the corporation under this Act had the tax payable for the year been assessed on the basis of the information provided in the return for the taxation year.

Application of subs. (4)

(4a) Subsection (4) does not apply if the person has been convicted of an offence under subsection (3) for an offence related to the same evasion of or attempt to evade the payment of tax, unless a penalty is imposed upon the corporation under subsection (4) before the commencement of proceedings against the person under subsection (3).

(3) Section 68 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 30, is further amended by adding the following subsections:

Penalty for repeated failure to report an amount

(6) Every corporation that fails to report an amount required to be included in computing its income or other subject of tax in a return delivered under section 67 for a taxation year, and that has failed to report an amount required to be so included in any

return delivered under section 67 for any of the preceding three taxation years is liable to a penalty equal to 25 per cent of the amount, if any, by which,

- (a) the tax for the taxation year that would be payable by the corporation under this Act if its taxable income or other subject of tax for the taxation year were computed by including the amount the corporation failed to report,

exceeds,

- (b) the tax for the taxation year that would be payable by the corporation under this Act had the tax been assessed on the basis of only the information provided in the return for the taxation year.

(7) Subsection (6) does not apply if the corporation has been assessed a penalty under subsection (4) with respect to a false statement concerning the same amount. Idem

37.—(1) Sub-subclause 70 (2) (a) (i) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year, or

(2) Sub-subclause 70 (2) (a) (ii) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year under sub-subclause (i) (A), or

(3) Subclause 70 (2) (b) (i) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 31, is repealed and the following substituted:

- (i) subject to subsection (2a), on or before the last day of the third month following the taxation year if,

- (A) the corporation was a Canadian-controlled private corporation throughout the taxation year, and

- (B) its taxable income for the taxation year immediately before that taxation year did not exceed \$200,000, or

38. Subsection 72 (5a) of the Act, as re-enacted by the Statutes of Ontario, 1985,

chapter 11, section 32, is repealed and the following substituted:

(5a) Subsection (5) does not apply if the tax payable by the corporation by virtue of the reassessment is greater than the tax previously assessed and the corporation has failed to submit, in the return required by subsection 67 (1), (1b) or (1c), the information required by subsection 67 (2).

39.—(1) Clause 73 (1) (b) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 33, is repealed and the following substituted:

(b) assess the tax for the taxation year and the interest and penalties payable, if any, on the basis of the corporation's return for the taxation year; and

(2) Subsection 73 (3) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20 and 1988, chapter 42, section 18, is repealed and the following substituted:

(3) Paragraphs 56 (1) (l) and 60 (o) of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 14 and 15, respectively, of this Act, and this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, apply with necessary modifications to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections (1) and (5) do not apply to determinations made under subsection (2) or (2a) and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the Corporation.

(3) Sub-subclause 73 (7) (a) (iv) (A) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(4) Subsection 73 (7) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, 1988, chapter 42, section 18 and subsection (3) of this section, is further amended by striking out the portion before clause (b) and substituting the following:

(7) The Minister may at any time assess tax, interest or penalties, or notify in writing

any person who has delivered a return for a taxation year that no tax is payable for the taxation year, and may,

(a) at any time, if the corporation, or a person delivering a return for the taxation year or acting on its behalf,

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing a return or in supplying any information under this Act,

(ii) has failed to deliver any return for the taxation year required to be delivered under section 67 or has failed to file financial statements with the return,

(iii) has been negligent in supplying or in failing to supply any information required under this Act,

(iv) has filed with the Minister a waiver in the prescribed form on or before the later of,

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(B) the latest day such a waiver could be filed under this Act for any previous taxation year,

(v) has filed a waiver under the *Income Tax Act* (Canada) within the time and in the form required by subsection 152 (4) of that Act, or

(vi) has claimed a deduction under paragraph 20 (1) (s) of the *Income Tax Act* (Canada) as made applicable by section 12 of this Act.

(5) Clause 73 (7) (b) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20 and amended by 1988, chapter 42, section 18, is repealed and the following substituted:

(b) within seven years from the day of mailing of a notice of the original assessment or a notification that no tax is payable for the taxation year where,

(i) the corporation has claimed a deduction for the taxation year under section 41 or section 111 of the *Income Tax Act* (Canada), as applicable for the purposes of this Act,

(ii) as a consequence of a transaction involving the corporation and a

non-resident person with whom it was not dealing at arm's length, there is reason to assess or reassess the corporation's tax for any relevant taxation year, or

- (iii) as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, there is reason to assess or reassess the corporation's tax for any relevant taxation year; and

(6) Clause 73 (7) (b) of the Act, as enacted by subsection (5) of this section, is amended by striking out the portion before subclause (i) and substituting the following:

- (b) before the day that is three years after the expiration of the normal re-assessment period for the corporation in respect of the taxation year where,

(7) Subclause 73 (7) (c) (i) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

- (i) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(8) Section 73 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 22, 1984, chapter 29, section 20, 1985, chapter 11, section 33 and 1988, chapter 42, section 18, is further amended by adding the following subsections:

Notice of determination

(2a) Where at any time the Minister ascertains the tax consequences to a corporation under section 5a with respect to a transaction, the Minister may determine any amount that is relevant for the purposes of computing the amount of the tax consequences and send to the corporation with all due dispatch a notice of determination stating the amount so determined.

No determination for prior years

(2b) A determination of an amount shall not be made under subsection (2a) at a time where the amount is relevant only for the purposes of computing the tax consequences to a corporation for a taxation year ending before the time.

Determination binding

(4a) Subject to the corporation's rights of objection and appeal in respect of the determination and to any redetermination made by the Minister, a determination made by the

Minister under subsection (2a) with respect to a corporation is binding on both the Minister and the corporation for the purpose of calculating the tax consequences to the corporation for any taxation year.

(9) Section 73 of the Act is further amended by adding the following subsection:

(6a) For the purposes of subsection (7), the normal re-assessment period for a corporation in respect of a taxation year is,

Normal re-assessment period

- (a) if at the end of the year the corporation is a mutual fund corporation or a corporation other than a Canadian-controlled private corporation, the period that ends five years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year; or
- (b) in any other case, the period that ends four years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year.

(10) Section 73 of the Act is further amended by adding the following subsections:

(7b) Where a corporation is exempt under subsection 67 (1d) from the requirement to deliver a return under subsection 67 (1) for the taxation year, an original notice of assessment shall be deemed, for the purposes of subsection (7), to be sent to the corporation on the day that is six months after the end of the taxation year.

Deemed assessment

(7c) Subsection (7b) does not apply if the Minister sends an original notice of assessment to the corporation for the taxation year within fifty-four months after the end of the taxation year.

Exception

(11) Section 73 of the Act is further amended by adding the following subsection:

(7d) A reassessment, an additional assessment or an assessment may be made under clause (7) (b) after the normal reassessment period for the corporation in respect of the taxation year only to the extent that it may reasonably be regarded as relating to,

Limitation

- (a) the deductions referred to in subclause (7) (b) (i);
- (b) the transaction referred to in subclause (7) (b) (ii); or
- (c) the additional payment or reimbursement referred to in subclause (7) (b) (iii).

40.—(1) Subsection 75 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 34, is further amended by striking out the portion before clause (a) and substituting the following:

(1) If a return required to be delivered by a corporation under section 67 for a taxation year is delivered within four years from the end of the taxation year, the Minister,

(2) Clause 75 (1) (b) of the Act is repealed and the following substituted:

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within the period determined under clause 73 (7) (b) or (c), as the case may be, within which the Minister may reassess tax payable by the corporation for the year.

41. Subsection 77 (1) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 21, is repealed and the following substituted:

(1) Subject to subsection 85 (3), a corporation that objects to an assessment may within 180 days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(1a) For the purposes of this section and sections 78 to 85, an assessment includes a determination made by the Minister under subsection 73 (2a) and a notice of assessment includes a notice of determination, a reassessment includes a redetermination by the Minister and an additional assessment includes an additional determination.

42.—(1) Subsection 85 (2) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by striking out the portion before clause (a) and substituting the following:

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies or a specified assessment that has met the conditions under clause (3) (b), be bound by,

(2) Subsection 85 (3) of the Act is repealed and the following substituted:

(3) Sections 77 to 83 do not apply,

(a) to a reassessment referred to in subsection (2); and

(b) to a specified assessment if the corporation has served a notice of objection to the assessment or determination

issued under the *Income Tax Act* (Canada), referred to in clause (5) (c), in which the same issues have been raised as would have been raised in an objection to the specified assessment.

(3) Section 85 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by adding the following subsection:

(5) For the purposes of this Part, an assessment in respect of a particular taxation year, or a part thereof, is a specified assessment if,

(a) the assessment or the part thereof, as applicable, states on its face that it is a specified assessment under this section;

(b) the assessment or the part thereof, as applicable, is an assessment or determination involving the application of section 5a in respect of the taxation year; and

(c) a notice of assessment or determination has been issued to the corporation under the *Income Tax Act* (Canada) involving the application of section 245 of that Act in respect of the same taxation year or transaction.

43.—(1) Subsection 86 (1) of the Act is amended by adding “and” at the end of clause (b), by striking out “and” at the end of clause (c) and by striking out clause (d).

(2) Subsection 86 (4) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 24, is repealed.

44.—(1) Subsection 88 (1) of the Act is amended by striking out “\$25” in the fourth line and substituting “\$200”.

(2) Subsection 88 (2) of the Act is amended by striking out “\$25” in the third line and substituting “\$200”.

45. Subsections 91 (1) and (2) of the Act are repealed and the following substituted:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

(a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;

Specified assessment, defined

Confidentiality

- (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
- (c) to his or her legal counsel; or
- (d) with the consent of the person to whom the information or material relates.

Offence and penalty

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

Commencement and application

46.—(1) Except as provided in subsections (2) to (54), this Act comes into force on the day it receives Royal Assent.

Commencement, November 13, 1981

(2) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsections 111 (5.1) and (5.2) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to acquisitions of control occurring after the 12th day of November, 1981 other than those occurring before the 1st day of January, 1983 where the arrangements therefor were substantially advanced and evidenced in writing on the 12th day of November, 1981.

Idem

(3) Subsection 49 (6) of the Act, set out in subsection 23 (5), shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations that became taxable after the 12th day of November, 1981.

Idem

(4) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the deletion of subsection 149 (10) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations which became subject to tax after the 12th day of November, 1981.

Commencement, January 1, 1985

(5) Clause 1 (1) (ab) of the Act, set out in subsection 1 (3), shall be deemed to have come into force on the 1st day of January, 1985, and applies to anything sent by mail after the 31st day of December, 1984.

Idem

(6) Section 7 of the Act, set out in section 3, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years ending after the 31st day of December, 1984.

Idem

(7) Subsection 29 (4) of the Act, set out in section 18, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years commencing after the 31st day of December, 1984.

Commencement, January 1, 1986

(8) Subsections 12 (6) and (6aa) of the Act, set out in subsection 4 (2), shall be deemed to have come into force on the 1st day of January, 1986, and apply to amounts paid or payable after the 31st day of December, 1985.

(9) Section 16a of the Act, set out in section 7, shall be deemed to have come into force on the 1st day of January, 1987, and applies to dispositions made by a corporation before the 1st day of January, 1987.

Commencement, January 1, 1987

(10) Clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (o.4) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1987, and applies to taxation years ending after the 31st day of December, 1986.

Idem

(11) Subsection 18 (7a) of the Act, set out in subsection 8 (2), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of Canadian Resource Properties occurring after the 15th day of January, 1987 other than those occurring before the 1st day of January, 1988, where the corporation acquiring the property was obliged on the 15th day of January, 1987 to acquire the property under the terms of a written agreement entered into before the 16th day of January, 1987.

Commencement, January 1, 1987

(12) Subsection 20 (4) of the Act, set out in section 12, shall be deemed to have come into force on the 16th day of January, 1987, and applies to amalgamations and mergers occurring after the 15th day of January, 1987.

Idem

(13) Subsection 27 (10) of the Act, set out in subsection 16 (3), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(14) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsection 111 (5.3) of the Federal Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(15) Section 34, which refers to subsection 66 (9) of the Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to taxation years ending after the 15th day of January, 1987.

Idem

(16) Subsection 8 (1), which refers to subsection 18 (5) of the Act, shall be deemed to

Commencement, February, 1987

have come into force on the 18th day of February, 1987, and applies to taxation years ending after the 17th day of February, 1987.

(17) The following shall be deemed to have come into force on the 18th day of February, 1987, and apply to taxation years ending after the 17th day of February, 1987:

- (a) subsection 18 (7) of the Act, set out in subsection 8 (2);
- (b) the amendments to subsection 18 (14) of the Act, set out in subsections 8 (3) and (4);
- (c) the amendment to subclause 18a (b) (iii) of the Act, set out in subsection 9 (2); and
- (d) section 18c of the Act, set out in section 11.

(18) The amendments to section 18b of the Act, set out in subsection 10 (1), and clause 18b (a) of the Act, set out in subsection 10 (2), shall be deemed to have come into force on the 20th day of March, 1987, and apply after the 19th day of March, 1987.

(19) The amendments to clauses 18a (b) and (c) and the enactment of clause 18a (d) of the Act, set out in subsection 9 (3), shall be deemed to have come into force on the 1st day of April, 1987, and apply after the 31st day of March, 1987.

(20) The amendment to clause 18a (b) of the Act, set out in subsection 9 (1), and section 18d of the Act, as enacted in section 11, shall be deemed to have come into force on the 6th day of June, 1987, and apply to taxation years commencing after the 5th day of June, 1987.

(21) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to section 66.8 of the Federal Act, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

(22) Section 18e of the Act, set out in section 11, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

(23) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to paragraph 67.1 (2) (d) of the Federal Act, on the 18th day of June, 1987, and applies to amounts incurred after the 17th day of June, 1987 in respect of food and beverages consumed and entertainment enjoyed after the 31st day of December, 1987.

(24) The following shall be deemed to have come into force on the 18th day of June, 1987, and apply to taxation years that com-

mence after the 17th day of June, 1987 and end after the 31st day of December, 1987:

- (a) subsection 12 (9b) of the Act, set out in subsection 4 (6);
- (b) subsections 12 (6c) and (9c) of the Act, set out in subsection 4 (8);
- (c) subsection 20 (3) of the Act, set out in section 12; and
- (d) subsection 45 (3) of the Act, set out in section 22.

(25) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to subsection 258 (5) of the Federal Act, on the 19th day of June, 1987, and applies after the 18th day of June, 1987.

Commencement, June 19, 1987

(26) Subsection 12 (10a) of the Act, set out in subsection 4 (8), and subsection 32 (4) of the Act, set out in section 19, shall be deemed to have come into force on the 18th day of December, 1987, and apply to corporations in respect of all taxation years commencing after the 17th day of December, 1987.

Commencement, December 18, 1987

(27) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 84 (1) (c.3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies with respect to conversions of contributed surplus into paid-up capital after the 31st day of December, 1987.

Commencement, January 1, 1988

(28) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraphs 13 (7.1) (e), 37 (1) (e), 110 (1) (k) and subparagraph 13 (21) (f) (vii) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to taxation years ending after the 31st day of December, 1987.

Idem

(29) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to subsection 14 (3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to acquisitions of property after the 31st day of December, 1987.

Idem

(30) The following shall be deemed to have come into force on the 1st day of January, 1988, and apply to taxation years ending after the 31st day of December, 1987:

Idem

- (a) subclause 1 (1) (aa) (i) of the Act, set out in subsection 1 (1);
- (b) subsection 12 (2) of the Act, set out in subsection 4 (1);
- (c) subsection 12 (7) of the Act, set out in subsection 4 (3);
- (d) clause 12 (7) (c) of the Act, set out in subsection 4 (4);

Commencement, March 2, 1987

Commencement, April 1987

Commencement, June 1987

Commencement, June 1987

Idem

Idem

Idem

Commencement, February 1987

- (e) subsections 12 (14) and (15) of the Act, set out in subsection 4 (7);
- (f) subsections 12 (18) and (19) of the Act, set out in subsection 4 (8);
- (g) subsections 26a (1) and (2) of the Act, set out in section 15; and
- (h) subsections 27 (2) and (3) of the Act, set out in subsections 16 (1) and (2).

Idem

(31) Section 18b of the Act, set out in subsection 10 (3), shall be deemed to have come into force on the 1st day of January, 1988, and applies to expenditures incurred after the 31st day of December, 1987.

Idem

(32) Clause 73 (7) (b) of the Act, set out in subsection 39 (5), shall be deemed to have come into force on the 1st day of January, 1988, and applies to assessments and reassessments relating to transactions entered into, payments paid and reimbursements received after the 31st day of December, 1987.

Commencement, April 5, 1988

(33) The following shall be deemed to have come into force on the 5th day of April, 1988, and apply to taxation years ending after the 4th day of April, 1988:

- (a) subsection 53 (3) of the Act, set out in subsection 24 (1);
- (b) the amendment of subsection 58 (3) of the Act, set out in subsection 26 (1); and
- (c) the amendment of subsection 59 (3) of the Act, set out in subsection 27 (1).

Idem

(34) Subclause 54 (1) (c) (iv) of the Act, set out in section 25, shall be deemed to have come into force on the 5th day of April, 1988, and applies to loans or advances issued after the 4th day of April, 1988.

Commencement, April 21, 1988

(35) Clause 13 (4) (e) of the Act, set out in section 6, shall be deemed to have come into force on the 21st day of April, 1988, and applies to fiscal periods ending after the 20th day of April, 1988.

Idem

(36) The amendments of subsection 58 (3) of the Act, set out in subsection 26 (2), and subsection 59 (3) of the Act, set out in subsection 27 (2), shall be deemed to have come into force on the 21st day of April, 1988, and apply to taxation years ending after the 20th day of April, 1988 except that for taxation years that commence before the 21st day of April, 1988 and end after the 20th day of April, 1988, the rate increase shall be prorated according to the number of days in the taxation year subsequent to the 20th day of April, 1988.

Idem

(37) The following shall be deemed to have come into force on the 21st day of April, 1988, and apply with respect to taxation years ending after the 20th day of April, 1988:

- (a) clause 1 (1) (ja) of the Act, set out in subsection 1 (2);
- (b) section 12a of the Act, set out in section 5;
- (c) subsection 25 (7) of the Act, set out in section 14;
- (d) subsection 27 (12) of the Act, set out in subsection 16 (3);
- (e) section 27a of the Act, set out in section 17;
- (f) subsections 33a (1) and (2) of the Act, set out in section 20;
- (g) section 60 of the Act, set out in section 28;
- (h) subsections 61 (1) and (2) of the Act, set out in subsection 29 (1);
- (i) subsection 61 (4) of the Act, set out in subsection 29 (2);
- (j) the repeal of subsections 61 (5) and (6) of the Act, set out in subsection 29 (3);
- (k) the amendment of sub-subclause 61a (2) (a) (ii) (A) of the Act, set out in subsection 30 (1);
- (l) the amendment of sub-subclause 61a (2) (b) (i) (B) of the Act, set out in subsection 30 (2);
- (m) the amendment of subsection 63 (1) of the Act, set out in subsection 31 (1);
- (n) the amendment of section 64 of the Act, set out in section 32;
- (o) the amendment of section 65 of the Act, set out in section 33;
- (p) subsections 67 (1), (1a), (1b), (1c) and (1d) of the Act, set out in subsection 35 (1);
- (q) the amendment of subsection 67 (3) of the Act, set out in subsection 35 (2);
- (r) subclause 70 (2) (b) (i) of the Act, set out in subsection 37 (3);
- (s) subsection 72 (5a) of the Act, set out in section 38;
- (t) clause 73 (1) (b) of the Act, set out in subsection 39 (1);
- (u) subsections 73 (7b) and (7c) of the Act, set out in subsection 39 (10); and
- (v) subsection 75 (1) of the Act, set out in section 40.

Idem

(38) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the increase in the tax payable, shall be deemed to have come into force on the 21st day of April, 1988, and applies with respect to taxation years ending after the 20th day of April, 1988.

Commence-
ment, May 1,
1988

(39) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 37 (1) (d) of the Federal Act, shall be deemed to have come into force on the 1st day of May, 1988, and is effective for expenditures made after the 30th day of April, 1988.

Commence-
ment, July 1,
1988

(40) Clause 40 (2) (b) of the Act, set out in subsection 21 (1), and subsection 40 (4), set out in subsection 21 (3), shall be deemed to have come into force on the 1st day of July, 1988, and apply to taxation years ending after the 30th day of June, 1988.

Commence-
ment,
September
1, 1988

(41) Section 5a of the Act, set out in section 2, shall be deemed to have come into force on the 13th day of September, 1988, and for transactions assessed under subsection 245 (1) of the Federal Act, applies to transactions entered into after the 12th day of September, 1988 other than for,

- (a) transactions that are part of a series of transactions, determined without reference to subsection 248 (10) of the Federal Act, commencing before the 13th day of September, 1988 and completed before the 1st day of January, 1989; or
- (b) any one or more transactions, one of which was entered into before the 13th day of April, 1988, that were entered into by a taxpayer in the course of an arrangement and in respect of which the taxpayer received from the Department of National Revenue (Canada), before the 13th day of April, 1988, a confirmation or opinion in writing with respect to the tax consequences thereof,

and for transactions not assessed under subsection 245 (1) of the Federal Act, section 5a applies to transactions entered into on or after the date on which this Act receives Royal Assent.

idem

(42) Subsections 21 (1) and (2) of the Act, set out in section 13, shall be deemed to have come into force on the 13th day of September, 1988, and apply with respect to benefits conferred after the 12th day of September, 1988.

idem

(43) Subsections 73 (2a), (2b) and (4a) of the Act, set out in subsection 39 (8), and subsection 73 (3) of the Act, set out in subsection 39 (2), shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

idem

(44) Subsections 77 (1) and (1a) of the Act, set out in section 41, shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

idem

(45) Subsection 85 (2) of the Act, set out in subsection 42 (1), shall be deemed to have

come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

(46) Subsection 85 (3) of the Act, set out in subsection 42 (2), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988. Idem

(47) Subsection 85 (5) of the Act, set out in subsection 42 (3), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day September, 1988. Idem

(48) Subsection 1 (1a) of the Act, set out in subsection 1 (6), shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years of Canadian-controlled private corporations that commence before the 1st day of January, 1988 and to taxation years of other private corporations that commence before the 1st day of July, 1988. Commence-
ment,
January 1,
1989

(49) Clause 12 (7) (d) of the Act, set out in subsection 4 (5), and section 12b of the Act, set out in section 5, shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988. Idem

(50) The amendment of clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (i) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years ending after the 31st day of December, 1988. Idem

(51) The amendment of clause 49 (1) (b) of the Act, set out in subsection 23 (2), and the repeal of clause 49 (1) (c) of the Act, set out in subsection 23 (3), and the enactment of subsections 49 (4) and (4a) of the Act, set out in subsection 23 (4), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988. Idem

(52) Subsection 53 (5) of the Act, set out in subsection 24 (2), and subsection 53 (6) of the Act, set out in subsection 24 (3), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988. Idem

(53) The following shall be deemed to have come into force on the 28th day of April, 1989: Commence-
ment, April
28, 1989

(a) the amendment of clause 40 (2) (c) of the Act, set out in subsection 21 (2);

(b) the repeal of clause 40 (2) (d) of the Act, set out in subsection 21 (2); and

(c) clause 75 (1) (b) of the Act, as re-enacted by subsection 40 (2).

Idem

(54) The following shall be deemed to have come into force on the 28th day of April, 1989, other than with respect to a taxation year of a corporation for which a notice of an original assessment in respect of the corporation for the taxation year, or a notification that no tax is payable by the corporation for the taxation year, was mailed before the 28th day of April, 1986,

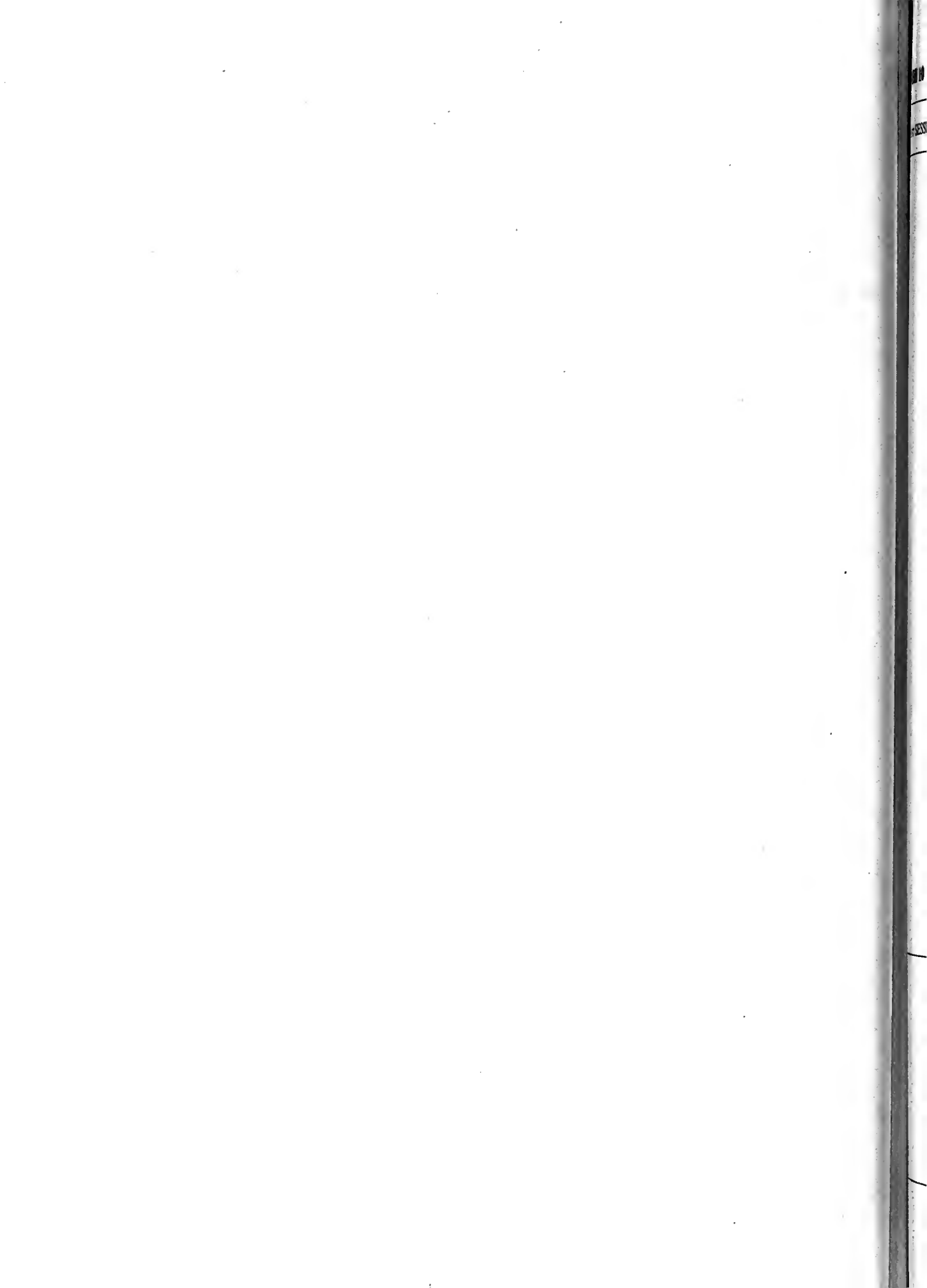
(a) the amendment of sub-subclause 73 (7) (a) (iv) (A) of the Act, set out in subsection 39 (3);

(b) the re-enactment of clause 73 (7) (b) of the Act, set out in subsection 39 (6);

(c) the re-enactment of subclause 73 (7) (c) (i) of the Act, set out in subsection 39 (7);

(d) the enactment of subsection 73 (6a) of the Act, set out in subsection 39 (9).

47. The short title of this Act is the Short title
Corporations Tax Amendment Act, 1990.



Bill 10

*(Chapter 22
Statutes of Ontario, 1990)*

An Act to amend the Corporations Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Corporations Tax Act

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

1.—(1) Subclause 1 (1) (aa) (i) of the *Corporations Tax Act*, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(2) Clause 1 (1) (ja) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(3) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1 and 1985, chapter 11, section 1, is further amended by adding the following clause:

(ab) subsection 248 (7) of the *Income Tax Act* (Canada) does not apply for the purposes of this Act.

(4) Sub-clause 1 (2) (d) (iv) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 1, is repealed and the following substituted:

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii), subsection 14 (3), section 20, paragraphs 37 (1) (d) and (e), subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 66.8, paragraph 67.1 (2) (d), paragraph 84 (1) (c.3), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 110 (1) (k), 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k), section 248 and subsection 258 (5) of the *Income Tax Act* (Canada) for the purposes of this Act.

(5) Subsection 1 (7) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 39,

section 1, is amended by adding at the end “and regulations related to this subsection may have retroactive application if they so state”.

(6) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1, 1985, chapter 11, section 1, 1986, chapter 39, section 1 and 1988, chapter 42, section 1, is further amended by adding the following subsections:

(1a) Section 194 of *An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts*, being the Statutes of Canada, 1988, chapter 55, applies for the purposes of this Act with respect to the end of taxation years of private corporations and in the application thereof,

Private corporation year-end election

- (a) references therein to “the said Act” shall be read as references to the *Income Tax Act* (Canada);
- (b) any election made thereunder by a private corporation shall be deemed,
 - (i) to be an election made under the *Income Tax Act* (Canada) for the purposes of the application of subsection 1 (4), and
 - (ii) to have been made under both that Act and this Act; and
- (c) any fiscal period referred to therein shall be the same for the purposes of the *Income Tax Act* (Canada) and this Act.

(8) Where a receipt is obtained from the addressee on the delivery of anything required or permitted by this Act to be delivered by registered mail, the delivery shall be deemed to have been made by registered mail for the purposes of this Act, and a “registered letter” includes any letter deemed by this subsection to have been delivered by registered mail.

Deemed delivery by registered mail

2. The Act is amended by adding the following section:

Definitions

5a.—(1) In this section and in subsection 73 (2a),

“avoidance transaction” means any transaction,

(a) that, but for this section, would result directly or indirectly in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit, or

(b) that is part of a series of transactions which would result directly or indirectly in a tax benefit but for this section, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit;

“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable by a corporation under this Act or under the *Income Tax Act* (Canada) or an increase in a refund of tax or other amount under this Act or under the *Income Tax Act* (Canada);

“tax consequences”, to a corporation, means the amount of,

(a) the corporation’s income, taxable income, taxable income earned in a jurisdiction other than Ontario, taxable income earned in Canada or taxable income earned in Canada in a jurisdiction other than Ontario,

(b) the corporation’s paid-up capital, taxable paid-up capital, taxable paid-up capital that is deemed to be used by the corporation in a jurisdiction outside Ontario, paid-up capital employed in Canada, taxable paid-up capital employed in Canada or taxable paid-up capital employed in Canada that is deemed to be used by the corporation in a jurisdiction outside Ontario,

(c) any gross premium referred to in Part IV that is payable to the corporation or its agent or agents,

(d) any amount, other than an amount referred to in clause (a), (b) or (c), payable by or refundable to the corporation under this Act or that is relevant for the purposes of determining any other amount referred to in this subsection;

“transaction” includes an arrangement or event.

(2) If a transaction is an avoidance transaction, the tax consequences to a corporation shall be determined in a manner that is reasonable in the circumstances in order to deny the tax benefit under this Act that would otherwise result directly or indirectly from the transaction, or from a series of transactions that includes the transaction.

(3) Subsection (2) does not apply to a transaction if it is reasonable to consider that the transaction would not result directly or indirectly in a misuse or abuse of the provisions of this Act, having regard to the provisions of this Act, other than this section, read as a whole.

(4) Without restricting the generality of subsection (2), in any determination thereunder of the tax consequences of a transaction to a corporation,

(a) any deduction in computing an amount referred to in clause (a), (b), (c) or (d) of the definition of “tax consequences” in subsection (1) may be allowed or disallowed in whole or in part;

(b) any deduction referred to in clause (a), any income or loss or other amount used in the determination of any amount payable or refundable under this Act may be allocated to any person;

(c) the nature of any payment or other amount may be recharacterized; and

(d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

(5) If a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to a transaction has been sent to a corporation, or a notice of determination under subsection 73 (2a) has been sent to the corporation, any other corporation is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2), or make a determination under subsection 73 (2a), with respect to the transaction.

(6) On receipt of a request by a corporation under subsection (5), the Minister shall consider the request and make an assessment or a determination under subsection 73 (2a) with respect to the corporation, despite the expiry of any time limit under subsection 73 (7), except that an assessment or determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (5).

Determination of tax consequences

Saving

Nature of determination

Consequence adjustment

Duty of the Minister

(7) The tax consequences to any corporation after the application of this section shall be determined only through a notice of assessment, reassessment or additional assessment, or through a notice of determination under subsection 73 (2a), involving the application of this section.

3. Section 7 of the Act is repealed and the following substituted:

7. The taxable income of a corporation for a taxation year is its income for the taxation year plus the additions required by Division C and less the deductions permitted by Division C.

4.—(1) Subsection 12 (2) of the Act is repealed and the following substituted:

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act, the amount determined by a corporation for the purposes of that Act as the value of property described in an inventory shall apply for the purposes of this Act, except that if the Minister is of the opinion that the value has been incorrectly determined by the corporation, the Minister may determine the value under section 10 of that Act for the purposes of this Act.

(2) Subsection 12 (6) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 6, is repealed and the following substituted:

(6) Every corporation shall include in its income from a business or property for a taxation year an amount equal to 5/15.5 of all payments deducted in computing its income for the taxation year that are paid or payable to a non-resident person with whom the corporation was not dealing at arm's length in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or similar payment; or
- (c) a right in or to the use of,
 - (i) a motion picture film,
 - (ii) a film or video tape for use in connection with television, other than solely in connection with and as part of a news program produced in Canada, or
 - (iii) where the amount is paid or payable after the 31st day of December, 1988, any other means of reproduction for use in connection with television, other than solely in connection with and as part of a news program produced in Canada.

(6aa) Subsection (6) does not apply in respect of a payment paid or payable to a non-resident person if the non-resident person is a corporation liable for tax imposed by this Act and the amount of the payment has been included in computing the corporation's taxable income earned in Canada.

(3) Subsection 12 (7) of the Act is amended by striking out that portion before clause (a) and substituting the following:

(7) Paragraphs 20 (1) (a) and (v.1) of the *Income Tax Act* (Canada) are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

(4) Clause 12 (7) (c) of the Act is repealed.

(5) Clause 12 (7) (d) of the Act is repealed and the following substituted:

(d) such amount as is allowed to the corporation by the regulations in respect of oil or gas resources in Canada or mineral resources in Canada.

(6) Subsection 12 (9b) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, is repealed and the following substituted:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act,

(a) despite subclause 1 (2) (d) (vi), the amounts referred to in subparagraphs 26 (1) (c) (i) and 26 (2) (c) (i) of the *Income Tax Act* (Canada) shall be the amounts that were deductible under subsection 26 (2) of that Act in computing the income of the bank for the taxation years referred to in those subparagraphs for the purposes of that Act, and not the amounts that were deductible under subsection 26 (2) of that Act as that subsection applied for the purposes of this Act in computing the bank's income for those years for the purposes of this Act;

(b) no amount shall be deducted under paragraph 26 (2) (a), (b), (c) or (e) of that Act, for the purpose of computing the income of a bank for a taxation year for the purposes of this Act, in excess of the amount deducted by the bank under that paragraph for the purposes of computing its income for the taxation year for the purposes of that Act, unless all amounts deductible by the bank under that paragraph have been deducted in computing its income

for a previous taxation year or years for the purposes of that Act; and

- (c) the reference to subsections 26 (1) and (2) of that Act in subsection 26 (4) of that Act shall be deemed not to be a reference to those subsections as they applied for the purposes of this Act under the predecessor of this subsection.

(7) Subsections 12 (14) and (15) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, are repealed.

(8) Section 12 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1, 1983, chapter 29, section 2, 1984, chapter 29, section 2, 1985, chapter 11, section 6 and 1986, chapter 39, section 2, is further amended by adding the following subsections:

Loans or lending assets

(6c) In the application of paragraph 18 (1) (s) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "this Part" shall be read as a reference to Part II of this Act.

Net reserve adjustment and inclusion

(9c) In the application of section 12.3 and subsection 20 (26) of the *Income Tax Act* (Canada) for the purposes of this Act, the prescribed amount of a corporation's net reserve inclusion referred to in section 12.3 and the prescribed amount of a corporation's net reserve adjustment referred to in subsection 20 (26) are the amounts prescribed by the regulations under this Act.

(10a) Section 33.1 of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

Interest and property tax transition rule

(18) In the application of subsection 18 (2) of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 10 (23) of the Statutes of Canada, 1988, chapter 55, as it applies for the purposes of the application of subsection 10 (6) of that Act (which repealed and re-enacted subsection 18 (2) of the *Income Tax Act* (Canada)), applies for the purposes of this Act.

Idem

(19) In the application of subsections 18 (2.3) and (2.4) of the *Income Tax Act* (Canada) for the purposes of this Act, any reference therein to "the Minister" shall be read as a reference to the Minister of National Revenue.

5. The Act is further amended by adding the following sections:

Definitions

12a.—(1) In this section,

"amalgamated corporation" means a corporation that is a new corporation for the purposes of section 87 of the *Income Tax Act* (Canada);

"base period", of a corporation for a particular taxation year, means the three previous taxation years of the corporation or, where the corporation has had fewer than three previous taxation years, the period commencing on the first day of its first taxation year and ending immediately before the particular taxation year, except that,

- (a) if the corporation is an amalgamated corporation that, after the amalgamation, has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of a predecessor corporation commenced, and

(ii) shall end immediately before the particular taxation year, or

- (b) if the corporation was a parent corporation in a winding-up to which subsection 88 (1) of the *Income Tax Act* (Canada) applied and has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of the parent corporation or of a subsidiary corporation commenced, and

(ii) shall end immediately before the particular taxation year;

"contract payment" has the meaning given to that expression by subsection 127 (9) of the *Income Tax Act* (Canada);

"eligible qualified expenditure" means a qualified expenditure made after the 20th day of April, 1988;

"eligible research property" means research property acquired after the 20th day of April, 1988;

"expenditure base", of a corporation for a particular taxation year, means the ratio of the number of days in the taxation year after the 20th day of April, 1988, to the number of days in the corporation's base period for the particular taxation year, multiplied by the amount if any by which the aggregate of,

- (a) all qualified expenditures made by the corporation during the base period, and
- (b) all amounts paid by the corporation during the base period that may reasonably be considered to be repayments of amounts referred to in clause (d) received by the corporation before or during the base period,

exceeds the aggregate of,

- (c) all amounts each of which was deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in determining the amount of tax payable for a taxation year if,
 - (i) the amount deducted is reasonably attributable to a qualified expenditure made by the corporation in or before the base period, and
 - (ii) the amount deducted was included under paragraph 12 (1) (i) of that Act, as applicable for the purposes of this Act, in computing the corporation's income for a taxation year ending in the base period or was first required to be included in an amount determined under paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii) or paragraph 37 (1) (e) of that Act, as applicable for the purposes of this Act, for a taxation year ending in the base period, and
- (d) all amounts received or receivable by the corporation in the base period as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to a qualified expenditure made by the corporation;

“government assistance” and “non-government assistance” have the meanings given to those expressions by subsection 127 (9) of the *Income Tax Act* (Canada);

“net eligible qualifying expenditures” of a corporation for a taxation year means that amount, if any, by which,

- (a) the aggregate of,
 - (i) all eligible qualified expenditures made by the corporation in the taxation year, and
 - (ii) all payments made by the corporation in the taxation year that may reasonably be considered to be repayments of amounts de-

scribed in subclause (b) (i) in respect of the taxation year or a prior taxation year,

exceeds,

- (b) the aggregate of,
 - (i) all amounts received or receivable by the corporation in the taxation year as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to an eligible qualified expenditure made by the corporation,
 - (ii) all amounts deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in computing tax payable under that Act for the previous taxation year, to the extent that the amounts deducted may reasonably be attributable to eligible qualified expenditures made by the corporation, and
 - (iii) any amount by which the aggregate determined under this clause in respect of the immediately preceding taxation year exceeds the aggregate determined under clause (a) for the immediately preceding taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, means the fraction equal to “A/B” where,

- (a) “A” equals the amount of taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b and that would not be considered for the purposes of section 31 to have been earned in jurisdictions other than Ontario, except that the taxable income or the taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada, and
- (b) “B” equals the taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b, except that the taxable income or the

taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada;

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes any corporation in respect of which a predecessor corporation was an amalgamated corporation;

“qualified expenditure” means an expenditure made by a corporation in respect of scientific research and experimental development carried on in Ontario that is a qualified expenditure for the purposes of section 127 of the *Income Tax Act* (Canada), or that would have been a qualified expenditure for the purposes of that section but for the corporation previously specifying the expenditure for the purposes of clause 194 (2) (a) (ii) (A) of that Act, but does not include an expenditure of the type described in subparagraph 37 (7) (f) (i), (ii) or (iii) of that Act;

“research property” means property of a corporation referred to in subparagraph 37 (1) (b) (i) of the *Income Tax Act* (Canada);

“scientific research and experimental development” has the meaning prescribed by regulation made under the *Income Tax Act* (Canada) for the purposes of paragraph 37 (7) (b) of that Act;

“specified percentage”, in respect of a particular research property, is the percentage represented by the ratio of all amounts deducted under this section in respect of the research property to the capital cost of the research property;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

Research and development super allowance

(2) A corporation may deduct a research and development super allowance in computing its income from a business for a taxation year in an amount calculated according to the following formula:

$$A = \frac{(B \times C) + (D \times E)}{F}$$

Where:

“A” is the research and development super allowance for the corporation for the taxation year;

“B” is 0.35 if the corporation is a Canadian-controlled private corpora-

tion throughout the taxation year, or 0.25 otherwise;

“C” is the lesser of the net eligible qualifying expenditures of the corporation for the taxation year or the expenditure base of the corporation for the taxation year;

“D” is 0.525 if the corporation is a Canadian-controlled private corporation throughout the taxation year, or 0.375 otherwise;

“E” is the amount, if any, by which the net eligible qualifying expenditures of the corporation for the taxation year exceed the expenditure base of the corporation for the taxation year;

“F” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “F” is 1.

(3) In determining the amount of the expenditure base of an amalgamated corporation for a particular taxation year, each amount determined under clauses (a) to (d) in the definition of “expenditure base” in subsection (1) includes all amounts described under those clauses in respect of any predecessor corporation in respect of all of its taxation years commencing in the base period of the amalgamated corporation.

Expenditure base after amalgamati

(4) If subsection 88 (1) of the *Income Tax Act* (Canada) applies with respect to a winding-up of a subsidiary corporation, the amount of the expenditure base of the parent corporation for a particular taxation year includes in each amount determined under clauses (a) to (d) in the definition of “expenditure base” in subsection (1), all amounts described under those clauses in respect of the subsidiary corporation in respect of its taxation years commencing in the base period of the parent corporation.

Expenditure base after winding-up into parent

(5) The expenditure base for a taxation year of a corporation that is associated with one or more other corporations during the taxation year shall be determined according to the following formula:

Associated corporations

$$B = A \times C / D$$

Where:

“B” is the expenditure base for the corporation for the particular taxation year;

“A” is the aggregate of,

(a) the expenditure base of the corporation that would be determined, but for this subsection, for the particular taxation year, and

- (b) the expenditure base, as determined without reference to this subsection, of each corporation with which the corporation was associated at any time during the particular taxation year, for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year;

“C” is the net eligible qualifying expenditures of the corporation for the particular taxation year; and

“D” is the aggregate of “C” and the net eligible qualifying expenditures of each corporation with which the corporation was associated at any time during the particular taxation year for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year.

(6) Except as provided in subsections (7) and (8), if a corporation has disposed of an eligible research property at any time in a particular taxation year, there shall be included in computing the income of the corporation for the particular taxation year an amount equal to the lesser of,

- (a) the specified percentage of the lesser of the fair market value of the property at the time of the disposition or the capital cost to the corporation of the property immediately before the disposition; or
- (b) the amount, if any, by which the aggregate of,
- (i) all amounts deducted under this section by the corporation in computing its income for any taxation year commencing before the disposition and by any corporation associated with the corporation in the particular taxation year in computing its income for any taxation year ending in or before the particular taxation year,

exceeds the aggregate of,

- (ii) all amounts included by virtue of this subsection in respect of any other eligible research property in computing the income of the corporation for any taxation year commencing before the disposition, or in computing the income of any corporation associated with the corporation in the particular taxation year, for any taxation year ending in or before the particular taxation year.

(7) If subsection 85 (1) or 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to the disposition of eligible research property by a corporation to another corporation that is associated with the corporation in the taxation year in which the disposition occurs, ^{Idem}

- (a) the property shall be deemed to be eligible research property of the other corporation; and
- (b) if the capital cost of the eligible research property to the corporation exceeds the proceeds of disposition, the capital cost of the eligible research property to the other corporation shall be deemed to be the amount that was the capital cost thereof to the corporation.

(8) If section 87 or subsection 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to an amalgamation of two or more corporations or to a winding-up of a subsidiary corporation, the amalgamated corporation or the parent corporation, as applicable, shall be deemed, ^{Idem}

- (a) to have deducted, in computing its income for a taxation year commencing before the amalgamation or winding-up, all amounts deducted under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year; and
- (b) to have included, in computing its income for any taxation year commencing before the amalgamation or winding-up, all amounts included under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year.

(9) If section 87 of the *Income Tax Act* (Canada) is applicable in respect of an amalgamation of two or more corporations, the capital cost to the amalgamated corporation of any property that was eligible research property of a predecessor corporation and that becomes the property of the amalgamated corporation because of the amalgamation shall be deemed to be the capital cost thereof to the predecessor corporation and the property shall be deemed to be eligible research property of the amalgamated corporation. ^{Capital cost after amalgamation}

(10) If a corporation has in a taxation year ending in a particular calendar year made a payment to another corporation associated with the corporation in the taxation year, the following rules apply: ^{Eligible qualified expenditures to associated corporation}

1. If the payment would, but for this subsection, be a qualified expenditure

made by the corporation in the taxation year, such portion of the payment as may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation, in a taxation year of the other corporation ending after the particular calendar year, shall be deemed, for the purposes of this section, not to have been paid at the time at which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

2. If the payment is received by the other corporation in a taxation year ending in a calendar year preceding the particular calendar year, the payment shall be deemed for the purposes of this section, if it may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation in a taxation year following the year in which the payment was received by it, not to have been paid to the other corporation in the taxation year in which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

Where previously associated

(11) If another corporation was not associated with a particular corporation in a taxation year, but was associated with the particular corporation at any time during the particular corporation's base period for the taxation year, and all or substantially all of the property of the previously associated corporation that was used by it in carrying on any business during the base period was acquired in any manner by the particular corporation, or by one or more corporations associated with the particular corporation in the taxation year, the following rules apply for the purposes of this section:

1. The previously associated corporation shall be deemed to continue to exist, if it has ceased to exist.
2. The previously associated corporation shall be deemed to be associated with the particular corporation in the taxation year.
3. The previously associated corporation shall be deemed to have had taxation years ending on the same day in each year as the last day of its taxation year in which it was last associated with the particular corporation.

(12) Subsection (11) does not apply if,

Exception

- (a) the previously associated corporation was a predecessor corporation of the particular corporation, or of a corporation associated with the particular corporation in the taxation year; or
- (b) the previously associated corporation was a subsidiary corporation that was wound up before the taxation year and whose parent corporation was either the particular corporation or a corporation associated with the particular corporation in the taxation year.

(13) If a corporation is a member of a partnership, the following rules apply for the purposes of this section:

Corporate partners

1. If the partnership makes, during a fiscal period of the partnership, an expenditure that would be a qualified expenditure if made by a corporation, an amount equal to the proportion of the expenditure that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period shall be deemed to be a qualified expenditure made by the corporation in the taxation year of the corporation in which that fiscal period ends.
2. If the partnership disposes of a property that would be an eligible research property of the partnership if the partnership were a corporation, an amount equal to the proportion of the amount that would be included under this section, as a result of the disposition, in the income of the partnership, if the partnership were a corporation, that the corporation's share of the income or loss of the partnership for the fiscal period in which the property was disposed of bears to the total income or loss of the partnership in the fiscal period shall be included in computing the income of the corporation for the taxation year in which the fiscal period ends.

(14) If a corporation is a limited partner in a limited partnership at any time in a taxation year and is deemed by subsection (13) to have made a qualified expenditure that is an eligible qualified expenditure, the following rules apply:

Maximum deduction for limited partner

1. The maximum amount deductible under subsection (2) by the corporation in the taxation year in respect of the corporation's share of a qualified expenditure made by the limited partnership shall not exceed the aggregate of,

- i. the share of the income, if any, of the limited partnership included in the computation of income of the corporation for the taxation year, and
 - ii. any amount included in the income of the corporation for the taxation year under paragraph 2 of subsection (13).
2. If the amount determined under paragraph 1 is less than the amount that would have been otherwise deductible under this section for the taxation year by the corporation in respect of its share of the eligible qualified expenditure made by the limited partnership, the amount of the difference shall be included in the determination of the corporation's limited partnership loss for the taxation year in respect of the limited partnership as otherwise determined under subsection 96 (2.1) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act.

(15) A corporation is not entitled to a deduction under this section during a year with respect to any expenditure made by it if, as a result of a transaction or an event, or a series of transactions or events, it is reasonable for the Minister to believe that one of the principal purposes of the carrying out of such a transaction or event or series of transactions or events is to enable the corporation to claim a deduction under this section that would not otherwise be allowed.

12b.—(1) In this section,

“amalgamated corporation” means a corporation that is a “new corporation” for the purposes of section 87 of the *Income Tax Act* (Canada);

“eligible asset”, of a corporation, means prescribed manufacturing and processing machinery or equipment acquired by the corporation after the 31st day of December, 1988 and before the 1st day of January, 1992, or prescribed pollution control equipment acquired by the corporation after the 17th day of May, 1989, that,

- (a) has not been used by any person for any purpose before being acquired by the corporation,
- (b) is first used by the corporation in Ontario, and
- (c) is used by the corporation for the purpose of earning income from a business;

“eligible asset pool”, of a corporation for a taxation year, means the amount, if any, by which the aggregate of,

- (a) the eligible cost to the corporation at the end of the taxation year of the eligible assets of the corporation for the taxation year or a prior taxation year,
- (b) the eligible cost to the corporation immediately before disposition of the eligible assets of the corporation for the taxation year or a prior taxation year that were acquired and disposed of by the corporation at any time before the end of the taxation year, and
- (c) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in the determination of the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,

exceeds,

(d) the aggregate of,

- (i) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (vii) or (viii) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,
- (ii) all amounts each of which is an amount included in the income of the corporation, or of a subsidiary corporation or a predecessor corporation, for the taxation year, or for a prior taxation year, under paragraph 12 (1) (t) of the *Income Tax Act* (Canada), as made applicable for the purposes of this Act, in respect of an eligible asset, and
- (iii) all amounts each of which is the amount of the eligible asset pool of the corporation for a prior taxation year in respect of which the corporation was entitled under this section to deduct an amount in computing its income;

“eligible assets of the corporation for the taxation year” means the eligible assets that were acquired by the corporation in the taxation year or a prior taxation year and in respect of which,

- (a) the taxation year is the first taxation year in which the corporation may include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax*

Act (Canada) in respect of those assets in the determination of the undepreciated capital cost of depreciable property of a prescribed class, and

- (b) no amount has been included under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) by a subsidiary corporation or predecessor corporation in the determination of the undepreciated capital cost of depreciable property of a prescribed class of the corporation for a taxation year;

“eligible cost”, to a corporation at a particular date of eligible assets of the corporation for a taxation year, means,

- (a) in respect of eligible assets that are prescribed manufacturing and processing machinery or equipment, the capital cost to the corporation of the assets at that date, and
- (b) in respect of eligible assets that are prescribed pollution control equipment acquired in a particular taxation year by the corporation, or by a subsidiary corporation or predecessor corporation, the lesser of,

(i) the capital cost to the corporation of the assets at that date, or

(ii) the amount by which,

(A) \$20,000,000 multiplied by the ratio of the number of days in the particular taxation year to 365, or, if the particular taxation year commenced before the 18th day of May, 1989, by the ratio of the number of days in that taxation year after the 17th day of May, 1989, to 365,

exceeds,

(B) the capital cost to the corporation of the eligible assets acquired in the particular year that have been included in the eligible asset pool of the corporation for a prior taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, has the same meaning as in subsection 12a (1);

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes a corporation in

respect of which a predecessor corporation was an amalgamated corporation;

“specified rate”, of a corporation for a taxation year, means the rate calculated according to the following formula:

$$A = 0.1 \times (B / E) + 0.15 \times (C / E) + 0.3 \times (D / E)$$

Where:

“A” is the specified rate of the corporation for the taxation year,

“B” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation before the 1st day of January, 1990,

“C” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1989 and before the 1st day of January, 1991,

“D” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1990,

“E” is the aggregate of “B”, “C” and “D”;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

(2) A corporation may deduct in computing its income from a business for a taxation year a current cost adjustment deduction calculated according to the following formula:

$$A = (B / C) \times D$$

Where:

“A” is the current cost adjustment deduction for the taxation year;

“B” is the corporation’s eligible asset pool for the taxation year;

“C” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “C” is 1; and

“D” is the corporation’s specified rate for the taxation year.

(3) If the Minister believes, reasonably, that the corporation has delayed the acquisition of an asset primarily for the purposes of either claiming a deduction under this section or claiming a deduction at a higher specified rate, the Minister may, for the purposes of determining a deduction under this section, deem the acquisition to have occurred on another date.

Current cost adjustment deduction

Date of acquisition

(4) If a corporation is a member of a partnership that has acquired property in a particular fiscal period that would be an eligible asset under this section if acquired by a corporation on the date of acquisition by the partnership, the following rules apply for the purposes of this section:

1. The property shall be deemed to have been acquired jointly by the partners, not by the partnership, on the date the property was acquired by the partnership.
2. The capital cost to the corporation of its interest in the property for the purposes of this section is that proportion of the capital cost of the property to the partnership at the end of the fiscal period of the partnership during which the property was acquired that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period.
3. The property shall be deemed to be an eligible asset of the corporation for the taxation year in which the fiscal period of the partnership ends in which the partnership may first include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) in respect of the property in the determination of the undepreciated capital cost of depreciable property of a prescribed class.
4. The amount of the corporation's eligible asset pool for a taxation year is increased by an amount equal to the proportion of any repaid assistance, included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the partnership of depreciable property of a prescribed class at the end of the fiscal period of the partnership ending in the taxation year, that is the corporation's share of the income or loss of the partnership for the fiscal period and reduced by the same proportion of any amount included by the partnership under subparagraph 13 (21) (f) (viii) of that Act for the fiscal period in determining the undepreciated capital cost of the partnership's depreciable property of a prescribed class.

(5) If a corporation claiming a deduction under this section is an amalgamated corporation or a parent corporation, the following rules apply for the purposes of this section:

1. Each eligible asset acquired on a particular date by a subsidiary corporation or a predecessor corporation shall be

deemed to have been acquired by the corporation on the same date.

2. The capital cost of the asset to the corporation shall be deemed to be the capital cost thereof to the predecessor corporation or the subsidiary corporation.
3. An eligible asset pool of a subsidiary corporation or a predecessor corporation for a prior taxation year shall be deemed to be an eligible asset pool of the corporation for a prior taxation year.

(6) A corporation is not entitled to a deduction under this section with respect to an asset if the acquisition or use of the asset was part of or related to a series of transactions or events and it is reasonable for the Minister to believe that one of the principal purposes for the acquisition of the asset was for use by another person or for use outside Ontario.

Anti-
avoidance

6. Subsection 13 (4) of the Act is amended by adding the following clause:

- (e) if the property is an interest in a partnership,
 - (i) there shall be deducted in respect of each fiscal period of the partnership ending before that time all amounts deducted by the corporation for a taxation year commencing before that time,
 - (A) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (B) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation, and
 - (ii) there shall be added in respect of each fiscal period of the partnership ending before that time all amounts included in the income of the corporation for a taxation year commencing before that time under subsection 12a (14),

except to the extent that all or a portion of any such amounts may reasonably be considered to have been included in the corporation's limited partnership loss in respect of the partnership for the taxation year in which the fiscal period of the partnership ended.

7. The Act is further amended by adding the following section:

Reserve on disposition of resource property

16a. For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act as they read on the 31st day of December, 1986 with respect to dispositions made by a corporation before the 1st day of January, 1987.

8.—(1) Subsection 18 (5) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed.

(2) Subsection 18 (7) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 7, is repealed and the following substituted:

Change in control

(7) Subsections 66 (11) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Idem

(7a) Subsections 66 (11.4) and (11.5) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act with respect to acquisitions of Canadian resource properties.

(3) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by striking out “in sections 18a and 18b” in the amendment of 1988 and substituting “in sections 18a, 18b and 18c”.

(4) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by relettering clause (ia) as clause (ic) and by adding the following clauses:

(ga) “original owner”, of a Canadian resource property, means the person who would be the “original owner” of that property under paragraph 66 (15) (g.11) of the *Income Tax Act* (Canada) if that paragraph were read without the references therein to “foreign resource property”, “foreign exploration and development expenses” and to subsections 66 (2), (3) and (4) and 66.7 (2) and (13) of that Act;

(ha) “predecessor owner”, of a Canadian resource property, means the person who would be the “predecessor owner” of that property under paragraph 66 (15) (g.4) of the *Income Tax Act* (Canada) if that paragraph

were read without the references therein to “foreign resource property” and to subsections 66.7 (2) and (15) of that Act;

(ia) “production”, from a Canadian resource property, has the meaning given to that expression by paragraph 66 (15) (h.01) of the *Income Tax Act* (Canada), except that with respect to iron ore, the production from a Canadian resource property means the iron ore produced from the property processed to any stage that is not beyond the prime metal stage or its equivalent;

(ib) “reserve amount” has the meaning given to that expression by paragraph 66 (15) (h.02) of the *Income Tax Act* (Canada).

9.—(1) Clause 18a (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by adding at the beginning “subject to section 18d”.

(2) Subclause 18a (b) (iii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by inserting after “(xi)” in the second line “and (xiii)”.

(3) Section 18a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) the reference to the Minister in clause 66.1 (6) (a) (ii.1) (D) of the *Income Tax Act* (Canada) shall be read as a reference to the Minister of National Revenue.

10.—(1) Section 18b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “to (12.73)” in the first line and substituting “to (12.74)”.

(2) Clause 18b (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “(12.69) and (12.73)” in the second line and substituting “(12.69), (12.73) and (12.74)”.

(3) Section 18b of the Act is further amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) expenditures described in subparagraph 66.1 (6) (a) (i) or (ii.1) of that Act renounced before the 14th day of October, 1988 shall be deemed to have been renounced within ninety days after the 31st day of December, 1987.

11. The Act is further amended by adding the following sections:

18c. Section 66.7 of the *Income Tax Act* (Canada), other than subsections (2), (8), (13) and (15) and paragraphs (10) (f) and (h), is applicable for the purposes of this Act, except that in the application thereof,

- (a) references to "Canadian exploration and development expenses" shall be read as references to only Canadian exploration and development expenses incurred before the 20th day of May, 1981; and
- (b) the section shall be read without the references to "foreign exploration and development expenses", "foreign resource property" and "foreign resource properties".

18d. Subsection 66 (13.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the reference to paragraph 66.2 (2) (c) of that Act shall be deemed to include a reference to clause 18a (b).

18e. Section 66.8 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the foreign exploration and development expenses referred to in clause (1) (a) (i) (D) of that Act shall be limited to only those foreign exploration and development expenses that are deductible.

12. Section 20 of the Act is amended by adding the following subsections:

(3) In the application of section 67.3 of the *Income Tax Act* (Canada) for the purposes of this Act, references in paragraphs (c) and (d) thereof to "this Act" shall be read as references to the *Income Tax Act* (Canada).

(4) In the application of subsection 69 (13) of the *Income Tax Act* (Canada) for the purposes of this Act, the proceeds of disposition of a foreign resource property shall be deemed to be the cost amount to the corporation of the foreign resource property immediately before the amalgamation or merger.

13. Section 21 of the Act, as amended by the Statutes of Ontario, 1988, chapter 42, section 7, is repealed and the following substituted:

21.—(1) If a person at any time confers a benefit on a corporation either directly or indirectly by any means, the amount of the benefit shall be included in computing the corporation's income or taxable income earned in Canada for the taxation year in which the benefit is conferred, to the extent that,

- (a) the amount of the benefit is not otherwise included in the corporation's income or taxable income earned in Canada; and
- (b) the amount of the benefit would be so included if the amount were a payment made directly by the person to the corporation and the corporation were resident in Canada.

(2) If it is established that a transaction was entered into by persons dealing at arm's length, in good faith and not pursuant to or as part of any other transaction, and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction shall be regarded for the purpose of this section as having conferred a benefit on a party with whom he or she was dealing.

14. Section 25 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 9, 1985, chapter 11, section 10, 1986, chapter 39, section 7 and 1988, chapter 42, section 10, is further amended by adding the following subsection:

(7) In the application of subsection 96 (2.1) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under paragraph 96 (2.1) (a) of that Act,

- (a) there shall be added all amounts deducted by the corporation for the taxation year,
 - (i) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (ii) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation; and
- (b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) in respect of dispositions made by the partnership.

15. The Act is further amended by adding the following section:

26a.—(1) A corporation that is required under paragraph 132.1 (1) (d) of the *Income Tax Act* (Canada) to include an amount in its income for a taxation year for the purposes of that Act shall include the amount in its income for the taxation year for the purposes of this Act.

(2) In computing the adjusted cost base to the corporation of a unit in a mutual fund trust, there shall be included any amount

Successor
resCorporation of
"DE" and
"OGPE"
short
taxation
barslimited
partnership
source
expendituresApplication
Federal
ActTreatment of
foreign
source
properties on
amalgamationBenefit
conferred on
corporation

Arm's length

Limited
partnership
lossesApplication
of Federal
ActMutual fund
trust unit

added to the adjusted cost base of the unit under subsection 132.1 (2) of that Act for the purposes of that Act.

16.—(1) Subsection 27 (2) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 10, is repealed and the following substituted:

Receipts for gifts to charities, etc.

(2) In the application of subsections 110.1 (2) and (3) of the *Income Tax Act* (Canada) for the purposes of this Act, a "receipt" includes a photostatic reproduction of the receipt.

(2) Subsection 27 (3) of the Act is repealed and the following substituted:

Interpretation

(3) In the application of the definition of "registered Canadian amateur athletic association" and "registered charity" in subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "Minister" shall be read as references to the Minister of National Revenue.

(3) Section 27 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, 1984, chapter 29, section 8, 1985, chapter 11, section 11, 1986, chapter 39, section 8 and 1988, chapter 42, section 11, is further amended by adding the following subsections:

Idem

(10) In the application of paragraph 111 (4) (e) of the *Income Tax Act* (Canada) for the purposes of this Act,

(a) the reference therein to the Minister shall be read as a reference to the Minister of National Revenue; and

(b) the paragraph shall be read without reference to the words "under this Part".

Idem

(11) In the application of subsections 111 (5.1), (5.2) and (5.3) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "this Part" shall be read as references to Part II of this Act.

Limited partnership losses

(12) In the application of paragraph 111 (1) (e) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under clause 111 (1) (e) (ii) (B) of that Act,

(a) there shall be included all amounts deducted by the corporation for the taxation year under,

(i) section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in that fiscal period, and

(ii) section 12b in respect of the portion of the property of the partnership deemed to be eligible

assets acquired by the corporation; and

(b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) with respect to dispositions made by the partnership.

17. The Act is further amended by adding the following section:

27a.—(1) The Minister may direct that the maximum amount that may be deducted by a corporation in a taxation year under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in respect of a non-capital loss incurred in a particular taxation year, shall not exceed the amount determined under subsection (2) if,

Reduction of non-capital loss deductible

(a) the corporation deducted an amount under section 12a or 12b, or both, in determining the amount of its non-capital loss for the particular taxation year and the Ontario allocation factor of the corporation for the taxation year in which an amount in respect of the loss is to be deducted is greater than 120 per cent of the Ontario allocation factor for the particular taxation year in which the loss was incurred; or

(b) the Minister has directed the maximum amount deductible in respect of the loss for a prior taxation year.

(2) If the Minister makes a direction under subsection (1) in respect of a loss to be deducted in a taxation year of a corporation, the maximum amount that may be deducted by the corporation in respect of a non-capital loss incurred in a particular taxation year shall be determined according to the following formula:

Maximum amount

$$D = (A + B) - C$$

Where:

"D" is the maximum amount deductible by the corporation in the taxation year in respect of the non-capital loss incurred in the particular taxation year;

"A" is the amount by which the non-capital loss for the particular taxation year exceeds the total of any amounts deducted under section 12a or 12b or both sections for the particular taxation year;

"B" is the allocation adjustment as determined under clause (3) (c); and

"C" is the aggregate of all amounts, each of which is the amount by which the non-capital loss deducted under paragraph 111 (1) (a) of the *Income*

Tax Act (Canada), as applicable for the purposes of this Act, in computing the taxable income of the corporation for a prior taxation year, exceeds the allocation adjustment in respect of the loss for the prior taxation year.

- (3) For the purposes of this section,
- (a) "Ontario allocation factor" has the same meaning as in subsection 12a (1);
- (b) the allocation factor for the taxation year in which the loss arose is the allocation factor of the corporation that incurred the loss in that year;
- (c) the allocation adjustment is the product obtained where the amount of a non-capital loss incurred in a particular taxation year attributable to amounts deducted under section 12a or 12b is multiplied by the ratio of the Ontario allocation factor for the particular taxation year to the Ontario allocation factor for the year for which the allocation adjustment is being determined; and
- (d) the amount of a non-capital loss incurred in a particular taxation year which is attributable to amounts deducted under section 12a or 12b is the amount by which the lesser of,
- (i) the non-capital loss for the particular taxation year, or
- (ii) the total of all amounts, each of which is an amount deducted under section 12a or 12b, exceeds,
- (iii) the aggregate of all amounts, each of which is the amount deducted under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in computing its taxable income for a taxation year prior to the taxation year for which the allocation adjustment is being determined, in respect of the non-capital loss incurred in the particular taxation year, multiplied by the ratio of the Ontario allocation factor for the taxation year in which the amount in respect of the loss was deducted to the Ontario allocation factor for the particular taxation year in which the loss was incurred.

18. Section 29 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 8, 1985, chapter 11, section 12 and 1988, chapter 42, section 12, is further amended by adding the following subsection:

(4) Section 115.1 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act where the purchaser referred to therein is not a non-resident individual or a non-resident partnership and, in the application thereof, references therein to the "Minister" shall be read as references to the Minister of National Revenue.

Tax deferral for non-resident organization

19. Section 32 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 9 and 1985, chapter 11, section 15, is further amended by adding the following subsection:

(4) In this section, "foreign investment income" of a corporation for a taxation year does not include interest income attributable to a loan for any period in the year during which the loan was an "eligible loan" as defined in subsection 33.1 (1) of the *Income Tax Act* (Canada).

Idem

20. Subsection 33a (1) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 17, is repealed and the following substituted:

(1) There may be deducted from the tax otherwise payable by a corporation under this Part for the corporation's first, second or third taxation year ending after the date of its incorporation an amount equal to 15.5 per cent of the amount determined under subsection 33 (2), if,

New enterprise incentive

- (a) the corporation was incorporated after the 13th day of May, 1982 and before the 21st day of April, 1988;
- (b) the corporation commenced carrying on an active business in Canada before the 21st day of April, 1988; and
- (c) the corporation is eligible to claim and has claimed a deduction under section 125 of the *Income Tax Act* (Canada) from the tax otherwise payable by the corporation under that Act for the taxation year.

(2) For the purposes of subsection (1), a corporation incorporated after the 20th day of April, 1988 and before the 1st day of May, 1988 shall be deemed to have been incorporated before the 21st day of April, 1988 and to have commenced carrying on an active business in Canada before the 21st day of April, 1988 if,

Incorporation before the 1st day of May, 1988

- (a) arrangements for the incorporation of the corporation were substantially advanced and application for the incorporation of the corporation had been prepared and sent to the appropriate government authority prior to the 21st day of April, 1988;
- (b) one or more persons commenced carrying on an active business prior to the

21st day of April, 1988, in trust for the corporation to be incorporated; and

- (c) all agreements entered into before the date of incorporation of the corporation by the person or persons carrying on active business in trust for it were adopted by the corporation after its incorporation.

21.—(1) Clause 40 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, is repealed and the following substituted:

- (b) the percentage referred to in subparagraph (a) (i) thereof shall be read as,
 - (i) 10 1/3 per cent in its application to taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990, and
 - (ii) 11 5/8 per cent in its application to taxation years ending after the 31st day of December, 1989.

(2) Clauses 40 (2) (c) and (d) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 13, are repealed and the following substituted:

- (c) the reference to “paragraph 152 (4) (b) or (c)” in paragraph (b) thereof shall be read as “clause 73 (7) (b) or (c)”.

(3) Subsection 40 (4) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15 and 1985, chapter 11, section 19, is repealed and the following substituted:

- (4) In the application of clauses 131 (6) (a) (i) (A) and 131 (6) (b) (ii) (C) of the *Income Tax Act* (Canada) for the purposes of this Act, the multiplication factor referred to therein shall be read as,
 - (a) “9 21/31 times” for taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990; and
 - (b) “8 56/93 times” for taxation years ending after the 31st day of December, 1989.

22. Section 45 of the Act is amended by adding the following subsection:

(3) Paragraph 138 (3) (g) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

23.—(1) Clause 49 (1) (a) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 14, is amended by striking out “(o.2) or (o.3)” in the third line and substituting “(o.2), (o.3), (o.4) or (t)”, and by adding at the end “or”.

(2) Clause 49 (1) (b) of the Act is amended by striking out “or” at the end.

(3) Clause 49 (1) (c) of the Act is repealed.

(4) Subsection 49 (4) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 16, is repealed and the following substituted:

(4) The rules in subsections 149 (2), (3), (4), (4.1), (4.2), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

(4a) In the application of paragraph 149 (1) (t) and subsection 149 (4.1) of the *Income Tax Act* (Canada), references to the Superintendent of Financial Institutions shall be read as references to the Superintendent of Financial Institutions for Canada.

(5) Subsection 49 (6) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 14, is repealed and the following substituted:

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be read as a reference to Part II of this Act and paragraph 149 (10) (b) of that Act, including any predecessor of that paragraph, shall be read without reference to “foreign resource property”.

24.—(1) Subsection 53 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

(3) Despite subsection (1), the taxable paid-up capital for a taxation year of a corporation registered under the *Loan and Trust Corporations Act, 1987*, or that is a bank mortgage subsidiary as defined in section 1 of that Act, is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

(2) Subsection 53 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

(5) In computing its taxable paid-up capital under subsection (2), a bank shall include all dividends, other than stock dividends, received from other corporations and shall exclude its share of all accumulated earnings and losses of other corporations.

(3) Subsection 53 (6) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

Application of rules in Federal A

Idem

Idem

Loan and trust companies bank mortgage subsidiary

Computat of bank's paid-up capital

Idem

Federal investment tax not deductible

Computation
of paid-up
capital
of
loans and
trust
corporations,
but
not
mortgage
subsidiaries

(6) In computing its taxable paid-up capital, a corporation referred to in subsection (3) shall include all dividends received from other corporations, other than stock dividends, and shall exclude its share of all accumulated earnings or losses of other corporations.

25. Subclause 54 (1) (c) (iv) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18 and amended by 1986, chapter 39, section 12, is repealed and the following substituted:

(iv) loans and advances that have been issued for a term of less than 120 days or that have been held by the corporation for a period of less than 120 days before the end of the taxation year are deemed not to be loans and advances to other corporations if the loans and advances are to a corporation, whether or not incorporated in Canada, that is,

(A) carrying on the business of a bank,

(B) a corporation registered under the *Loan and Trust Corporations Act, 1987*, or that would be required to be registered under that Act if it were carrying on business in Ontario, or

(C) a bank mortgage subsidiary as defined in section 1 of the *Loan and Trust Corporations Act, 1987*.

26.—(1) Subsection 58 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second line and substituting “referred to in subsection 53 (3)”.

(2) Subsection 58 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fifth line and substituting “four-fifths of 1 per cent”.

27.—(1) Subsection 59 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second and third lines and in the sixth and seventh lines and substituting in each instance “referred to in subsection 53 (3)”.

(2) Subsection 59 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fourth line and substituting “four-fifths of 1 per cent”.

28. Section 60 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 26, is repealed and the following substituted:

60. Despite subsections 58 (1) and 59 (1), no tax is payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), where neither the corporation's total assets at the end of the taxation year nor its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000.

Where no
tax payable

29.—(1) Subsections 61 (1) and (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed and the following substituted:

(1) For the purposes of this section and section 60, Definitions

“gross revenue”, of a corporation for a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the gross revenue of the partnership, as recorded in the books and records of the partnership for all fiscal periods of the partnership ending in or coinciding with the taxation year, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership;

“total assets”, of a corporation at the end of a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the total assets of the partnership at the end of the partnership's last fiscal period ending in or coinciding with the taxation year of the corporation, as recorded in the books and records of the partnership for the fiscal period, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership.

(2) Despite subsections 58 (1) and 59 (1), and except as provided in subsections 63 (1) and (2), the tax payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), is, Flat tax

(a) the lesser of \$100 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, and

(ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year does not exceed \$1,000,000;

- (b) the lesser of \$200 and the tax that would otherwise be payable under this Part, but for this subsection, where,
- (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, but neither its total assets nor its gross revenue exceed \$1,500,000, and
 - (ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year exceeds \$1,000,000 but does not exceed \$2,000,000;
- (c) the lesser of \$500 and the tax that would otherwise be payable under this Part, but for this subsection, where,
- (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,500,000, and
 - (ii) the corporation's taxable paid-up capital as determined under Division B of this Part for the taxation year does not exceed \$2,000,000; and
- (d) where the taxable paid-up capital of the corporation as determined under Division B of this Part for the taxation year exceeds \$2,000,000 but does not exceed \$2,300,000, the lesser of,
- (i) the tax that would otherwise be payable under this Part, but for this subsection, and
 - (ii) the amount by which the tax that would otherwise be payable under this Part if no deduction was made under subsection 59 (1) exceeds 1.83 per cent of the amount by which \$2,300,000 exceeds the taxable paid-up capital.
- (2) Subsection 61 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 16, is repealed and the following substituted:
- (4) Section 60 and subsection (2) do not apply to a corporation if,
- (a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$2,000,000; or

- (b) the corporation is a member of a partnership or a connected partnership and the aggregate of,
 - (i) the taxable paid-up capital of the corporation, and
 - (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or of the connected partnership that are allocated under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,
 exceeds \$2,000,000.

(3) Subsections 61 (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed.

30.—(1) Sub-subclause 61a (2) (a) (ii) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by striking out “subsection 61 (1) or (2)” in the second and third lines and substituting “section 60 or subsection 61 (2)”.

(2) Sub-subclause 61a (2) (b) (i) (B) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by inserting after “section” in the third line “60 or”.

31.—(1) Subsection 63 (1) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18, is amended by striking out “section 58 or 60” in the tenth line and substituting “this Part”.

(2) Subsection 63 (2) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18 and amended by 1985, chapter 11, section 28, is repealed and the following substituted:

(2) Except as provided in section 60 and subsection (3), a family farm corporation, a family fishing corporation and every corporation referred to in sections 39 and 43 of this Act and paragraph 149 (1) (m) of the *Income Tax Act* (Canada) shall, in lieu of any tax otherwise payable under this Part, pay a tax of \$100.

Family
fishing and
family farm
corporations

32. Section 64 of the Act is amended by striking out “Subject to section 60” in the first line.

33. Section 65 of the Act is amended by striking out “except that the tax payable under this Part as reduced by this section shall in no case be less than \$50” in the sixth, seventh and eighth lines.

34. Subsection 66 (9) of the Act is repealed.

35.—(1) Subsection 67 (1), as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, and subsection (1a), as enacted by the Statutes of Ontario, 1985, chapter 11, section 29 and amended by 1986, chapter 39, section 14, of the Act are repealed and the following substituted:

(1) Every corporation shall deliver to the Minister on or before the last day of the sixth month following the end of the taxation year a return sufficient for the purposes of carrying out this Act.

(1a) Subsection (1) does not apply to a corporation that is exempt under subsection (1d) from the requirement to deliver a return for the taxation year.

(1b) Every corporation that is not required under subsection (1) to deliver a return for a taxation year shall deliver the return within the time required under subsection (1) if, by reason of a loss sustained by the corporation in the taxation year, the corporation is delivering an amended return for a prior taxation year for the purposes of subsection 73 (8).

(1c) Every corporation upon receipt of a notice or demand in writing from the Minister, or from any officer of the Ministry of Revenue authorized by the Minister to make such a demand, shall deliver to the Minister a return for each taxation year specified in the notice or demand, sufficient for the purposes of carrying out this Act.

(1d) A corporation, other than a bank, a corporation referred to in subsection 53 (3) or an insurance corporation to which Part IV applies, is exempt from the requirement to deliver a return for a taxation year to the Minister under subsection (1) if,

- (a) the corporation was a Canadian-controlled private corporation throughout the taxation year;
- (b) the corporation has filed a return for the taxation year with the Minister of National Revenue under Part I of the *Income Tax Act* (Canada);
- (c) the corporation had no taxable income under this Act for the taxation year; and
- (d) no tax was payable under this Act by the corporation for the taxation year.

(2) Subsection 67 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, is amended by striking out "Notwithstanding subsection (1)" in the first line and substituting "Despite subsection (1a)".

36.—(1) Subsection 68 (1) of the Act is repealed and the following substituted:

(1) Every corporation or person who fails to deliver a return for a taxation year as and when required under section 67 shall pay a penalty of,

Penalty for failure to deliver return

- (a) an amount equal to 10 per cent of the tax unpaid when the return is required to be delivered, if the amount of unpaid tax payable by the corporation for the taxation year is less than \$10,000; and
- (b) \$1,000, if at the time the return is required to be delivered the amount of unpaid tax payable by the corporation for the taxation year is \$10,000 or more.

(2) Subsections 68 (2), (3) and (4) of the Act are repealed and the following substituted:

(2) No corporation is liable to a penalty under subsection (1) for failing to file a return as and when required under subsection 67 (1) if it is reasonable at the time when the corporation would otherwise be required to deliver a return under subsection 67 (1) to consider the corporation to be exempt under subsection 67 (1d) from the requirement to file the return.

Saving

(3) Every person is guilty of an offence who,

Offence, false statements

- (a) makes, participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade the payment of a tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of records or books of account;
- (c) makes, assents to or acquiesces in the making of, false or deceptive entries or omits, or assents to or acquiesces in the omission, to enter a material particular in records or books of account; or
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the payment of taxes imposed by this Act.

(3a) Every person who is guilty of an offence under subsection (3) is, in addition to any penalty otherwise provided by this Act, liable on conviction to a fine of not less than the greater of \$500 and 50 per cent of the tax payable under this Act and sought to be evaded and not more than double the amount of such tax, or to imprisonment for a

Penalty

term of not more than two years, or to both the fine and the imprisonment.

Penalty for false statements

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") delivered or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of the greater of \$100 and 50 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income for the year, or other subject of tax reported by it in its return for the year, that portion of the understatement of income, or of any other subject of tax, for the year, as applicable, that is reasonably attributable to the false statement, and if the tax payable for the year under this Act were computed by subtracting from the deductions from tax otherwise payable by the corporation for the year such portion of any such deduction that may reasonably be attributable to the false statement,

exceeds,

- (b) the tax for the year that would be payable by the corporation under this Act had the tax payable for the year been assessed on the basis of the information provided in the return for the taxation year.

Application of subs. (4)

(4a) Subsection (4) does not apply if the person has been convicted of an offence under subsection (3) for an offence related to the same evasion of or attempt to evade the payment of tax, unless a penalty is imposed upon the corporation under subsection (4) before the commencement of proceedings against the person under subsection (3).

(3) Section 68 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 30, is further amended by adding the following subsections:

(6) Every corporation that fails to report an amount required to be included in computing its income or other subject of tax in a return delivered under section 67 for a taxation year, and that has failed to report an amount required to be so included in any

Penalty for repeated failure to report an amount

return delivered under section 67 for any of the preceding three taxation years is liable to a penalty equal to 25 per cent of the amount, if any, by which,

- (a) the tax for the taxation year that would be payable by the corporation under this Act if its taxable income or other subject of tax for the taxation year were computed by including the amount the corporation failed to report,

exceeds,

- (b) the tax for the taxation year that would be payable by the corporation under this Act had the tax been assessed on the basis of only the information provided in the return for the taxation year.

(7) Subsection (6) does not apply if the corporation has been assessed a penalty under subsection (4) with respect to a false statement concerning the same amount.

37.—(1) Sub-subclause 70 (2) (a) (i) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year, or

(2) Sub-subclause 70 (2) (a) (ii) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year under sub-subclause (i) (A), or

(3) Subclause 70 (2) (b) (i) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 31, is repealed and the following substituted:

- (i) subject to subsection (2a), on or before the last day of the third month following the taxation year if,

(A) the corporation was a Canadian-controlled private corporation throughout the taxation year, and

(B) its taxable income for the taxation year immediately before that taxation year did not exceed \$200,000, or

38. Subsection 72 (5a) of the Act, as re-enacted by the Statutes of Ontario, 1985,

chapter 11, section 32, is repealed and the following substituted:

(5a) Subsection (5) does not apply if the tax payable by the corporation by virtue of the reassessment is greater than the tax previously assessed and the corporation has failed to submit, in the return required by subsection 67 (1), (1b) or (1c), the information required by subsection 67 (2).

39.—(1) Clause 73 (1) (b) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 33, is repealed and the following substituted:

(b) assess the tax for the taxation year and the interest and penalties payable, if any, on the basis of the corporation's return for the taxation year; and

(2) Subsection 73 (3) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20 and 1988, chapter 42, section 18, is repealed and the following substituted:

(3) Paragraphs 56 (1) (l) and 60 (o) of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 14 and 15, respectively, of this Act, and this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, apply with necessary modifications to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections (1) and (5) do not apply to determinations made under subsection (2) or (2a) and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the Corporation.

(3) Sub-subclause 73 (7) (a) (iv) (A) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(4) Subsection 73 (7) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, 1988, chapter 42, section 18 and subsection (3) of this section, is further amended by striking out the portion before clause (b) and substituting the following:

(7) The Minister may at any time assess tax, interest or penalties, or notify in writing

any person who has delivered a return for a taxation year that no tax is payable for the taxation year, and may,

(a) at any time, if the corporation, or a person delivering a return for the taxation year or acting on its behalf,

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing a return or in supplying any information under this Act,

(ii) has failed to deliver any return for the taxation year required to be delivered under section 67 or has failed to file financial statements with the return,

(iii) has been negligent in supplying or in failing to supply any information required under this Act,

(iv) has filed with the Minister a waiver in the prescribed form on or before the later of,

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(B) the latest day such a waiver could be filed under this Act for any previous taxation year,

(v) has filed a waiver under the *Income Tax Act* (Canada) within the time and in the form required by subsection 152 (4) of that Act, or

(vi) has claimed a deduction under paragraph 20 (1) (s) of the *Income Tax Act* (Canada) as made applicable by section 12 of this Act.

(5) Clause 73 (7) (b) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20 and amended by 1988, chapter 42, section 18, is repealed and the following substituted:

(b) within seven years from the day of mailing of a notice of the original assessment or a notification that no tax is payable for the taxation year where,

(i) the corporation has claimed a deduction for the taxation year under section 41 or section 111 of the *Income Tax Act* (Canada), as applicable for the purposes of this Act,

(ii) as a consequence of a transaction involving the corporation and a

Application of bs. (5)

Provisions applicable

When assessment is issued

non-resident person with whom it was not dealing at arm's length, there is reason to assess or reassess the corporation's tax for any relevant taxation year, or

- (iii) as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, there is reason to assess or reassess the corporation's tax for any relevant taxation year; and

(6) Clause 73 (7) (b) of the Act, as re-enacted by subsection (5) of this section, is amended by striking out the portion before subclause (i) and substituting the following:

- (b) before the day that is three years after the expiration of the normal re-assessment period for the corporation in respect of the taxation year where,

(7) Subclause 73 (7) (c) (i) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

- (i) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(8) Section 73 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 22, 1984, chapter 29, section 20, 1985, chapter 11, section 33 and 1988, chapter 42, section 18, is further amended by adding the following subsections:

(2a) Where at any time the Minister ascertains the tax consequences to a corporation under section 5a with respect to a transaction, the Minister may determine any amount that is relevant for the purposes of computing the amount of the tax consequences and send to the corporation with all due dispatch a notice of determination stating the amount so determined.

Notice of determination

(2b) A determination of an amount shall not be made under subsection (2a) at a time where the amount is relevant only for the purposes of computing the tax consequences to a corporation for a taxation year ending before the time.

No determination for prior years

(4a) Subject to the corporation's rights of objection and appeal in respect of the determination and to any redetermination made by the Minister, a determination made by the

Determination binding

Minister under subsection (2a) with respect to a corporation is binding on both the Minister and the corporation for the purpose of calculating the tax consequences to the corporation for any taxation year.

(9) Section 73 of the Act is further amended by adding the following subsection:

(6a) For the purposes of subsection (7), the normal re-assessment period for a corporation in respect of a taxation year is,

Normal re-assessment period

- (a) if at the end of the year the corporation is a mutual fund corporation or a corporation other than a Canadian-controlled private corporation, the period that ends five years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year; or

- (b) in any other case, the period that ends four years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year.

(10) Section 73 of the Act is further amended by adding the following subsections:

(7b) Where a corporation is exempt under subsection 67 (1d) from the requirement to deliver a return under subsection 67 (1) for the taxation year, an original notice of assessment shall be deemed, for the purposes of subsection (7), to be sent to the corporation on the day that is six months after the end of the taxation year.

Deemed assessment

(7c) Subsection (7b) does not apply if the Minister sends an original notice of assessment to the corporation for the taxation year within fifty-four months after the end of the taxation year.

Exception

(11) Section 73 of the Act is further amended by adding the following subsection:

(7d) A reassessment, an additional assessment or an assessment may be made under clause (7) (b) after the normal reassessment period for the corporation in respect of the taxation year only to the extent that it may reasonably be regarded as relating to,

Limitation

- (a) the deductions referred to in subclause (7) (b) (i);
- (b) the transaction referred to in subclause (7) (b) (ii); or
- (c) the additional payment or reimbursement referred to in subclause (7) (b) (iii).

40.—(1) Subsection 75 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 34, is further amended by striking out the portion before clause (a) and substituting the following:

(1) If a return required to be delivered by a corporation under section 67 for a taxation year is delivered within four years from the end of the taxation year, the Minister,

(2) Clause 75 (1) (b) of the Act is repealed and the following substituted:

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within the period determined under clause 73 (7) (b) or (c), as the case may be, within which the Minister may reassess tax payable by the corporation for the year.

41. Subsection 77 (1) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 21, is repealed and the following substituted:

(1) Subject to subsection 85 (3), a corporation that objects to an assessment may within 180 days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(1a) For the purposes of this section and sections 78 to 85, an assessment includes a determination made by the Minister under subsection 73 (2a) and a notice of assessment includes a notice of determination, a reassessment includes a redetermination by the Minister and an additional assessment includes an additional determination.

42.—(1) Subsection 85 (2) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by striking out the portion before clause (a) and substituting the following:

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies or a specified assessment that has met the conditions under clause (3) (b), be bound by,

(2) Subsection 85 (3) of the Act is repealed and the following substituted:

(3) Sections 77 to 83 do not apply,
 (a) to a reassessment referred to in subsection (2); and
 (b) to a specified assessment if the corporation has served a notice of objection to the assessment or determination

issued under the *Income Tax Act* (Canada), referred to in clause (5) (c), in which the same issues have been raised as would have been raised in an objection to the specified assessment.

(3) Section 85 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by adding the following subsection:

(5) For the purposes of this Part, an assessment in respect of a particular taxation year, or a part thereof, is a specified assessment if,

Specified assessment, defined

- (a) the assessment or the part thereof, as applicable, states on its face that it is a specified assessment under this section;
- (b) the assessment or the part thereof, as applicable, is an assessment or determination involving the application of section 5a in respect of the taxation year; and
- (c) a notice of assessment or determination has been issued to the corporation under the *Income Tax Act* (Canada) involving the application of section 245 of that Act in respect of the same taxation year or transaction.

43.—(1) Subsection 86 (1) of the Act is amended by adding "and" at the end of clause (b), by striking out "and" at the end of clause (c) and by striking out clause (d).

(2) Subsection 86 (4) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 24, is repealed.

44.—(1) Subsection 88 (1) of the Act is amended by striking out "\$25" in the fourth line and substituting "\$200".

(2) Subsection 88 (2) of the Act is amended by striking out "\$25" in the third line and substituting "\$200".

45. Subsections 91 (1) and (2) of the Act are repealed and the following substituted:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

Confidentiality

(a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;

Rends

Notice of Objection

Assessment includes determination

Corporation or Minister bound

Application of s. 77 to 83

(b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;

(c) to his or her legal counsel; or

(d) with the consent of the person to whom the information or material relates.

Offence and penalty

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

Commencement and application

46.—(1) Except as provided in subsections (2) to (54), this Act comes into force on the day it receives Royal Assent.

Commencement, November 13, 1981

(2) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsections 111 (5.1) and (5.2) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to acquisitions of control occurring after the 12th day of November, 1981 other than those occurring before the 1st day of January, 1983 where the arrangements therefor were substantially advanced and evidenced in writing on the 12th day of November, 1981.

Idem

(3) Subsection 49 (6) of the Act, set out in subsection 23 (5), shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations that became taxable after the 12th day of November, 1981.

Idem

(4) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the deletion of subsection 149 (10) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations which became subject to tax after the 12th day of November, 1981.

Commencement, January 1, 1985

(5) Clause 1 (1) (ab) of the Act, set out in subsection 1 (3), shall be deemed to have come into force on the 1st day of January, 1985, and applies to anything sent by mail after the 31st day of December, 1984.

Idem

(6) Section 7 of the Act, set out in section 3, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years ending after the 31st day of December, 1984.

Idem

(7) Subsection 29 (4) of the Act, set out in section 18, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years commencing after the 31st day of December, 1984.

Commencement, January 1, 1986

(8) Subsections 12 (6) and (6aa) of the Act, set out in subsection 4 (2), shall be deemed to have come into force on the 1st day of January, 1986, and apply to amounts paid or payable after the 31st day of December, 1985.

(9) Section 16a of the Act, set out in section 7, shall be deemed to have come into force on the 1st day of January, 1987, and applies to dispositions made by a corporation before the 1st day of January, 1987.

Commencement, January 1, 1987

(10) Clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (o.4) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1987, and applies to taxation years ending after the 31st day of December, 1986.

Idem

(11) Subsection 18 (7a) of the Act, set out in subsection 8 (2), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of Canadian Resource Properties occurring after the 15th day of January, 1987 other than those occurring before the 1st day of January, 1988, where the corporation acquiring the property was obliged on the 15th day of January, 1987 to acquire the property under the terms of a written agreement entered into before the 16th day of January, 1987.

Commencement, January 1, 1987

(12) Subsection 20 (4) of the Act, set out in section 12, shall be deemed to have come into force on the 16th day of January, 1987, and applies to amalgamations and mergers occurring after the 15th day of January, 1987.

Idem

(13) Subsection 27 (10) of the Act, set out in subsection 16 (3), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(14) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsection 111 (5.3) of the Federal Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(15) Section 34, which refers to subsection 66 (9) of the Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to taxation years ending after the 15th day of January, 1987.

Idem

(16) Subsection 8 (1), which refers to subsection 18 (5) of the Act, shall be deemed to

Commencement, February 1, 1987

have come into force on the 18th day of February, 1987, and applies to taxation years ending after the 17th day of February, 1987.

(17) The following shall be deemed to have come into force on the 18th day of February, 1987, and apply to taxation years ending after the 17th day of February, 1987:

- (a) subsection 18 (7) of the Act, set out in subsection 8 (2);
- (b) the amendments to subsection 18 (14) of the Act, set out in subsections 8 (3) and (4);
- (c) the amendment to subclause 18a (b) (iii) of the Act, set out in subsection 9 (2); and
- (d) section 18c of the Act, set out in section 11.

(18) The amendments to section 18b of the Act, set out in subsection 10 (1), and clause 18b (a) of the Act, set out in subsection 10 (2), shall be deemed to have come into force on the 20th day of March, 1987, and apply after the 19th day of March, 1987.

(19) The amendments to clauses 18a (b) and (c) and the enactment of clause 18a (d) of the Act, set out in subsection 9 (3), shall be deemed to have come into force on the 1st day of April, 1987, and apply after the 31st day of March, 1987.

(20) The amendment to clause 18a (b) of the Act, set out in subsection 9 (1), and section 18d of the Act, as enacted in section 11, shall be deemed to have come into force on the 6th day of June, 1987, and apply to taxation years commencing after the 5th day of June, 1987.

(21) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to section 66.8 of the Federal Act, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

(22) Section 18e of the Act, set out in section 11, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

(23) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to paragraph 67.1 (2) (d) of the Federal Act, on the 18th day of June, 1987, and applies to amounts incurred after the 17th day of June, 1987 in respect of food and beverages consumed and entertainment enjoyed after the 31st day of December, 1987.

(24) The following shall be deemed to have come into force on the 18th day of June, 1987, and apply to taxation years that com-

mence after the 17th day of June, 1987 and end after the 31st day of December, 1987:

- (a) subsection 12 (9b) of the Act, set out in subsection 4 (6);
- (b) subsections 12 (6c) and (9c) of the Act, set out in subsection 4 (8);
- (c) subsection 20 (3) of the Act, set out in section 12; and
- (d) subsection 45 (3) of the Act, set out in section 22.

(25) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to subsection 258 (5) of the Federal Act, on the 19th day of June, 1987, and applies after the 18th day of June, 1987.

Commence-
ment, June
19, 1987

(26) Subsection 12 (10a) of the Act, set out in subsection 4 (8), and subsection 32 (4) of the Act, set out in section 19, shall be deemed to have come into force on the 18th day of December, 1987, and apply to corporations in respect of all taxation years commencing after the 17th day of December, 1987.

Commence-
ment,
December 18,
1987

(27) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 84 (1) (c.3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies with respect to conversions of contributed surplus into paid-up capital after the 31st day of December, 1987.

Commence-
ment,
January 1,
1988

(28) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraphs 13 (7.1) (e), 37 (1) (e), 110 (1) (k) and subparagraph 13 (21) (f) (vii) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to taxation years ending after the 31st day of December, 1987.

Idem

(29) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to subsection 14 (3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to acquisitions of property after the 31st day of December, 1987.

Idem

(30) The following shall be deemed to have come into force on the 1st day of January, 1988, and apply to taxation years ending after the 31st day of December, 1987:

Idem

- (a) subclause 1 (1) (aa) (i) of the Act, set out in subsection 1 (1);
- (b) subsection 12 (2) of the Act, set out in subsection 4 (1);
- (c) subsection 12 (7) of the Act, set out in subsection 4 (3);
- (d) clause 12 (7) (c) of the Act, set out in subsection 4 (4);

- (e) subsections 12 (14) and (15) of the Act, set out in subsection 4 (7);
- (f) subsections 12 (18) and (19) of the Act, set out in subsection 4 (8);
- (g) subsections 26a (1) and (2) of the Act, set out in section 15; and
- (h) subsections 27 (2) and (3) of the Act, set out in subsections 16 (1) and (2).

Idem

(31) Section 18b of the Act, set out in subsection 10 (3), shall be deemed to have come into force on the 1st day of January, 1988, and applies to expenditures incurred after the 31st day of December, 1987.

Idem

(32) Clause 73 (7) (b) of the Act, set out in subsection 39 (5), shall be deemed to have come into force on the 1st day of January, 1988, and applies to assessments and reassessments relating to transactions entered into, payments paid and reimbursements received after the 31st day of December, 1987.

Commencement, April 5, 1988

(33) The following shall be deemed to have come into force on the 5th day of April, 1988, and apply to taxation years ending after the 4th day of April, 1988:

- (a) subsection 53 (3) of the Act, set out in subsection 24 (1);
- (b) the amendment of subsection 58 (3) of the Act, set out in subsection 26 (1); and
- (c) the amendment of subsection 59 (3) of the Act, set out in subsection 27 (1).

Idem

(34) Subclause 54 (1) (c) (iv) of the Act, set out in section 25, shall be deemed to have come into force on the 5th day of April, 1988, and applies to loans or advances issued after the 4th day of April, 1988.

Commencement, April 21, 1988

(35) Clause 13 (4) (e) of the Act, set out in section 6, shall be deemed to have come into force on the 21st day of April, 1988, and applies to fiscal periods ending after the 20th day of April, 1988.

Idem

(36) The amendments of subsection 58 (3) of the Act, set out in subsection 26 (2), and subsection 59 (3) of the Act, set out in subsection 27 (2), shall be deemed to have come into force on the 21st day of April, 1988, and apply to taxation years ending after the 20th day of April, 1988 except that for taxation years that commence before the 21st day of April, 1988 and end after the 20th day of April, 1988, the rate increase shall be prorated according to the number of days in the taxation year subsequent to the 20th day of April, 1988.

Idem

(37) The following shall be deemed to have come into force on the 21st day of April, 1988, and apply with respect to taxation years ending after the 20th day of April, 1988:

- (a) clause 1 (1) (ja) of the Act, set out in subsection 1 (2);
- (b) section 12a of the Act, set out in section 5;
- (c) subsection 25 (7) of the Act, set out in section 14;
- (d) subsection 27 (12) of the Act, set out in subsection 16 (3);
- (e) section 27a of the Act, set out in section 17;
- (f) subsections 33a (1) and (2) of the Act, set out in section 20;
- (g) section 60 of the Act, set out in section 28;
- (h) subsections 61 (1) and (2) of the Act, set out in subsection 29 (1);
- (i) subsection 61 (4) of the Act, set out in subsection 29 (2);
- (j) the repeal of subsections 61 (5) and (6) of the Act, set out in subsection 29 (3);
- (k) the amendment of sub-subclause 61a (2) (a) (ii) (A) of the Act, set out in subsection 30 (1);
- (l) the amendment of sub-subclause 61a (2) (b) (i) (B) of the Act, set out in subsection 30 (2);
- (m) the amendment of subsection 63 (1) of the Act, set out in subsection 31 (1);
- (n) the amendment of section 64 of the Act, set out in section 32;
- (o) the amendment of section 65 of the Act, set out in section 33;
- (p) subsections 67 (1), (1a), (1b), (1c) and (1d) of the Act, set out in subsection 35 (1);
- (q) the amendment of subsection 67 (3) of the Act, set out in subsection 35 (2);
- (r) subclause 70 (2) (b) (i) of the Act, set out in subsection 37 (3);
- (s) subsection 72 (5a) of the Act, set out in section 38;
- (t) clause 73 (1) (b) of the Act, set out in subsection 39 (1);
- (u) subsections 73 (7b) and (7c) of the Act, set out in subsection 39 (10); and
- (v) subsection 75 (1) of the Act, set out in section 40.

(38) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the increase in the tax payable, shall be deemed to have come into force on the 21st day of April, 1988, and applies with respect to taxation years ending after the 20th day of April, 1988.

Idem

(39) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 37 (1) (d) of the Federal Act, shall be deemed to have come into force on the 1st day of May, 1988, and is effective for expenditures made after the 30th day of April, 1988.

(40) Clause 40 (2) (b) of the Act, set out in subsection 21 (1), and subsection 40 (4), set out in subsection 21 (3), shall be deemed to have come into force on the 1st day of July, 1988, and apply to taxation years ending after the 30th day of June, 1988.

(41) Section 5a of the Act, set out in section 2, shall be deemed to have come into force on the 13th day of September, 1988, and for transactions assessed under subsection 245 (1) of the Federal Act, applies to transactions entered into after the 12th day of September, 1988 other than for,

- (a) transactions that are part of a series of transactions, determined without reference to subsection 248 (10) of the Federal Act, commencing before the 13th day of September, 1988 and completed before the 1st day of January, 1989; or
- (b) any one or more transactions, one of which was entered into before the 13th day of April, 1988, that were entered into by a taxpayer in the course of an arrangement and in respect of which the taxpayer received from the Department of National Revenue (Canada), before the 13th day of April, 1988, a confirmation or opinion in writing with respect to the tax consequences thereof,

and for transactions not assessed under subsection 245 (1) of the Federal Act, section 5a applies to transactions entered into on or after the date on which this Act receives Royal Assent.

(42) Subsections 21 (1) and (2) of the Act, set out in section 13, shall be deemed to have come into force on the 13th day of September, 1988, and apply with respect to benefits conferred after the 12th day of September, 1988.

(43) Subsections 73 (2a), (2b) and (4a) of the Act, set out in subsection 39 (8), and subsection 73 (3) of the Act, set out in subsection 39 (2), shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

(44) Subsections 77 (1) and (1a) of the Act, set out in section 41, shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

(45) Subsection 85 (2) of the Act, set out in subsection 42 (1), shall be deemed to have

come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

(46) Subsection 85 (3) of the Act, set out in subsection 42 (2), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

(47) Subsection 85 (5) of the Act, set out in subsection 42 (3), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day September, 1988.

(48) Subsection 1 (1a) of the Act, set out in subsection 1 (6), shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years of Canadian-controlled private corporations that commence before the 1st day of January, 1988 and to taxation years of other private corporations that commence before the 1st day of July, 1988.

(49) Clause 12 (7) (d) of the Act, set out in subsection 4 (5), and section 12b of the Act, set out in section 5, shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

(50) The amendment of clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (f) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years ending after the 31st day of December, 1988.

(51) The amendment of clause 49 (1) (b) of the Act, set out in subsection 23 (2), and the repeal of clause 49 (1) (c) of the Act, set out in subsection 23 (3), and the enactment of subsections 49 (4) and (4a) of the Act, set out in subsection 23 (4), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

(52) Subsection 53 (5) of the Act, set out in subsection 24 (2), and subsection 53 (6) of the Act, set out in subsection 24 (3), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

(53) The following shall be deemed to have come into force on the 28th day of April, 1989:

- (a) the amendment of clause 40 (2) (c) of the Act, set out in subsection 21 (2);
- (b) the repeal of clause 40 (2) (d) of the Act, set out in subsection 21 (2); and

Commence-
ment, May 1,
1988

Commence-
ment, July 1,
1988

Commence-
ment, Sep-
tember
1988

Idem

Idem

Commence-
ment,
January 1,
1989

Idem

Idem

Idem

Idem

Commence-
ment, April
28, 1989

(c) clause 75 (1) (b) of the Act, as re-enacted by subsection 40 (2).

Idem

(54) The following shall be deemed to have come into force on the 28th day of April, 1989, other than with respect to a taxation year of a corporation for which a notice of an original assessment in respect of the corporation for the taxation year, or a notification that no tax is payable by the corporation for the taxation year, was mailed before the 28th day of April, 1986,

(a) the amendment of sub-subclause 73 (7) (a) (iv) (A) of the Act, set out in subsection 39 (3);

(b) the re-enactment of clause 73 (7) (b) of the Act, set out in subsection 39 (6);

(c) the re-enactment of subclause 73 (7) (c) (i) of the Act, set out in subsection 39 (7);

(d) the enactment of subsection 73 (6a) of the Act, set out in subsection 39 (9).

47. The short title of this Act is the *Corporations Tax Amendment Act, 1990*. Short title

Bill 11

An Act to amend the Income Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

GENERAL. The Bill implements the proposal contained in the Budget of April 24, 1990 to enhance the Ontario Tax Reduction Program as well as making a minor interpretation change.

SECTION 1. The amendment clarifies that the term "Minister" in the provisions of the *Income Tax Act* (Canada) adopted for the purposes of the Act means the Ontario Minister of Revenue and not the Minister of National Revenue.

SECTION 2. Subsections 6 (1) and (2) are re-enacted to base the determination of the Ontario Tax Reduction for low-income earners on the calculation of a prescribed personal amount for the individual. No tax is payable if the personal amount equals or exceeds Ontario income tax otherwise payable by the individual. If the tax exceeds the personal amount, the tax is reduced by the difference, if any, by which three times the personal amount exceeds twice the tax otherwise payable.

An Act to amend the Income Tax Act

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

1. The Table in clause 1 (6) (h) of the *Income Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 91, section 1, is amended by adding after the fourth item the following item:

Minister Provincial Minister

2. Subsections 6 (1) and (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 4, and subsection 6 (2a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 4, are repealed and the following substituted:

(1) If the tax otherwise payable by an individual under this Act for a taxation year does not exceed the individual's personal amount determined in the prescribed manner for the taxation year, no tax is payable under this Act by the individual for the taxation year.

(2) If the tax otherwise payable by an individual under this Act for a taxation year exceeds the individual's personal amount for the taxation year, the tax payable under this Act may be reduced by the amount, if any, by which three times the individual's personal amount for the taxation year exceeds twice the amount of tax otherwise payable by the individual under this Act for the taxation year.

Tax reduction

3.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Commencement

(2) Section 1 shall be deemed to have come into force on the 20th day of December, 1989.

Idem

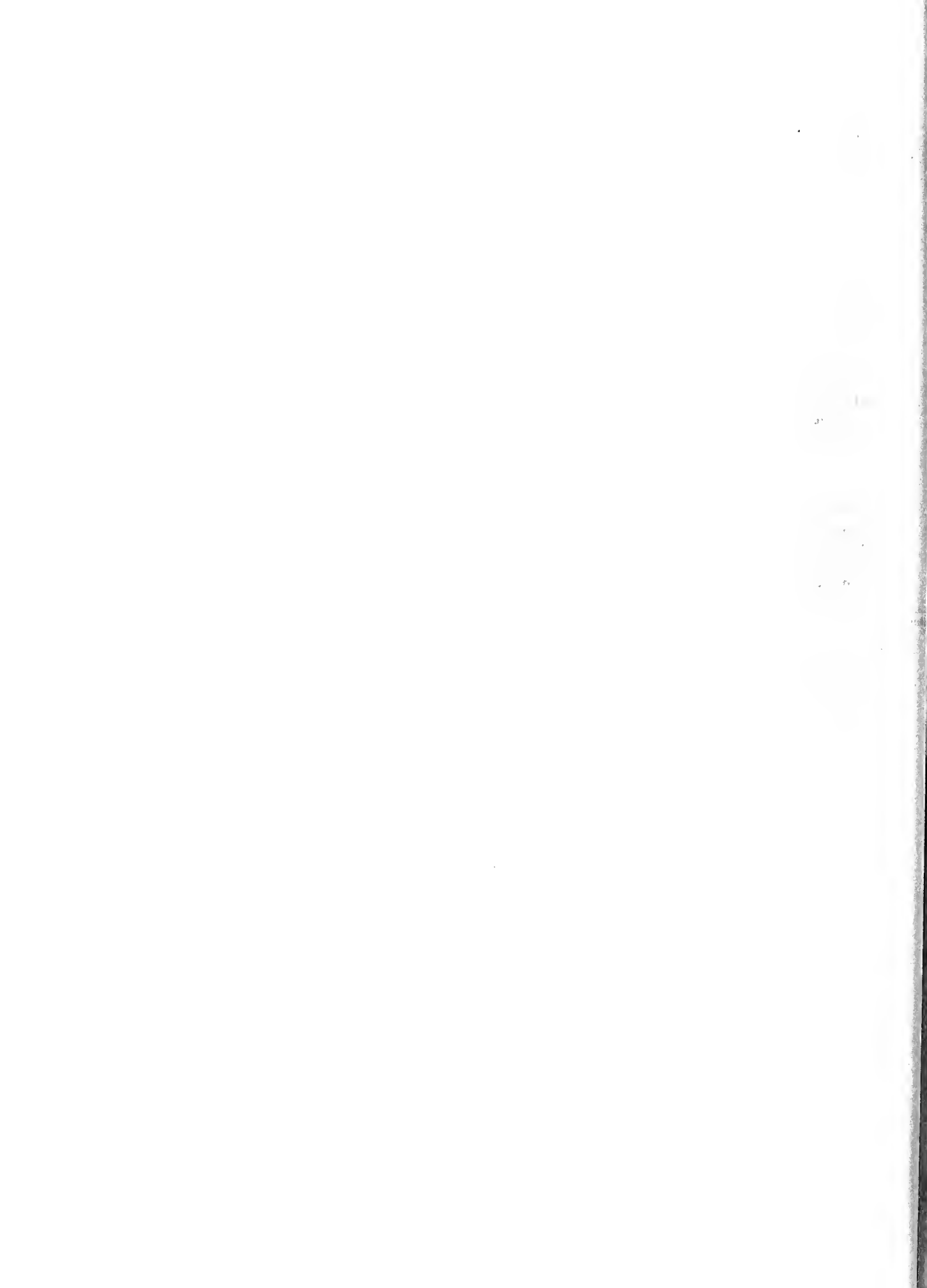
(3) Section 2 shall be deemed to have come into force on the 1st day of January, 1990.

Idem

4. The short title of this Act is the *Income Tax Amendment Act, 1990*.

Short title

o tax payable



Bill 11

*(Chapter 23
Statutes of Ontario, 1990)*

An Act to amend the Income Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading	December 4th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format



An Act to amend the Income Tax Act

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

1. The Table in clause 1 (6) (h) of the *Income Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 91, section 1, is amended by adding after the fourth item the following item:

Minister Provincial Minister

2. Subsections 6 (1) and (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 4, and subsection 6 (2a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 4, are repealed and the following substituted:

(1) If the tax otherwise payable by an individual under this Act for a taxation year does not exceed the individual's personal amount determined in the prescribed manner for the taxation year, no tax is payable under this Act by the individual for the taxation year.

(2) If the tax otherwise payable by an individual under this Act for a taxation year exceeds the individual's personal amount for the taxation year, the tax payable under this Act may be reduced by the amount, if any, by which three times the individual's personal amount for the taxation year exceeds twice the amount of tax otherwise payable by the individual under this Act for the taxation year.

Tax reduction

3.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Commencement

(2) Section 1 shall be deemed to have come into force on the 20th day of December, 1989.

Idem

(3) Section 2 shall be deemed to have come into force on the 1st day of January, 1990.

Idem

4. The short title of this Act is the *Income Tax Amendment Act, 1990*.

Short title

Not payable

Bill 12

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Education Act* in respect of the following matters:

1. The establishment of French-language school boards.

Section 2 of the Bill permits French-language school boards to be established by regulation. The regulation-making authority is intended to cover matters similar to those dealt with in the *Ottawa-Carleton French-Language School Board Act, 1988*.

2. The composition of boards with a French-language section.

In March 1990, the Supreme Court of Canada ruled that the number of minority language representatives on a school board should be proportional to the number of minority language students enrolled in the board's schools. This decision is implemented by subsections 14 (3) and (4) of the Bill, which amend subsections 206a (8) and (9) of the *Education Act*. Sections 15, 16, 19 and 20 of the Bill are complementary to these amendments.

3. Other matters relating to the election of board members.

Section 3 of the Bill amends section 70 of the *Education Act* so that, if a board appointed under section 70 is to be dissolved on the 1st day of January immediately following a regular election of school boards, the imminent dissolution of the section 70 board will be taken into account in the elections.

Section 4 of the Bill amends section 105 of the *Education Act* to make clear that county and district combined separate school boards may be established in any year, regardless of whether it is a regular election year. If a board is established in a year that is not a regular election year, the initial membership of the board will be determined in accordance with regulations made under section 105 of the Act.

Sections 10 and 12 of the Bill revise provisions of the *Education Act* dealing with vacancies on school boards. The new provisions make clear that, in boards composed of members elected by different electoral groups (e.g. French-language electors and English-language electors), decisions with respect to filling a vacancy will be made by the board members elected by the electoral group affected by the vacancy. The amendments also provide a sixty-day period within which vacancies are to be filled. The existing Act generally requires vacancies to be filled at the first meeting of the board after the vacancy occurs. Sections 11, 13 and 18 of the Bill are consequent on these amendments.

Subsection 14 (1) of the Bill provides for population determinations on which board sizes depend to be made earlier in the year in which a regular election is to be held. Section 1 of the Bill is complementary to this amendment.

Subsection 14 (2) of the Bill amends rule 6 of subsection 206a (6) of the *Education Act* so that a board's decision to increase or decrease the size of the board by one or two members will apply only to the board elected at the next regular election. The existing Act provides that such a decision applies to the boards elected at the next two regular elections. Section 21 of the Bill is complementary to this amendment.

Subsection 14 (5) of the Bill amends subsection 206a (13) of the *Education Act* to allow the members of a board who represent an electoral group to decide to designate a municipality as a low population municipality, thereby permitting an alternative distribution of members representing the electoral group. The existing Act requires this designation to be made by the full board. Subsection 14 (6) of the Bill is consequent on this amendment.

Section 17 of the Bill amends section 277i of the *Education Act* to make clear that the minority-language section of a board may choose to have the distribution of members determined under subsections 206a (11) to (24), instead of under section 277i.

4. The funding of secondary school instruction provided by Roman Catholic school boards when the instruction is provided through agreements with other boards.

Section 136g of the existing *Education Act* phases in provincial funding to Roman Catholic school boards that elect to perform the duties of secondary school boards. Funding is phased in at the rate of one additional grade per year until full funding is achieved. Section 5 of the Bill amends section 136g to provide full funding immediately if the Roman Catholic school board provides instruction in all secondary school grades and the instruction is provided in a school operated by another board by means of an agreement with the other board. If a board receives full funding on this basis, it may switch to providing secondary school instruction in its own schools on the approval of the Minister of Education. Sections 6 to 10 of the Bill contain complementary amendments. Section 22 of the Bill deems a by-law of The Haldimand-Norfolk Roman Catholic Separate School Board to have been approved by the Minister of Education on the 30th day of June, 1990, so that the board may obtain full funding for the 1990-91 school year.

An Act to amend the Education 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 1 (1) of the *Education Act* is amended by adding the following paragraph:

1a. “assessment commissioner” means the assessment commissioner appointed under the *Assessment Act* for the region in which the board is situated.

(2) Paragraph 37 of subsection 1 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 27, section 1, is repealed and the following substituted:

37. “population” means the population as determined by the assessment commissioner from the last municipal enumeration as updated under the provisions of the *Assessment Act*.

2. Section 10 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1988, chapter 27, section 2, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding the following subsections:

(11a) The Lieutenant Governor in Council may make regulations establishing French-language school boards.

(11b) A regulation under subsection (11a) may include provisions respecting,

- (a) the area of jurisdiction of a French-language school board;
- (b) the structure of a French-language school board and, if the board has more than one component, the jurisdiction of each component;
- (c) the powers and duties of a French-language school board or a component of a French-language school board;
- (d) attendance at schools operated by a French-language school board or a component of a French-language school board;
- (e) the assessment and payment of rates in respect of a French-language school

board or a component of a French-language school board;

- (f) the election of members of a French-language school board or a component of a French-language school board, including the qualifications of electors and members;
 - (g) the resolution of disputes between the components of a French-language school board and between a French-language school board and other boards;
 - (h) the transfer of real property used as school sites to a French-language school board or a component of a French-language school board, and the transfer of personal property used for school purposes to a French-language school board or a component of a French-language school board;
 - (i) the transfer of employees of other boards to a French-language school board or a component of a French-language school board, including the rights of transferred employees;
 - (j) the dissolution of another board or a section of another board; and
 - (k) the adjustment of assets and liabilities of a board affected by the establishment of a French-language school board.
- (11c) A regulation under subsection (11a) ^{Idem} may,
- (a) deem a French-language school board or a component of a French-language school board to be a board for the purpose of any provision of this Act;
 - (b) modify or exclude the application of any provision of this Act, the *Assessment Act* or the *Municipal Elections Act*;
 - (c) deem a French-language school board or a component of a French-language school board to be a board for the purpose of the *School Boards and Teachers Collective Negotiations Act*, and deem classes of persons who are members of the Association des

enseignantes et des enseignants franco-ontariens or The Ontario Secondary School Teachers' Federation to be branch affiliates for the purpose of that Act; and

- (d) deem classes of transferred employees to have been intermingled for the purpose of section 63 of the *Labour Relations Act* and make any provision of that section applicable to the affected boards and their employees.

3. Section 70 of the Act is amended by adding the following subsection:

Revocation of order

(6) If an order under subsection (1) or (2) is to be revoked on the 1st day of January next following a regular election under the *Municipal Elections Act*, the order shall, for the purpose of the election, be deemed to have been revoked.

4.—(1) Subsection 105 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 65, section 19, is further amended by adding the following clause:

- (f) providing for the initial composition of a board to which subsection (4b) applies and for the initial appointment or election of members of the board to hold office until the next regular election under the *Municipal Elections Act*.

(2) Subsection 105 (4) of the Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 16, is repealed and the following substituted:

Establishment of boards

(4) A separate school board shall be established for each county and district combined separate school zone and, except as otherwise provided under section 106 or a regulation made under subsection (2), the trustees of the board shall be elected and the board organized in accordance with sections 115 and 206a.

Idem

(4a) If a county or district combined separate school zone is to be designated by a regulation under subsection (2) on the 1st day of January next following a regular election under the *Municipal Elections Act*, the county or district combined separate school zone shall, for the purpose of the election, be deemed to have been designated.

Idem

(4b) If a county or district combined separate school zone is designated by a regulation under subsection (2) and subsection (4a) does not apply, the composition of the board and the appointment or election of members of the board shall be in accordance with the regulations.

5. Section 136g of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, sec-

tion 2, is amended by adding the following subsections:

(4) Despite subsections (1) to (3), for the first school year in which an election is effective and for every subsequent year, the entitlement of a Roman Catholic school board under section 136e applies in respect of all secondary school grades if, in the first school year, the board provides instruction in all secondary school grades and the instruction is provided in a school operated by another board by means of an agreement with the other board.

All service provided by agreement

(5) A Roman Catholic school board to which subsection (4) applies may provide instruction in a secondary school grade only if,

Restriction when subs. (1) applies

- (a) the instruction is provided in a school operated by another board by means of an agreement referred to in subsection (4); or

- (b) after the first school year in which the election under section 136a is effective,

(i) the Roman Catholic school board to which subsection (4) applies files with the Planning and Implementation Commission a plan to provide instruction in all secondary school grades in a school operated by the board, and

(ii) the Minister approves the provision of instruction in a school operated by the board after receiving the advice of the Planning and Implementation Commission that the Commission is of the opinion that the plan will permit the board to provide instruction in all secondary school grades and will promote the best interests of public education in Ontario.

6.—(1) Subsection 136-l(1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:

(1) A public board that has jurisdiction in an area that is also part or all of the area of jurisdiction of a Roman Catholic school board shall designate, in accordance with the regulations or by agreement between the boards, the persons on its supervisory officers staff, elementary teaching staff, secondary teaching staff and support staff whose services will not be required by the public board consequent on,

Teaching other staff

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or

(b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

(2) Subsections 136-l(6) to (20) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(6) The public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board performs the duties of a secondary school board.

(7) Subject to subsection (8), the public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board provides instruction under clause 136g (5) (b).

(8) No designations shall be made under subsection (1) after the twentieth school year during which the Roman Catholic school board performs the duties of a secondary school board.

(9) Designations shall be made under subsection (1) not later than the date prescribed by the regulations for each year.

(10) If subsection 136g (4) does not apply to the Roman Catholic school board referred to in subsection (1), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(11) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the board provides instruction in accordance with clause 136g (5) (a), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the board that operates the school in which the instruction is provided under the agreement referred to in clause 136g (5) (a), effective the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(12) If more than one board operates schools in which instruction is provided under an agreement referred to in clause 136g (5) (a), the board to which a contract or relationship shall be transferred under subsection (11) shall be,

(a) one of the boards that operates the schools, as determined by agreement of those boards; or

(b) in the absence of an agreement, the Roman Catholic school board referred to in subsection (1).

(13) If a designated person objects for reasons of conscience to the transfer of employment to a Roman Catholic school board under subsection (10) or (11), he or she may so advise the public board and, unless it is of the opinion that the objection is not made in good faith, the public board shall designate another person in place of the person making the objection.

Objectors

(14) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the Minister approves the provision of instruction in a school operated by the board under clause 136g (5) (b), a teaching contract, employment contract or employment relationship transferred under subsection (11) to another board is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the date the board begins to provide instruction under clause 136g (5) (b) or on such earlier date as the boards concerned may agree on.

Second transfer of employment if cl. 136g (5) (b) applies

(15) A board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) shall employ the person in a position substantially similar to the position in which the person was employed immediately before the transfer.

Similar employment

(16) If the board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) has no position as provided under subsection (15) for the person on the appropriate staff of the board, the person is entitled to receive training assistance, as prescribed by the regulations, for an alternate position on the appropriate staff, and the board to which the contract or relationship is transferred shall maintain the person in its employ, provide the assistance and offer to the person employment in a position appropriate to either his or her previous or newly acquired qualifications.

Training assistance

(17) Subject to any collective agreement in effect, the public board shall designate, on the basis of seniority, the persons on its support staff whose services will not be required by the public board consequent on,

Seniority

(a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or

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(b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

Transmittal of lists

(18) Each public board that designates persons under this section shall transmit to the Planning and Implementation Commission in each year, not later than the date for each year fixed by the Commission, a list of the names and positions of persons that it has designated.

Compensation rate

(19) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right in the first year that the person is employed by the board to an annual rate of salary of not less than the annual rate of salary that would have applied to the person if the contract or relationship had not been transferred, but if the annual rate of salary of the position in which the person is employed by the board to which the contract or relationship is transferred is lower than such first-mentioned annual rate of salary, the person is not entitled to any increase in annual rate of salary until the annual rate of salary of the position becomes equal to such first-mentioned annual rate of salary.

Seniority and employment status

(20) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right to commence the employment with seniority and with probationary and permanent status with the board equal to the seniority and the probationary or permanent status the person would have had if the contract or relationship had not been transferred.

Sick leave credits

(20a) Sick leave credits standing to a designated person's credit immediately before the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) shall be transferred to the plan maintained by the board to which the contract or relationship is transferred at the time the contract or relationship is transferred.

Credit for total accumulation

(20b) If the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan to which they are transferred, the designated person shall be given credit in the plan for the number transferred but is not entitled to accumulate further sick leave credits under the plan unless the plan is amended to permit greater accumulation.

Accumulation and use of sick leave credits

(20c) Subject to subsection (20b), a designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is trans-

ferred under subsection (10), (11) or (14) is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the board to which the contract or relationship is transferred.

Gratuity

(20d) On termination of employment with the board to which a designated person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14), the person is entitled to payment of an amount calculated in accordance with,

- (a) the collective agreement that applied on the last date the person was employed by the public board that designated the person, as though the person had been in the continuous employ of the public board, if a collective agreement applied in respect of the person on that date; or
- (b) the policy of the public board that designated the person as of the last date he or she was employed by the public board, as though the person had been in the continuous employ of the public board, if no collective agreement applied in respect of the person on that date.

Idem

(20e) In lieu of the payment under subsection (20d), the designated person is entitled to require payment of an amount calculated in accordance with,

- (a) the collective agreement that applies in respect of the person on the last date the person is employed before the termination of employment, if a collective agreement applies in respect of the person on that date; or
- (b) the policy of the board with which the person is employed as of the last date he or she is employed by that board, if no collective agreement applies in respect of the person on that date.

Idem

(20f) The amount of the payment under subsection (20d) or (20e) shall be shared by the public board that designated the person and the board or boards to which the person's employment was transferred under this section in the ratio that the number of years of service of the person with each board bears to the total number of years of service of the person with such boards.

(20g) Subsections (20d) to (20f) do not apply to a termination of employment with a board that occurs when the teaching contract, employment contract or employment relationship of the person is transferred to another board under subsection (10), (11) or (14).

Non-application of subss. (20d) to (20f)

7. Subsections 136m (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(1) A dispute in respect of the designation of or the failure to designate a person on the teaching or other staffs of a public board, or in respect of any matter arising under section 136-1 in the employment relationship between a designated person and a board to which the person's teaching contract, employment contract or employment relationship was transferred under that section, may be resolved by a grievance arbitration procedure in accordance with this section.

(2) The parties to the arbitration are the public board or the board to which the contract or relationship was transferred, as the case requires, and the person or, if the person is employed in accordance with the terms of a collective agreement, the organization that represents the person under the collective agreement.

8. Section 136md of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out "public board or Roman Catholic school board" in the fifth and sixth lines and substituting "board".

9. Subsections 136o (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(1) A person who is qualified to be a resident pupil of a public board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a Roman Catholic school board if the area of jurisdiction of the public board is in whole or in part the same as the area of jurisdiction of the Roman Catholic school board.

(2) A person who is qualified to be a resident pupil of a Roman Catholic school board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a public board if the area of jurisdiction of the Roman Catholic school board is in whole or in part the same as the area of jurisdiction of the public board.

10. Section 198 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 54, is repealed and the following substituted:

198.—(1) In this section, "electoral group" means,

(a) in respect of a board of education or a county or district combined separate

school board, an electoral group as defined in Part VII-A; and

(b) in respect of any other board, the persons qualified to be electors of the board.

(2) Subject to section 202, if the office of a member of a board elected by an electoral group becomes vacant before the end of the member's term,

(a) the remaining members elected by the electoral group shall appoint a qualified person to fill the vacancy within sixty days after the office becomes vacant, if a majority of the members elected by the electoral group remain in office; or

(b) a new election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the members elected by the electoral group do not remain in office.

(3) Despite clause (2) (a), if elections of the board are held under the *Municipal Elections Act* and the vacancy occurs in a year in which no regular election is held under that Act or before the 1st day of April in the year of a regular election, the remaining members elected by the electoral group may by resolution require that an election be held in accordance with the *Municipal Elections Act* to fill the vacancy.

(4) The secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution under subsection (3).

(5) A member appointed or elected to fill a vacancy shall hold office for the remainder of the term of the member who vacated the office.

11. Sections 199, 200 and 201 of the Act are repealed and the following substituted:

199.—(1) If an election is required to fill a vacancy on a board that is composed of three members and there are fewer than two remaining members of the board, a meeting of the electors may be called by any two electors of the board or by the appropriate supervisory officer.

(2) The meeting shall take place within sixty days of the date on which the last office became vacant.

(3) At least six days before the meeting, the person or persons calling the meeting shall post a notice of the meeting in at least three public places within the area of jurisdiction of the board.

(4) The electors at the meeting shall elect the required number of board members to fill the vacancies.

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ght to receive secondary school instruction from Roman Catholic school board

ght to receive secondary school instruction from public board

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Vacancies

Optional election

Idem

Term of office

Elections for three member boards

Time of meeting

Notice of meeting

Election at meeting

Vacancy in rural separate school board before incorporation

200.—(1) If a vacancy occurs in the office of a trustee of a rural separate school before the trustees become a body corporate, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person elected shall hold office for the remainder of the term of the trustee who vacated the office.

Manner of election

(2) The new election shall be conducted in the same manner as an election of the whole board.

12. Section 203 of the Act is amended by adding the following subsection:

Extension of time limits

(2) The remaining members of the board may extend the time for the nomination and the polling under subsection (1), but the polling shall be held no later than sixty days after the office becomes vacant.

13. Section 205 of the Act is repealed and the following substituted:

Tie vote

205. If two or more candidates receive an equal number of votes at a meeting held under clause 198 (2) (a) to appoint a person to fill a vacancy or at a meeting to elect a person to fill a vacancy, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates shall be appointed or elected.

14.—(1) Section 206a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24 and amended by 1989, chapter 65, section 33, is further amended by adding the following subsections:

Determination of population of electoral groups

(4a) The assessment commissioner shall determine the populations of the electoral groups for the purposes of this Part on the 1st day of January in the year of a regular election under the *Municipal Elections Act*.

Idem

(4b) The assessment commissioner shall provide the results of the determination of the population of a board's electoral groups made under subsection (4a) to the secretary of the board and to the clerk of each municipality in the jurisdiction of the assessment commissioner by the 15th day of February in the year of a regular election.

(2) Rule 6 of subsection 206a (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

6. If a board approves an increase or decrease of either one or two in the number of members of the board by a resolution passed by an affirmative vote of three-quarters of the members of the board in the year immediately preceding the year of a regular election under the *Municipal Elections Act* or before the 1st day of February,

1991, the number of members of the board shall be deemed to be increased or decreased in accordance with the resolution for the next regular election.

(3) Rules 5, 6, 7, 8, 9 and 10 of subsection 206a (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

5. The number of members to be elected by the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

(4) Subsection 206a (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

(9) For the purpose of rule 5 of subsection (8), the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the calculated enrolment of the board as determined under section 277q

c = the total calculated enrolment of the board as determined under section 277q.

(9a) For the purposes of rules 6 and 7 of subsection (8), if there is only one English-language electoral group, the number of members of that electoral group is calculated by subtracting from the total number of members of the board determined by the rules in subsection (6), the number of members calculated in subsection (9).

(9b) For the purposes of rules 6 and 7 of subsection (8), if there are two English-language electoral groups, the number of members shall be calculated using the following formula:

Calculation of members for the purpose of rule 5 of subs. (8)

Calculation of members for the purposes of rules 6 and of subs. (8)

Idem

$$\text{number of members} = \frac{(a-b) \times e}{(c-d)}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the number of members calculated under subsection (9)

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6)

d = the population of the total French-language electoral group

e = the population of the electoral group to which rule 6 or 7 applies.

(5) Subsections 206a (13), (14), (15), (16) and (17) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

(13) The members of the board who represent an electoral group may by resolution passed by an affirmative vote of three-quarters of those members,

(a) designate one or more municipalities within the board's jurisdiction as low population municipalities; and

(b) direct an alternative distribution of those members that represent the electors of the electoral group.

(14) If an alternative distribution is directed under clause (13) (b), the resolution shall provide that the sum of the electoral quotients for the municipality or municipalities designated under clause (13) (a) shall be increased by either one or two.

(15) A resolution passed under subsection (13) shall be effective only for the next regular election.

(16) A resolution under subsection (13) has no effect unless it is made not later than five days after the date on which a distribution under subsection (11) is required to be made.

(17) If a resolution is passed under subsection (13), an alternative distribution of those members that represent the electors of the electoral group shall be made in accordance with subsection (18) by the person prescribed by the regulations to,

(a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or

(b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(6) Rule 3 of subsection 206a (18) of the Act is amended by striking out "subsection (14)" in the last line and substituting "subsection (13)".

15.—(1) The definition of "calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"calculated enrolment" means a number of pupils enrolled in French-language instructional units, calculated in accordance with the regulations.

(2) The definition of "resident pupil" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who is qualified to be a resident pupil of the board and is enrolled in a school,

(a) operated by the board, or

(b) operated by another board to which the first-mentioned board pays fees in respect of the pupil.

(3) The definition of "total calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"total calculated enrolment" means a number of pupils calculated in accordance with the regulations.

16. The Act is amended by adding the following section:

277ca. The Lieutenant Governor in Council may by regulation prescribe the method of calculation of calculated enrolment and total calculated enrolment.

17. Section 277i of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 27, is further amended by adding the following subsection:

(14) Despite subsections (1) to (13), the French-language section of a board may by resolution approved by a majority of the members of the section direct that an election of members to the section shall be subject to subsections 206a (11) to (24).

Regulations

Application of section 206a

Alternative distribution

Id

Effect of resolution

Id

Distribution of members

18. Section 277-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

19. Section 277q of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 28, is repealed and the following substituted:

Calculated enrolment

277q.—(1) A determination of the calculated enrolment of a board and the total calculated enrolment of a board shall be made by the appropriate supervisory officer of the board.

When calculation made

(2) The calculated enrolment and the total calculated enrolment shall be determined on or before the 1st day of February in the year in which a regular election will be held under the *Municipal Elections Act*.

Approval of calculation

(3) On or before the 1st day of March in a year in which a regular election will be held under the *Municipal Elections Act*, the determination of the calculated enrolment and the total calculated enrolment made under subsection (1) shall be confirmed by resolution by,

- (a) a majority of the members of the board who are members of the French-language section; and
- (b) a majority of the members of the board who are not members of the French-language section.

Referral to the Languages of Instruction Commission of Ontario

(4) If no determination is made under subsection (1) or a determination is not confirmed under subsection (3), the appropriate supervisory officer shall refer the matter to the Languages of Instruction Commission of Ontario on or before the 15th day of March in a year in which a regular election will be held under the *Municipal Elections Act*.

Idem

(5) The Languages of Instruction Commission of Ontario shall determine the calcu-

lated enrolment and the total calculated enrolment of the board within twenty days of the referral under subsection (4).

(6) If a determination is made under subsection (5), it shall be used in place of any other determination. Idem

20. Clauses 277t (2) (a) and (b) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted:

- (a) a reference in this Part or in a regulation under this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;
- (b) a reference in this Part or in a regulation under this Part to French language shall be deemed to be a reference to English language; and

21. An increase or a decrease in the number of the members of a board approved under rule 6 of subsection 206a (6) of the Act prior to the regular election in 1988 shall be void for the purpose of the regular election in 1991. Transition

22. By-law SS1/89 of The Haldimand-Norfolk Roman Catholic Separate School Board, passed under section 136a of the Act on the 18th day of December, 1989 and amended on the 26th day of February, 1990, shall be deemed to have been approved by the Minister of Education on the 30th day of June, 1990. Approval of by-law under s. 136a of Education

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

24. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1990*. Short title

Bill 12

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	
Royal Assent	

(Reprinted as amended by the Social Development Committee)
This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Education Act* in respect of the following matters:

1. The establishment of French-language school boards.

Section 2 of the Bill permits French-language school boards to be established by regulation. The regulation-making authority is intended to cover matters similar to those dealt with in the *Ottawa-Carleton French-Language School Board Act, 1988*.

2. The composition of boards with a French-language section.

In March 1990, the Supreme Court of Canada ruled that the number of minority language representatives on a school board should be proportional to the number of minority language students enrolled in the board's schools. This decision is implemented by subsections 14 (3) and (4) of the Bill, which amend subsections 206a (8) and (9) of the *Education Act*. Sections 15, 16, 19 and 20 of the Bill are complementary to these amendments.

3. Other matters relating to the election of board members.

Section 3 of the Bill amends section 70 of the *Education Act* so that, if a board appointed under section 70 is to be dissolved on the 1st day of January immediately following a regular election of school boards, the imminent dissolution of the section 70 board will be taken into account in the elections.

Section 4 of the Bill amends section 105 of the *Education Act* to make clear that county and district combined separate school boards may be established in any year, regardless of whether it is a regular election year. If a board is established in a year that is not a regular election year, the initial membership of the board will be determined in accordance with regulations made under section 105 of the Act.

Sections 10 and 12 of the Bill revise provisions of the *Education Act* dealing with vacancies on school boards. The new provisions make clear that, in boards composed of members elected by different electoral groups (e.g. French-language electors and English-language electors), decisions with respect to filling a vacancy will be made by the board members elected by the electoral group affected by the vacancy. The amendments also provide a sixty-day period within which vacancies are to be filled. The existing Act generally requires vacancies to be filled at the first meeting of the board after the vacancy occurs. Sections 11, 13 and 18 of the Bill are consequent on these amendments.

Subsection 14 (1) of the Bill provides for population determinations on which board sizes depend to be made earlier in a year in which a regular election is to be held. Section 1 of the Bill is complementary to this amendment.

Subsection 14 (2) of the Bill amends rule 6 of subsection 206a (6) of the *Education Act* so that a board's decision to increase or decrease the size of the board by one or two members will apply only to the board elected at the next regular election. The existing Act provides that such a decision applies to the boards elected at the next two regular elections. Section 21 of the Bill is complementary to this amendment.

Subsection 14 (5) of the Bill amends subsection 206a (13) of the *Education Act* to allow the members of a board who represent an electoral group to decide to designate a municipality as a low population municipality, thereby permitting an alternative distribution of members representing the electoral group. The existing Act requires this designation to be made by the full board. Subsection 14 (6) of the Bill is consequent on this amendment.

Section 17 of the Bill amends section 277i of the *Education Act* to make clear that the minority-language section of a board may choose to have the distribution of members determined under subsections 206a (11) to (24), instead of under section 277i.

4. The funding of secondary school instruction provided to Roman Catholic school boards when the instruction is provided through agreements with other boards.

Section 136g of the existing *Education Act* phases in provincial funding to Roman Catholic school boards that elect to perform the duties of secondary school boards. Funding is phased in at the rate of one additional grade per year until full funding is achieved. Section 5 of the Bill amends section 136g to provide full funding immediately if the Roman Catholic school board provides instruction in all secondary school grades. If the instruction is provided in a school operated by another board by means of an agreement with the other board. If the board receives full funding on this basis, it may switch to providing secondary school instruction in its own schools with the approval of the Minister of Education. Sections 6 to 10 of the Bill contain complementary amendments. Section 22 of the Bill deems a by-law of The Haldimand-Norfolk Roman Catholic Separate School Board to have been approved by the Minister of Education on the 30th day of June, 1990, so that the board may obtain full funding for the 1990-91 school year.

An Act to amend the Education 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 1 (1) of the *Education Act* is amended by adding the following paragraph:

1a. "assessment commissioner" means the assessment commissioner appointed under the *Assessment Act* for the region in which the board is situated.

(2) Paragraph 37 of subsection 1 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 27, section 1, is repealed and the following substituted:

37. "population" means the population as determined by the assessment commissioner from the last municipal enumeration as updated under the provisions of the *Assessment Act*.

2. Section 10 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1988, chapter 27, section 2, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding the following subsections:

(11a) The Lieutenant Governor in Council may make regulations establishing French-language school boards.

(11b) A regulation under subsection (11a) may include provisions respecting,

- (a) the area of jurisdiction of a French-language school board;
- (b) the structure of a French-language school board and, if the board has more than one component, the jurisdiction of each component;
- (c) the powers and duties of a French-language school board or a component of a French-language school board;
- (d) attendance at schools operated by a French-language school board or a component of a French-language school board;
- (e) the assessment and payment of rates in respect of a French-language school

board or a component of a French-language school board;

- (f) the election of members of a French-language school board or a component of a French-language school board, including the qualifications of electors and members;
 - (g) the resolution of disputes between the components of a French-language school board and between a French-language school board and other boards;
 - (h) the transfer of real property used as school sites to a French-language school board or a component of a French-language school board, and the transfer of personal property used for school purposes to a French-language school board or a component of a French-language school board;
 - (i) the transfer of employees of other boards to a French-language school board or a component of a French-language school board, including the rights of transferred employees;
 - (j) the dissolution of another board or a section of another board; and
 - (k) the adjustment of assets and liabilities of a board affected by the establishment of a French-language school board.
- (11c) A regulation under subsection (11a) ^{idem} may,
- (a) deem a French-language school board or a component of a French-language school board to be a board for the purpose of any provision of this Act;
 - (b) modify or exclude the application of any provision of this Act, the *Assessment Act* or the *Municipal Elections Act*;
 - (c) deem a French-language school board or a component of a French-language school board to be a board for the purpose of the *School Boards and Teachers Collective Negotiations Act*, and deem classes of persons who are members of the Association des

enseignantes et des enseignants franco-ontariens or The Ontario Secondary School Teachers' Federation to be branch affiliates for the purpose of that Act; and

- (d) deem classes of transferred employees to have been intermingled for the purpose of section 63 of the *Labour Relations Act* and make any provision of that section applicable to the affected boards and their employees.

Consultation before regulation under subs. (11a)

(11d) A regulation may not be made under subsection (11a) unless there has been consultation with boards and employee groups that will be directly or indirectly affected by the creation of a French-language school board under the regulation.

Repeal of subss. (11a) to (11d)

(11e) Subsections (11a), (11b), (11c) and (11d) are repealed on the 1st day of January, 1994 or on such earlier date as may be named by proclamation of the Lieutenant Governor in Council.

3. Section 70 of the Act is amended by adding the following subsection:

Revocation of order

(6) If an order under subsection (1) or (2) is to be revoked on the 1st day of January next following a regular election under the *Municipal Elections Act*, the order shall, for the purpose of the election, be deemed to have been revoked.

4.—(1) Subsection 105 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 65, section 19, is further amended by adding the following clause:

- (f) providing for the initial composition of a board to which subsection (4b) applies and for the initial appointment or election of members of the board to hold office until the next regular election under the *Municipal Elections Act*.

(2) Subsection 105 (4) of the Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 16, is repealed and the following substituted:

Establishment of boards

(4) A separate school board shall be established for each county and district combined separate school zone and, except as otherwise provided under section 106 or a regulation made under subsection (2), the trustees of the board shall be elected and the board organized in accordance with sections 115 and 206a.

Idem

(4a) If a county or district combined separate school zone is to be designated by a regulation under subsection (2) on the 1st day of January next following a regular election under the *Municipal Elections Act*, the county or district combined separate school

zone shall, for the purpose of the election, be deemed to have been designated.

(4b) If a county or district combined separate school zone is designated by a regulation under subsection (2) and subsection (4a) does not apply, the composition of the board and the appointment or election of members of the board shall be in accordance with the regulations.

Idem

5. Section 136g of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsections:

(4) Despite subsections (1) to (3), for the first school year in which an election is effective and for every subsequent year, the entitlement of a Roman Catholic school board under section 136e applies in respect of all secondary school grades if, in the first school year, the board provides instruction in all secondary school grades and the instruction is provided in accordance with the board's first annual implementation plan in a school operated by another board by means of an agreement with the other board.

All services provided agreement

(5) A Roman Catholic school board to which subsection (4) applies may provide instruction in a secondary school grade only if,

Restriction when subs. (1) applies

- (a) the instruction is provided in a school operated by another board by means of an agreement referred to in subsection (4); or

- (b) after the first school year in which the election under section 136a is effective,

- (i) the Roman Catholic school board to which subsection (4) applies files with the Planning and Implementation Commission a plan to provide instruction in all secondary school grades in a school operated by the board, and

- (ii) the Minister approves the provision of instruction in a school operated by the board after receiving the advice of the Planning and Implementation Commission that the Commission is of the opinion that the plan will permit the board to provide instruction in all secondary school grades and will promote the best interests of public education in Ontario.

6.—(1) Subsection 136-1 (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:

(1) A public board that has jurisdiction in an area that is also part or all of the area of jurisdiction of a Roman Catholic school board shall designate, in accordance with the regulations or by agreement between the boards, the persons on its supervisory officers staff, elementary teaching staff, secondary teaching staff and support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

(2) Subsections 136-1 (6) to (20) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(6) The public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board performs the duties of a secondary school board.

(7) Subject to subsection (8), the public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board provides instruction under clause 136g (5) (b).

(8) No designations shall be made under subsection (1) after the twentieth school year during which the Roman Catholic school board performs the duties of a secondary school board.

(9) Designations shall be made under subsection (1) not later than the date prescribed by the regulations for each year.

(10) If subsection 136g (4) does not apply to the Roman Catholic school board referred to in subsection (1), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(11) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the board provides instruction in accordance with clause 136g (5) (a), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transfer-

red to, and assumed by, the board that operates the school in which the instruction is provided under the agreement referred to in clause 136g (5) (a), effective the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(12) If more than one board operates schools in which instruction is provided under an agreement referred to in clause 136g (5) (a), the board to which a contract or relationship shall be transferred under subsection (11) shall be,

- (a) one of the boards that operates the schools, as determined by agreement of those boards; or
- (b) in the absence of an agreement, the Roman Catholic school board referred to in subsection (1).

(13) If a designated person objects for reasons of conscience to the transfer of employment to a Roman Catholic school board under subsection (10) or (11), he or she may so advise the public board and, unless it is of the opinion that the objection is not made in good faith, the public board shall designate another person in place of the person making the objection.

(14) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the Minister approves the provision of instruction in a school operated by the board under clause 136g (5) (b), a teaching contract, employment contract or employment relationship transferred under subsection (11) to another board is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the date the board begins to provide instruction under clause 136g (5) (b) or on such earlier date as the boards concerned may agree on.

(15) A board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) shall employ the person in a position substantially similar to the position in which the person was employed immediately before the transfer.

(16) If the board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) has no position as provided under subsection (15) for the person on the appropriate staff of the board, the person is entitled to receive training assistance, as prescribed by the regulations, for an alternate position on the appropriate staff, and the board to which the contract or relationship is transferred shall

Idem

Objectors

Second transfer of employment if cl. 136g (5) (b) applies

Similar employment

Training assistance

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maintain the person in its employ, provide the assistance and offer to the person employment in a position appropriate to either his or her previous or newly acquired qualifications.

Seniority

(17) Subject to any collective agreement in effect, the public board shall designate, on the basis of seniority, the persons on its support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

Transmittal of lists

(18) Each public board that designates persons under this section shall transmit to the Planning and Implementation Commission in each year, not later than the date for each year fixed by the Commission, a list of the names and positions of persons that it has designated.

Compensation rate

(19) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right in the first year that the person is employed by the board to an annual rate of salary of not less than the annual rate of salary that would have applied to the person if the contract or relationship had not been transferred, but if the annual rate of salary of the position in which the person is employed by the board to which the contract or relationship is transferred is lower than such first-mentioned annual rate of salary, the person is not entitled to any increase in annual rate of salary until the annual rate of salary of the position becomes equal to such first-mentioned annual rate of salary.

Seniority and employment status

(20) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right to commence the employment with seniority and with probationary and permanent status with the board equal to the seniority and the probationary or permanent status the person would have had if the contract or relationship had not been transferred.

Sick leave credits

(20a) Sick leave credits standing to a designated person's credit immediately before the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) shall be transferred to the plan maintained by the board to which the contract or rela-

tionship is transferred at the time the contract or relationship is transferred.

Credit for total accumulation

(20b) If the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan to which they are transferred, the designated person shall be given credit in the plan for the number transferred but is not entitled to accumulate further sick leave credits under the plan unless the plan is amended to permit greater accumulation.

Accumulate and use sick leave credits

(20c) Subject to subsection (20b), a designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the board to which the contract or relationship is transferred.

Gratuity

(20d) On termination of employment with the board to which a designated person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14), the person is entitled to payment of an amount calculated in accordance with,

- (a) the collective agreement that applied on the last date the person was employed by the public board that designated the person, as though the person had been in the continuous employ of the public board, if a collective agreement applied in respect of the person on that date; or
- (b) the policy of the public board that designated the person as of the last date he or she was employed by the public board, as though the person had been in the continuous employ of the public board, if no collective agreement applied in respect of the person on that date.

Idem

(20e) In lieu of the payment under subsection (20d), the designated person is entitled to require payment of an amount calculated in accordance with,

- (a) the collective agreement that applies in respect of the person on the last date the person is employed before the termination of employment, if a collective agreement applies in respect of the person on that date; or
- (b) the policy of the board with which the person is employed as of the last date he or she is employed by that board, if no collective agreement applies in respect of the person on that date.

Idem

(20f) The amount of the payment under subsection (20d) or (20e) shall be shared by

the public board that designated the person and the board or boards to which the person's employment was transferred under this section in the ratio that the number of years of service of the person with each board bears to the total number of years of service of the person with such boards.

(20g) Subsections (20d) to (20f) do not apply to a termination of employment with a board that occurs when the teaching contract, employment contract or employment relationship of the person is transferred to another board under subsection (10), (11) or (14).

7. Subsections 136m (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(1) A dispute in respect of the designation of or the failure to designate a person on the teaching or other staffs of a public board, or in respect of any matter arising under section 136-l in the employment relationship between a designated person and a board to which the person's teaching contract, employment contract or employment relationship was transferred under that section, may be resolved by a grievance arbitration procedure in accordance with this section.

(2) The parties to the arbitration are the public board or the board to which the contract or relationship was transferred, as the case requires, and the person or, if the person is employed in accordance with the terms of a collective agreement, the organization that represents the person under the collective agreement.

8. Section 136md of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out "public board or Roman Catholic school board" in the fifth and sixth lines and substituting "board".

9. Subsections 136o (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(1) A person who is qualified to be a resident pupil of a public board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a Roman Catholic school board if the area of jurisdiction of the public board is in whole or in part the same as the area of jurisdiction of the Roman Catholic school board.

(2) A person who is qualified to be a resident pupil of a Roman Catholic school board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a

public board if the area of jurisdiction of the Roman Catholic school board is in whole or in part the same as the area of jurisdiction of the public board.

10. Section 198 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 54, is repealed and the following substituted:

198.—(1) In this section, "electoral group" means,

- (a) in respect of a board of education or a county or district combined separate school board, an electoral group as defined in Part VII-A; and
- (b) in respect of any other board, the persons qualified to be electors of the board.

(2) Subject to section 202, if the office of a member of a board elected by an electoral group becomes vacant before the end of the member's term,

- (a) the remaining members elected by the electoral group shall appoint a qualified person to fill the vacancy within sixty days after the office becomes vacant, if a majority of the members elected by the electoral group remain in office; or
- (b) a new election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the members elected by the electoral group do not remain in office.

(3) Despite clause (2) (a), if elections of the board are held under the *Municipal Elections Act* and the vacancy occurs in a year in which no regular election is held under that Act or before the 1st day of April in the year of a regular election, the remaining members elected by the electoral group may by resolution require that an election be held in accordance with the *Municipal Elections Act* to fill the vacancy.

(4) The secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution under subsection (3).

(5) A member appointed or elected to fill a vacancy shall hold office for the remainder of the term of the member who vacated the office.

11. Sections 199, 200 and 201 of the Act are repealed and the following substituted:

199.—(1) If an election is required to fill a vacancy on a board that is composed of three members and there are fewer than two remaining members of the board, a meeting of the electors may be called by

Definition

Vacancies

Optional election

Idem

Term of office

Elections for three member boards

Application of sub. (20d) to (20f)

If dispute resolution

Parties

Right to receive secondary school instruction from Roman Catholic school board

Right to receive secondary school instruction from public board

any two electors of the board or by the appropriate supervisory officer.

Time of meeting

(2) The meeting shall take place within thirty days of the date on which the last office became vacant.

Notice of meeting

(3) At least six days before the meeting, the person or persons calling the meeting shall post a notice of the meeting in at least three public places within the area of jurisdiction of the board.

Election at meeting

(4) The electors at the meeting shall elect the required number of board members to fill the vacancies.

Vacancy in rural separate school board before incorporation

200.—(1) If a vacancy occurs in the office of a trustee of a rural separate school before the trustees become a body corporate, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person elected shall hold office for the remainder of the term of the trustee who vacated the office.

Manner of election

(2) The new election shall be conducted in the same manner as an election of the whole board.

12. Section 203 of the Act is amended by adding the following subsection:

Extension of time limits

(2) The remaining members of the board may extend the time for the nomination and the polling under subsection (1), but the polling shall be held no later than sixty days after the office becomes vacant.

13. Section 205 of the Act is repealed and the following substituted:

Tie vote

205. If two or more candidates receive an equal number of votes at a meeting held under clause 198 (2) (a) to appoint a person to fill a vacancy or at a meeting to elect a person to fill a vacancy, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates shall be appointed or elected.

14.—(1) Section 206a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24 and amended by 1989, chapter 65, section 33, is further amended by adding the following subsections:

Determination of population of electoral groups

(4a) The assessment commissioner shall determine the populations of the electoral groups for the purposes of this Part on the 1st day of January in the year of a regular election under the *Municipal Elections Act*.

Idem

(4b) The assessment commissioner shall provide the results of the determination of the population of a board's electoral groups made under subsection (4a) to the secretary of the board and to the clerk of each municipality in the jurisdiction of the assessment

commissioner by the 15th day of February in the year of a regular election.

(2) Rule 6 of subsection 206a (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

6. If a board approves an increase or decrease of either one or two in the number of members of the board by resolution passed by three-quarters of the members of the board before the date mentioned in rule 7, the number of members of the board shall be deemed to be increased or decreased in accordance with the resolution for the next regular election.

7. Rule 6 applies if the resolution is passed before the 31st day of March in the year of the regular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the regular election.

(3) Rules 5, 6, 7, 8, 9 and 10 of subsection 206a (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

5. The number of members to be elected by the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

(4) Subsection 206a (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

(9) For the purpose of rule 5 of subsection (8), the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board deter-

Calculation of members for the purpose of rule 5 of subs. (8)

mined by the rules in subsection (6)

b = the calculated enrolment of the board as determined under section 277q

c = the total calculated enrolment of the board as determined under section 277q.

(9a) For the purposes of rules 6 and 7 of subsection (8), if there is only one English-language electoral group, the number of members of that electoral group is calculated by subtracting from the total number of members of the board determined by the rules in subsection (6), the number of members calculated in subsection (9).

(9b) For the purposes of rules 6 and 7 of subsection (8), if there are two English-language electoral groups, the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{(a-b) \times e}{(c-d)}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the number of members calculated under subsection (9)

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6)

d = the population of the total French-language electoral group

e = the population of the electoral group to which rule 6 or 7 applies.

(5) Subsections 206a (13), (14), (15), (16) and (17) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

(13) The members of the board who represent an electoral group may by resolution passed by an affirmative vote of three-quarters of those members,

- (a) designate one or more municipalities within the board's jurisdiction as low population municipalities; and
- (b) direct an alternative distribution of those members that represent the electors of the electoral group.

(14) If an alternative distribution is directed under clause (13) (b), the resolution shall provide that the sum of the electoral quotients for the municipality or municipali-

ties designated under clause (13) (a) shall be increased by either one or two.

(15) A resolution passed under subsection (13) shall be effective only for the next regular election.

(16) A resolution under subsection (13) has no effect unless it is passed before the 31st day of March in the year of the next regular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the next regular election.

(17) If a resolution is passed under subsection (13), an alternative distribution of those members that represent the electors of the electoral group shall be made in accordance with subsection (18) by the person prescribed by the regulations to,

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(6) Rule 3 of subsection 206a (18) of the Act is amended by striking out "subsection (14)" in the last line and substituting "subsection (13)".

15.—(1) The definition of "calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"calculated enrolment" means a number of pupils enrolled in French-language instructional units, calculated in accordance with the regulations.

(2) The definition of "resident pupil" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who is qualified to be a resident pupil of the board and is enrolled in a school,

- (a) operated by the board, or
- (b) operated by another board to which the first-mentioned board pays fees in respect of the pupil.

(3) The definition of "total calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986,

Effect of resolution

Idem

Distribution of members

Calculation of members for the purposes of rule 6 and 7 of lbs. (8)

Alternative distribution

Idem

chapter 29, section 11, is repealed and the following substituted:

"total calculated enrolment" means a number of pupils calculated in accordance with the regulations.

16. The Act is amended by adding the following section:

Regulations

277ca. The Lieutenant Governor in Council may by regulation prescribe the method of calculation of calculated enrolment and total calculated enrolment.

17. Section 277i of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 27, is further amended by adding the following subsection:

Application of section 206a

(14) Despite subsections (1) to (13), the French-language section of a board may by resolution approved by a majority of the members of the section direct that an election of members to the section shall be subject to subsections 206a (11) to (24).

18. Section 277-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

19. Section 277q of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 28, is repealed and the following substituted:

Calculated enrolment

277q.—(1) A determination of the calculated enrolment of a board and the total calculated enrolment of a board shall be made by the appropriate supervisory officer of the board.

When calculation made

(2) The calculated enrolment and the total calculated enrolment shall be determined on or before the 1st day of February in the year in which a regular election will be held under the *Municipal Elections Act*.

Approval of calculation

(3) On or before the 1st day of March in a year in which a regular election will be held under the *Municipal Elections Act*, the determination of the calculated enrolment and the total calculated enrolment made under subsection (1) shall be confirmed by resolution by,

- (a) a majority of the members of the board who are members of the French-language section; and
- (b) a majority of the members of the board who are not members of the French-language section.

(4) If no determination is made under subsection (1) or a determination is not confirmed under subsection (3), the appropriate supervisory officer shall refer the matter to the Languages of Instruction Commission of Ontario on or before the 15th day of March in a year in which a regular election will be held under the *Municipal Elections Act*.

Referral to the Languages of Instruction Commission of Ontario

(5) The Languages of Instruction Commission of Ontario shall determine the calculated enrolment and the total calculated enrolment of the board and shall notify the appropriate supervisory officer of its determination not later than twenty days after the referral under subsection (4).

Idem

(6) If a determination is made under subsection (5), it shall be used in place of any other determination.

Idem

20. Clauses 277t (2) (a) and (b) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted:

- (a) a reference in this Part or in a regulation under this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;
- (b) a reference in this Part or in a regulation under this Part to French language shall be deemed to be a reference to English language; and

21. An increase or a decrease in the number of the members of a board approved under rule 6 of subsection 206a (6) of the Act prior to the regular election in 1988 shall be void for the purpose of the regular election in 1991.

Transition

22. By-law SS1/89 of The Haldimand-Norfolk Roman Catholic Separate School Board, passed under section 136a of the Act on the 18th day of December, 1989 and amended on the 26th day of February, 1990, shall be deemed to have been approved by the Minister of Education on the 30th day of June, 1990.

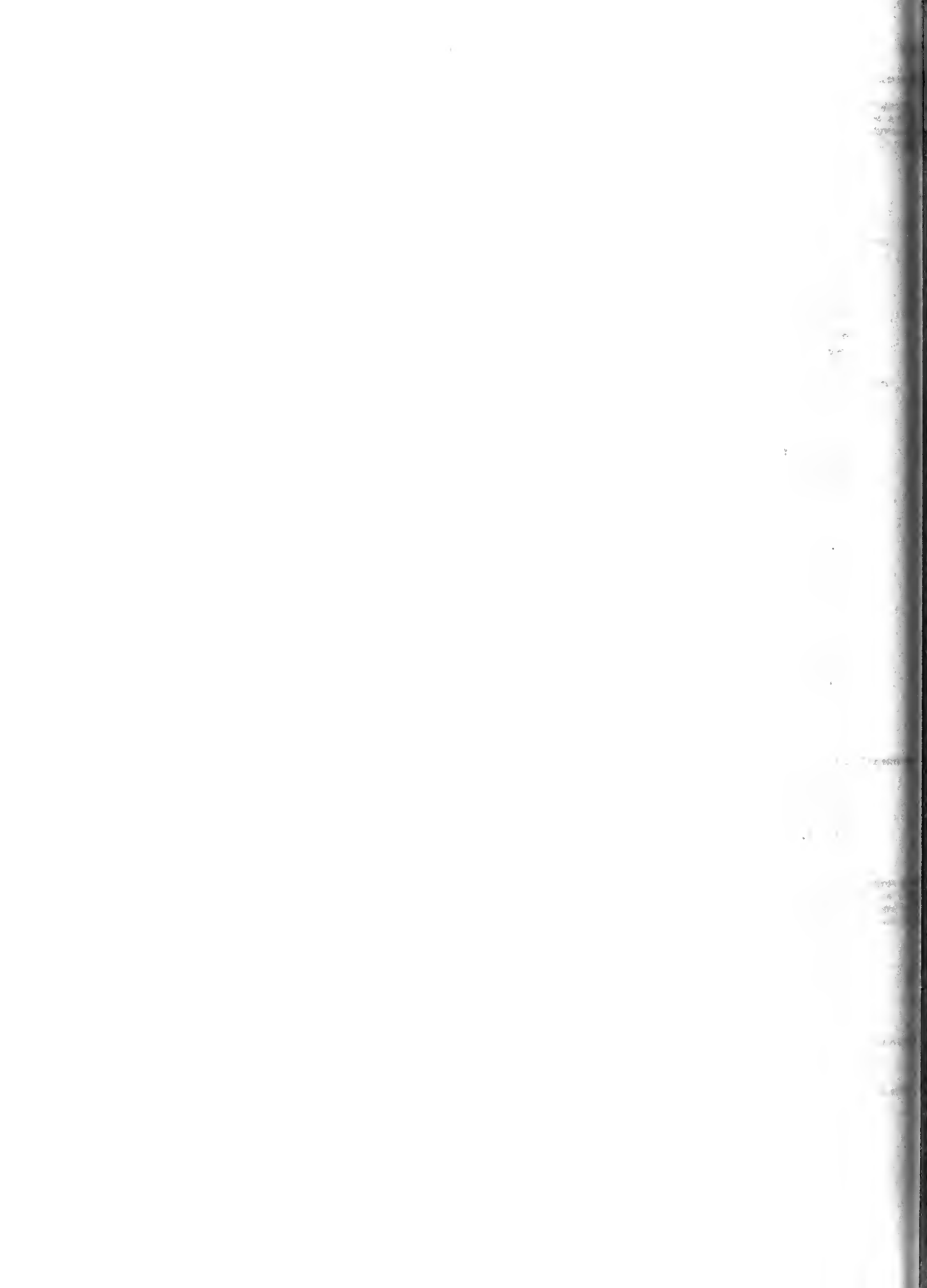
Approval of by-law under s. 136a of the Education Act

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

Commencement

24. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1990*.

Short title



Bill 12

*(Chapter 24
Statutes of Ontario, 1990)*

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	December 20th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Education 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 1 (1) of the *Education Act* is amended by adding the following paragraph:

- 1a. “assessment commissioner” means the assessment commissioner appointed under the *Assessment Act* for the region in which the board is situated.

(2) Paragraph 37 of subsection 1 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 27, section 1, is repealed and the following substituted:

37. “population” means the population as determined by the assessment commissioner from the last municipal enumeration as updated under the provisions of the *Assessment Act*.

2. Section 10 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1988, chapter 27, section 2, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding the following subsections:

(11a) The Lieutenant Governor in Council may make regulations establishing French-language school boards.

(11b) A regulation under subsection (11a) may include provisions respecting,

- (a) the area of jurisdiction of a French-language school board;
- (b) the structure of a French-language school board and, if the board has more than one component, the jurisdiction of each component;
- (c) the powers and duties of a French-language school board or a component of a French-language school board;
- (d) attendance at schools operated by a French-language school board or a component of a French-language school board;
- (e) the assessment and payment of rates in respect of a French-language school

board or a component of a French-language school board;

- (f) the election of members of a French-language school board or a component of a French-language school board, including the qualifications of electors and members;
- (g) the resolution of disputes between the components of a French-language school board and between a French-language school board and other boards;
- (h) the transfer of real property used as school sites to a French-language school board or a component of a French-language school board, and the transfer of personal property used for school purposes to a French-language school board or a component of a French-language school board;
- (i) the transfer of employees of other boards to a French-language school board or a component of a French-language school board, including the rights of transferred employees;
- (j) the dissolution of another board or a section of another board; and
- (k) the adjustment of assets and liabilities of a board affected by the establishment of a French-language school board.

(11c) A regulation under subsection (11a) ^{Idem} may,

- (a) deem a French-language school board or a component of a French-language school board to be a board for the purpose of any provision of this Act;
- (b) modify or exclude the application of any provision of this Act, the *Assessment Act* or the *Municipal Elections Act*;
- (c) deem a French-language school board or a component of a French-language school board to be a board for the purpose of the *School Boards and Teachers Collective Negotiations Act*, and deem classes of persons who are members of the Association des

enseignantes et des enseignants franco-ontariens or The Ontario Secondary School Teachers' Federation to be branch affiliates for the purpose of that Act; and

(d) deem classes of transferred employees to have been intermingled for the purpose of section 63 of the *Labour Relations Act* and make any provision of that section applicable to the affected boards and their employees.

Consultation before regulation under subs. (11a)

(11d) A regulation may not be made under subsection (11a) unless there has been consultation with boards and employee groups that will be directly or indirectly affected by the creation of a French-language school board under the regulation.

Repeal of subss. (11a) to (11d)

(11e) Subsections (11a), (11b), (11c) and (11d) are repealed on the 1st day of January, 1994 or on such earlier date as may be named by proclamation of the Lieutenant Governor.

3. Section 70 of the Act is amended by adding the following subsection:

Revocation of order

(6) If an order under subsection (1) or (2) is to be revoked on the 1st day of January next following a regular election under the *Municipal Elections Act*, the order shall, for the purpose of the election, be deemed to have been revoked.

4.—(1) Subsection 105 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 65, section 19, is further amended by adding the following clause:

(f) providing for the initial composition of a board to which subsection (4b) applies and for the initial appointment or election of members of the board to hold office until the next regular election under the *Municipal Elections Act*.

(2) Subsection 105 (4) of the Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 16, is repealed and the following substituted:

Establishment of boards

(4) A separate school board shall be established for each county and district combined separate school zone and, except as otherwise provided under section 106 or a regulation made under subsection (2), the trustees of the board shall be elected and the board organized in accordance with sections 115 and 206a.

Idem

(4a) If a county or district combined separate school zone is to be designated by a regulation under subsection (2) on the 1st day of January next following a regular election under the *Municipal Elections Act*, the county or district combined separate school zone shall, for the purpose of the election, be deemed to have been designated.

(4b) If a county or district combined separate school zone is designated by a regulation under subsection (2) and subsection (4a) does not apply, the composition of the board and the appointment or election of members of the board shall be in accordance with the regulations. Idem

5. Section 136g of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsections:

(4) Despite subsections (1) to (3), for the first school year in which an election is effective and for every subsequent year, the entitlement of a Roman Catholic school board under section 136e applies in respect of all secondary school grades if, in the first school year, the board provides instruction in all secondary school grades and the instruction is provided in accordance with the board's first annual implementation plan in a school operated by another board by means of an agreement with the other board. All service provided in agreement

(5) A Roman Catholic school board to which subsection (4) applies may provide instruction in a secondary school grade only if, Restriction when subs. (1) applies

(a) the instruction is provided in a school operated by another board by means of an agreement referred to in subsection (4); or

(b) after the first school year in which the election under section 136a is effective,

(i) the Roman Catholic school board to which subsection (4) applies files with the Planning and Implementation Commission a plan to provide instruction in all secondary school grades in a school operated by the board, and

(ii) the Minister approves the provision of instruction in a school operated by the board after receiving the advice of the Planning and Implementation Commission that the Commission is of the opinion that the plan will permit the board to provide instruction in all secondary school grades and will promote the best interests of public education in Ontario.

6.—(1) Subsection 136-l (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:

(1) A public board that has jurisdiction in an area that is also part or all of the area of jurisdiction of a Roman Catholic school Teaching other staff

board shall designate, in accordance with the regulations or by agreement between the boards, the persons on its supervisory officers staff, elementary teaching staff, secondary teaching staff and support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

(2) Subsections 136-1 (6) to (20) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(6) The public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board performs the duties of a secondary school board.

(7) Subject to subsection (8), the public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board provides instruction under clause 136g (5) (b).

(8) No designations shall be made under subsection (1) after the twentieth school year during which the Roman Catholic school board performs the duties of a secondary school board.

(9) Designations shall be made under subsection (1) not later than the date prescribed by the regulations for each year.

(10) If subsection 136g (4) does not apply to the Roman Catholic school board referred to in subsection (1), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(11) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the board provides instruction in accordance with clause 136g (5) (a), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the board that operates the school in which the instruction is provided under the agreement referred to in

clause 136g (5) (a), effective the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(12) If more than one board operates schools in which instruction is provided under an agreement referred to in clause 136g (5) (a), the board to which a contract or relationship shall be transferred under subsection (11) shall be,

- (a) one of the boards that operates the schools, as determined by agreement of those boards; or
- (b) in the absence of an agreement, the Roman Catholic school board referred to in subsection (1).

(13) If a designated person objects for reasons of conscience to the transfer of employment to a Roman Catholic school board under subsection (10) or (11), he or she may so advise the public board and, unless it is of the opinion that the objection is not made in good faith, the public board shall designate another person in place of the person making the objection.

(14) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the Minister approves the provision of instruction in a school operated by the board under clause 136g (5) (b), a teaching contract, employment contract or employment relationship transferred under subsection (11) to another board is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the date the board begins to provide instruction under clause 136g (5) (b) or on such earlier date as the boards concerned may agree on.

(15) A board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) shall employ the person in a position substantially similar to the position in which the person was employed immediately before the transfer.

(16) If the board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) has no position as provided under subsection (15) for the person on the appropriate staff of the board, the person is entitled to receive training assistance, as prescribed by the regulations, for an alternate position on the appropriate staff, and the board to which the contract or relationship is transferred shall maintain the person in its employ, provide the assistance and offer to the person employment in a position appropriate to

Idem

Objectors

Second transfer of employment if cl. 136g (5) (b) applies

Similar employment

Training assistance

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either his or her previous or newly acquired qualifications.

Seniority

(17) Subject to any collective agreement in effect, the public board shall designate, on the basis of seniority, the persons on its support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

Transmittal of lists

(18) Each public board that designates persons under this section shall transmit to the Planning and Implementation Commission in each year, not later than the date for each year fixed by the Commission, a list of the names and positions of persons that it has designated.

Compensation rate

(19) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right in the first year that the person is employed by the board to an annual rate of salary of not less than the annual rate of salary that would have applied to the person if the contract or relationship had not been transferred, but if the annual rate of salary of the position in which the person is employed by the board to which the contract or relationship is transferred is lower than such first-mentioned annual rate of salary, the person is not entitled to any increase in annual rate of salary until the annual rate of salary of the position becomes equal to such first-mentioned annual rate of salary.

Seniority and employment status

(20) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right to commence the employment with seniority and with probationary and permanent status with the board equal to the seniority and the probationary or permanent status the person would have had if the contract or relationship had not been transferred.

Sick leave credits

(20a) Sick leave credits standing to a designated person's credit immediately before the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) shall be transferred to the plan maintained by the board to which the contract or relationship is transferred at the time the contract or relationship is transferred.

Credit for total accumulation

(20b) If the number of sick leave credits transferred exceeds the total number of sick

leave credits that may be accumulated under the plan to which they are transferred, the designated person shall be given credit in the plan for the number transferred but is not entitled to accumulate further sick leave credits under the plan unless the plan is amended to permit greater accumulation.

Accumulated and use sick leave credits

(20c) Subject to subsection (20b), a designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the board to which the contract or relationship is transferred.

Gratuity

(20d) On termination of employment with the board to which a designated person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14), the person is entitled to payment of an amount calculated in accordance with,

- (a) the collective agreement that applied on the last date the person was employed by the public board that designated the person, as though the person had been in the continuous employ of the public board, if a collective agreement applied in respect of the person on that date; or
- (b) the policy of the public board that designated the person as of the last date he or she was employed by the public board, as though the person had been in the continuous employ of the public board, if no collective agreement applied in respect of the person on that date.

Idem

(20e) In lieu of the payment under subsection (20d), the designated person is entitled to require payment of an amount calculated in accordance with,

- (a) the collective agreement that applies in respect of the person on the last date the person is employed before the termination of employment, if a collective agreement applies in respect of the person on that date; or
- (b) the policy of the board with which the person is employed as of the last date he or she is employed by that board, if no collective agreement applies in respect of the person on that date.

Idem

(20f) The amount of the payment under subsection (20d) or (20e) shall be shared by the public board that designated the person and the board or boards to which the person's employment was transferred under this section in the ratio that the number of years of service of the person with each board

bears to the total number of years of service of the person with such boards.

(20g) Subsections (20d) to (20f) do not apply to a termination of employment with a board that occurs when the teaching contract, employment contract or employment relationship of the person is transferred to another board under subsection (10), (11) or (14).

7. Subsections 136m (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(1) A dispute in respect of the designation of or the failure to designate a person on the teaching or other staffs of a public board, or in respect of any matter arising under section 136-1 in the employment relationship between a designated person and a board to which the person's teaching contract, employment contract or employment relationship was transferred under that section, may be resolved by a grievance arbitration procedure in accordance with this section.

(2) The parties to the arbitration are the public board or the board to which the contract or relationship was transferred, as the case requires, and the person or, if the person is employed in accordance with the terms of a collective agreement, the organization that represents the person under the collective agreement.

8. Section 136md of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out "public board or Roman Catholic school board" in the fifth and sixth lines and substituting "board".

9. Subsections 136o (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(1) A person who is qualified to be a resident pupil of a public board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a Roman Catholic school board if the area of jurisdiction of the public board is in whole or in part the same as the area of jurisdiction of the Roman Catholic school board.

(2) A person who is qualified to be a resident pupil of a Roman Catholic school board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a public board if the area of jurisdiction of the Roman Catholic school board is in whole or in part the same as the area of jurisdiction of the public board.

10. Section 198 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 54, is repealed and the following substituted:

198.—(1) In this section, "electoral group" means,

- (a) in respect of a board of education or a county or district combined separate school board, an electoral group as defined in Part VII-A; and
- (b) in respect of any other board, the persons qualified to be electors of the board.

(2) Subject to section 202, if the office of a member of a board elected by an electoral group becomes vacant before the end of the member's term,

- (a) the remaining members elected by the electoral group shall appoint a qualified person to fill the vacancy within sixty days after the office becomes vacant, if a majority of the members elected by the electoral group remain in office; or
- (b) a new election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the members elected by the electoral group do not remain in office.

(3) Despite clause (2) (a), if elections of the board are held under the *Municipal Elections Act* and the vacancy occurs in a year in which no regular election is held under that Act or before the 1st day of April in the year of a regular election, the remaining members elected by the electoral group may by resolution require that an election be held in accordance with the *Municipal Elections Act* to fill the vacancy.

(4) The secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution under subsection (3).

(5) A member appointed or elected to fill a vacancy shall hold office for the remainder of the term of the member who vacated the office.

11. Sections 199, 200 and 201 of the Act are repealed and the following substituted:

199.—(1) If an election is required to fill a vacancy on a board that is composed of three members and there are fewer than two remaining members of the board, a meeting of the electors may be called by any two electors of the board or by the appropriate supervisory officer.

(2) The meeting shall take place within sixty days of the date on which the last office became vacant.

Definition

Vacancies

Optional election

Idem

Term of office

Elections for three member boards

Time of meeting

Application of sss. (20d) to (20f)

Dispute resolution

Parties

Right to receive secondary school instruction from Roman Catholic school board

Right to receive secondary school instruction from public board

Notice of meeting

(3) At least six days before the meeting, the person or persons calling the meeting shall post a notice of the meeting in at least three public places within the area of jurisdiction of the board.

Election at meeting

(4) The electors at the meeting shall elect the required number of board members to fill the vacancies.

Vacancy in rural separate school board before incorporation

200.—(1) If a vacancy occurs in the office of a trustee of a rural separate school before the trustees become a body corporate, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person elected shall hold office for the remainder of the term of the trustee who vacated the office.

Manner of election

(2) The new election shall be conducted in the same manner as an election of the whole board.

12. Section 203 of the Act is amended by adding the following subsection:

Extension of time limits

(2) The remaining members of the board may extend the time for the nomination and the polling under subsection (1), but the polling shall be held no later than sixty days after the office becomes vacant.

13. Section 205 of the Act is repealed and the following substituted:

Tie vote

205. If two or more candidates receive an equal number of votes at a meeting held under clause 198 (2) (a) to appoint a person to fill a vacancy or at a meeting to elect a person to fill a vacancy, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates shall be appointed or elected.

14.—(1) Section 206a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24 and amended by 1989, chapter 65, section 33, is further amended by adding the following subsections:

Determination of population of electoral groups

(4a) The assessment commissioner shall determine the populations of the electoral groups for the purposes of this Part on the 1st day of January in the year of a regular election under the *Municipal Elections Act*.

Idem

(4b) The assessment commissioner shall provide the results of the determination of the population of a board's electoral groups made under subsection (4a) to the secretary of the board and to the clerk of each municipality in the jurisdiction of the assessment commissioner by the 15th day of February in the year of a regular election.

(2) Rule 6 of subsection 206a (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

6. If a board approves an increase or decrease of either one or two in the number of members of the board by resolution passed by three-quarters of the members of the board before the date mentioned in rule 7, the number of members of the board shall be deemed to be increased or decreased in accordance with the resolution for the next regular election.

7. Rule 6 applies if the resolution is passed before the 31st day of March in the year of the regular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the regular election.

(3) Rules 5, 6, 7, 8, 9 and 10 of subsection 206a (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

5. The number of members to be elected by the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

(4) Subsection 206a (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

(9) For the purpose of rule 5 of subsection (8), the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the calculated enrolment of the board as determined under section 277q

c = the total calculated enrolment of the board as determined under section 277q.

Calculation of members for the purpose of rule 5 of subs. (8)

Calculation of members for the purposes of rules 6 and 7 of subs. (8)

(9a) For the purposes of rules 6 and 7 of subsection (8), if there is only one English-language electoral group, the number of members of that electoral group is calculated by subtracting from the total number of members of the board determined by the rules in subsection (6), the number of members calculated in subsection (9).

(9b) For the purposes of rules 6 and 7 of subsection (8), if there are two English-language electoral groups, the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{(a-b) \times e}{(c-d)}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the number of members calculated under subsection (9)

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6)

d = the population of the total French-language electoral group

e = the population of the electoral group to which rule 6 or 7 applies.

(5) Subsections 206a (13), (14), (15), (16) and (17) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

(13) The members of the board who represent an electoral group may by resolution passed by an affirmative vote of three-quarters of those members,

- (a) designate one or more municipalities within the board's jurisdiction as low population municipalities; and
- (b) direct an alternative distribution of those members that represent the electors of the electoral group.

(14) If an alternative distribution is directed under clause (13) (b), the resolution shall provide that the sum of the electoral quotients for the municipality or municipalities designated under clause (13) (a) shall be increased by either one or two.

(15) A resolution passed under subsection (13) shall be effective only for the next regular election.

(16) A resolution under subsection (13) has no effect unless it is passed before the 31st day of March in the year of the next reg-

ular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the next regular election.

(17) If a resolution is passed under subsection (13), an alternative distribution of those members that represent the electors of the electoral group shall be made in accordance with subsection (18) by the person prescribed by the regulations to,

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(6) Rule 3 of subsection 206a (18) of the Act is amended by striking out "subsection (14)" in the last line and substituting "subsection (13)".

15.—(1) The definition of "calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"calculated enrolment" means a number of pupils enrolled in French-language instructional units, calculated in accordance with the regulations.

(2) The definition of "resident pupil" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who is qualified to be a resident pupil of the board and is enrolled in a school,

- (a) operated by the board, or
- (b) operated by another board to which the first-mentioned board pays fees in respect of the pupil.

(3) The definition of "total calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"total calculated enrolment" means a number of pupils calculated in accordance with the regulations.

16. The Act is amended by adding the following section:

Distribution of members

Alternative distribution

Calculation of members for the purposes of rules 6 and 7 of subs. (8)

Effect of resolution

Calculation of members for the purposes of rules 6 and 7 of subs. (8)

Regulations

277ca. The Lieutenant Governor in Council may by regulation prescribe the method of calculation of calculated enrolment and total calculated enrolment.

17. Section 277i of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 27, is further amended by adding the following subsection:

Application of section 206a

(14) Despite subsections (1) to (13), the French-language section of a board may by resolution approved by a majority of the members of the section direct that an election of members to the section shall be subject to subsections 206a (11) to (24).

18. Section 277-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

19. Section 277q of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 28, is repealed and the following substituted:

Calculated enrolment

277q.—(1) A determination of the calculated enrolment of a board and the total calculated enrolment of a board shall be made by the appropriate supervisory officer of the board.

When calculation made

(2) The calculated enrolment and the total calculated enrolment shall be determined on or before the 1st day of February in the year in which a regular election will be held under the *Municipal Elections Act*.

Approval of calculation

(3) On or before the 1st day of March in a year in which a regular election will be held under the *Municipal Elections Act*, the determination of the calculated enrolment and the total calculated enrolment made under subsection (1) shall be confirmed by resolution by,

(a) a majority of the members of the board who are members of the French-language section; and

(b) a majority of the members of the board who are not members of the French-language section.

Referral to the Languages of Instruction Commission of Ontario

(4) If no determination is made under subsection (1) or a determination is not confirmed under subsection (3), the appropriate

supervisory officer shall refer the matter to the Languages of Instruction Commission of Ontario on or before the 15th day of March in a year in which a regular election will be held under the *Municipal Elections Act*.

(5) The Languages of Instruction Commission of Ontario shall determine the calculated enrolment and the total calculated enrolment of the board and shall notify the appropriate supervisory officer of its determination not later than twenty days after the referral under subsection (4). Idem

(6) If a determination is made under subsection (5), it shall be used in place of any other determination. Idem

20. Clauses 277t (2) (a) and (b) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted:

(a) a reference in this Part or in a regulation under this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;

(b) a reference in this Part or in a regulation under this Part to French language shall be deemed to be a reference to English language; and

21. An increase or a decrease in the number of the members of a board approved under rule 6 of subsection 206a (6) of the Act prior to the regular election in 1988 shall be void for the purpose of the regular election in 1991. Transition

22. By-law SS1/89 of The Haldimand-Norfolk Roman Catholic Separate School Board, passed under section 136a of the Act on the 18th day of December, 1989 and amended on the 26th day of February, 1990, shall be deemed to have been approved by the Minister of Education on the 30th day of June, 1990. Approval of by-law under s. 136a of the Education A

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

24. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1990*. Short title

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 13

**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

The Hon. M. Boyd
Minister of Education

Projet de loi 13

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

L'honorable M. Boyd
Ministre de l'Éducation

1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

1^{re} lecture 4 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTE

SECTION 1. This section revises subsection 30 (1) of the Act to permit a vacancy in the office of a member of a sector to be filled within sixty days. The existing Act requires vacancies to be filled at the next regular meeting. The amendment is complementary to similar amendments to the *Education Act* proposed in the *Education Amendment Act (Miscellaneous), 1990*.

SECTION 2. The amendment to subsection 35 (2) of the Act is consequent on amendments to section 206a of the *Education Act* proposed in the *Education Amendment Act (Miscellaneous), 1990*.

NOTES EXPLICATIVES

ARTICLE 1 Cet article modifie le paragraphe 30 (1) de la Loi afin de permettre que soit comblée une vacance au poste d'un membre d'une section dans un délai de soixante jours, alors que la Loi actuelle exige que les vacances soient comblées à la prochaine réunion ordinaire. Cette modification est un complément des modifications semblables que propose d'apporter à la Loi sur l'éducation la Loi de 1990 modifiant la Loi sur l'éducation (dispositions diverses).

ARTICLE 2 La modification apportée au paragraphe 35 (2) de la Loi est consécutive aux modifications que propose d'apporter l'article 206a de la Loi sur l'éducation la Loi de 1990 modifiant la Loi sur l'éducation (dispositions diverses).

Bill 13

1990

Projet de loi 13

1990

**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

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

1. Subsection 30 (1) of the *Ottawa-Carleton French-Language School Board Act, 1988* is repealed and the following substituted:

(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, within sixty days after the office becomes vacant, appoint to the office a person who is qualified to be elected as a member of the sector.

2. Subsection 35 (2) of the Act is amended by striking out "subsections 206a (13), (14), (17) and (21)" in the second line and substituting "subsections 206a (13) and (21)".

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

4. The short title of this Act is the *Ottawa-Carleton French-Language School Board Amendment Act, 1990*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Le paragraphe 30 (1) de la *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton* est abrogé et remplacé par ce qui suit :

(1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, dans les soixante jours après que le poste est devenu vacant, une personne qui est éligible comme membre de la section.

2 Le paragraphe 35 (2) de la *Loi* est modifié par substitution, aux mots «des paragraphes 206a (13), (14), (17) et (21)» à la deuxième ligne, des mots «des paragraphes 206a (13) et (21)».

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

4 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le Conseil scolaire de langue française d'Ottawa-Carleton*.

Vacances

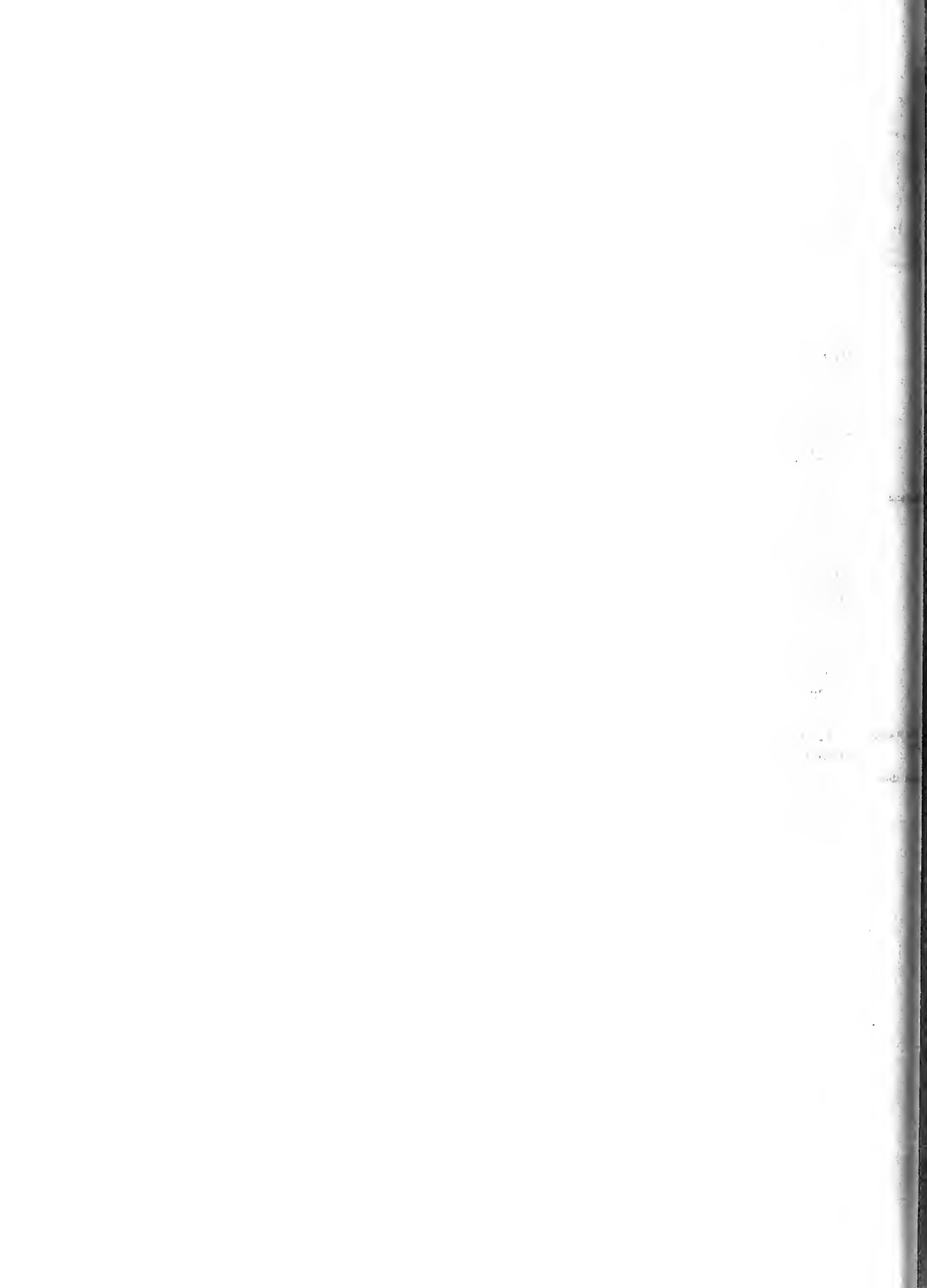
Entrée en
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Titre abrégé

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Commence-
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Short title



1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 13

*(Chapter 25
Statutes of Ontario, 1990)*

**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

The Hon. M. Boyd
Minister of Education

Projet de loi 13

*(Chapitre 25
Lois de l'Ontario de 1990)*

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

L'honorable M. Boyd
Ministre de l'Éducation

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	December 20th, 1990
Royal Assent	December 20th, 1990

*This Bill has been reprinted to conform to the new
printing format*

1 ^{re} lecture	4 décembre 1990
2 ^e lecture	13 décembre 1990
3 ^e lecture	20 décembre 1990
sanction royale	20 décembre 1990

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*



**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
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2. Subsection 35 (2) of the Act is amended by striking out "subsections 206a (13), (14), (17) and (21)" in the second line and substituting "subsections 206a (13) and (21)".

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

4. The short title of this Act is the *Ottawa-Carleton French-Language School Board Amendment Act, 1990*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Le paragraphe 30 (1) de la *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton* est abrogé et remplacé par ce qui suit :

(1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, dans les soixante jours après que le poste est devenu vacant, une personne qui est éligible comme membre de la section.

2 Le paragraphe 35 (2) de la Loi est modifié par substitution, aux mots «des paragraphes 206a (13), (14), (17) et (21)» à la deuxième ligne, des mots «des paragraphes 206a (13) et (21)».

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

4 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le Conseil scolaire de langue française d'Ottawa-Carleton*.

vacancies

Vacances

Commence-
mentEntrée en
vigueur

Short title

Titre abrégé

Bill 14

**An Act to amend the
Employment Standards Act
with respect to Pregnancy and Parental Leave**

The Hon. B. Mackenzie
Minister of Labour

1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Employment Standards Act* to change the existing scheme for pregnancy leave and to introduce a scheme for parental leave.

For pregnancy leave the qualification period is shortened. Employees are entitled to leave if they started employment at least thirteen weeks before the expected birth date (subsection 36 (1)). Leave may be commenced earlier, up to seventeen weeks before the expected birth date (subsection 36 (2)). Employees are given rights to continue certain benefits during the leave (section 38e).

A parental leave of up to eighteen weeks is introduced for employees who have been employed at least thirteen weeks (subsection 38a (1)). The meaning of "parent" is extended to include persons who have a lasting relationship to a parent of a child and intend to treat the child as their own (section 35). The leave can begin within thirty-five weeks after the child is born or comes into the care of a parent for the first time (subsection 38a (2)). Employees have the same rights to benefits during leave as employees on pregnancy leave (section 38e).

An employee who stopped work or ended pregnancy leave on or after November 18, 1990 but before this Bill comes into force and who would have been entitled to leave under the new scheme is, in certain circumstances, deemed to have taken leave (sections 38h, 38i).

Section 3 of the Bill amends subsection 47 (1) of the Act so that an employment standards officer's order to an employer to pay amounts under the Part on pregnancy and parental leave is not subject to a \$4,000 limitation.

An Act to amend the Employment Standards Act with respect to Pregnancy and Parental Leave

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

1. The heading preceding section 35 of the *Employment Standards Act* is repealed and the following substituted:

PREGNANCY AND PARENTAL LEAVE

2. Sections 35, 36, 37 and 38 of the Act are repealed and the following substituted:

35. In this Part,

“parent” includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own;

“parental leave” means a leave of absence under subsection 38a (1);

“pregnancy leave” means a leave of absence under subsection 36 (1).

36.—(1) A pregnant employee who started employment with her employer at least thirteen weeks before the expected birth date is entitled to a leave of absence without pay.

(2) An employee may begin pregnancy leave no earlier than seventeen weeks before the expected birth date.

(3) The employee must give the employer,

- (a) at least two weeks written notice of the date the leave is to begin; and
- (b) a certificate from a legally qualified medical practitioner stating the expected birth date.

37.—(1) Subsection 36 (3) does not apply in the case of an employee who stops working because of complications caused by her pregnancy or because of a birth, still-birth or miscarriage that happens earlier than the employee was expected to give birth.

(2) An employee described in subsection (1) must, within two weeks of stopping work, give the employer,

- (a) written notice of the date the pregnancy leave began or is to begin; and
- (b) a certificate from a legally qualified medical practitioner that,
 - (i) in the case of an employee who stops working because of complications caused by her pregnancy, states the employee is unable to perform her duties because of complications caused by her pregnancy and states the expected birth date, or
 - (ii) in any other case, states the date of the birth, still-birth or miscarriage and the date the employee was expected to give birth.

38.—(1) The pregnancy leave of an employee who is entitled to take parental leave ends seventeen weeks after the pregnancy leave began.

(2) The pregnancy leave of an employee who is not entitled to take parental leave ends on the later of the day that is seventeen weeks after the pregnancy leave began or the day that is six weeks after the birth, still-birth or miscarriage.

(3) The pregnancy leave of an employee ends on a day earlier than the day provided for in subsection (1) or (2) if the employee gives the employer at least four weeks written notice of that day.

38a.—(1) An employee who has been employed by his or her employer for at least thirteen weeks and who is the parent of a child is entitled to a leave of absence without pay following,

- (a) the birth of the child; or
- (b) the coming of the child into the custody, care and control of a parent for the first time.

(2) Parental leave may begin no more than thirty-five weeks after the day the child is born or comes into the custody, care and control of a parent for the first time.

End of pregnancy leave if parental leave available

End of pregnancy leave if parental leave not available

End of pregnancy leave on employee notice

Parental leave

Restriction on when leave may begin

Definitions

Pregnancy leave

When leave may begin

Notice

Special circumstances

Notice in special circumstances

When mother's parental leave may begin

(3) The parental leave of an employee who takes a pregnancy leave must begin when the pregnancy leave ends unless the child has not yet come into the custody, care and control of a parent for the first time.

for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee's contributions, if any.

Notice

(4) The employee must give the employer at least two weeks written notice of the date the leave is to begin.

(4) Seniority continues to accrue during pregnancy leave or parental leave.

Seniority

Special circumstances

38b.—(1) Subsection 38a (4) does not apply in the case of an employee who is the parent of a child and who stops working because the child comes into the custody, care and control of a parent for the first time sooner than expected.

38f.—(1) The employer of an employee who has taken pregnancy leave or parental leave shall reinstate the employee when the leave ends to the position the employee most recently held with the employer, if it still exists, or to a comparable position, if it does not.

Reinstater

When leave in special circumstances begins

(2) The parental leave of an employee described in subsection (1) begins on the day the employee stops working.

(2) If the employer's operations were suspended or discontinued while the employee was on leave and have not resumed when the leave ends, the employer shall reinstate the employee, when the operations resume, in accordance with the employer's seniority system or practice, if any.

Reinstaten where employer's operations have been suspended etc.

Notice

(3) An employee described in subsection (1) must give the employer written notice that the employee wishes to take leave within two weeks after the employee stops working.

(3) The employer shall pay a reinstated employee wages that are at least equal to the greater of,

Wages

End of parental leave

38c. Parental leave ends eighteen weeks after it began or on an earlier day if the employee gives the employer at least four weeks written notice of that day.

- (a) the wages the employee was most recently paid by the employer; or
- (b) the wages that the employee would be earning had the employee worked throughout the leave.

Change of notice to begin leave

38d.—(1) An employee who has given notice to begin pregnancy leave or parental leave may change the notice,

38g. An employer shall not intimidate, discipline, suspend, lay off, dismiss or impose a penalty on an employee because the employee is or will become eligible to take, intends to take or takes pregnancy leave or parental leave.

No discipli etc., becau of leave

- (a) to an earlier date if the employee gives the employer at least two weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least two weeks written notice before the date leave was to begin.

Change of notice to end leave

(2) An employee who has given notice to end leave may change the notice,

38h.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force and who would have been entitled to pregnancy leave if section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990 had come into force before she stopped work.

Transitiona pregnancy leave

- (a) to an earlier date if the employee gives the employer at least four weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least four weeks written notice before the date leave was to end.

Rights during leave

38e.—(1) During pregnancy leave or parental leave, an employee continues to participate in each type of benefit plan described in subsection (2) that is related to his or her employment unless he or she elects in writing not to do so.

(2) A person to whom this section applies shall be deemed to have taken a pregnancy leave beginning when the person stopped work if,

Idem

- (a) the stopping of work was related to the person's pregnancy; and
- (b) when the person stopped work, she was not entitled to pregnancy leave.

Benefit plans

(2) For the purpose of subsection (1), the types of plans are pension plans, life insurance plans, accidental death plans, extended health plans, dental plans and any other types of benefit plans that are prescribed.

38i.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force, whether or not the person took a pregnancy leave that ended during that period, or whose pregnancy leave ended during that period and

Transitional parental leave

Employer contributions

(3) During an employee's pregnancy leave or parental leave, the employer shall continue to make the employer's contributions

who did not return to work if the person would have been entitled to parental leave had section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave), 1990* come into force before the person stopped work or before the pregnancy leave ended.

(2) A person to whom this section applies shall be deemed to have taken a parental leave beginning when the person stopped work or when the person's pregnancy leave ended if the stopping of work or the not returning to work was related to the birth of a child or to the coming of a child into the custody, care and control of a parent for the first time.

38j. Section 38e does not apply in respect of any period before this section comes into force.

3. Subclauses 47 (1) (c) (i) and (ii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3, are repealed and the following substituted:

(i) the sum of \$4,000 with respect to any wages other than the employee's severance pay or an amount payable to the employee under Part XI, plus

(ii) the amount of the employee's severance pay, if any, plus

(iii) the amount payable to the employee under Part XI.

4. Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7, is further amended by adding the following clause:

(ra) prescribing types of benefit plans for the purpose of subsection 38e (2).

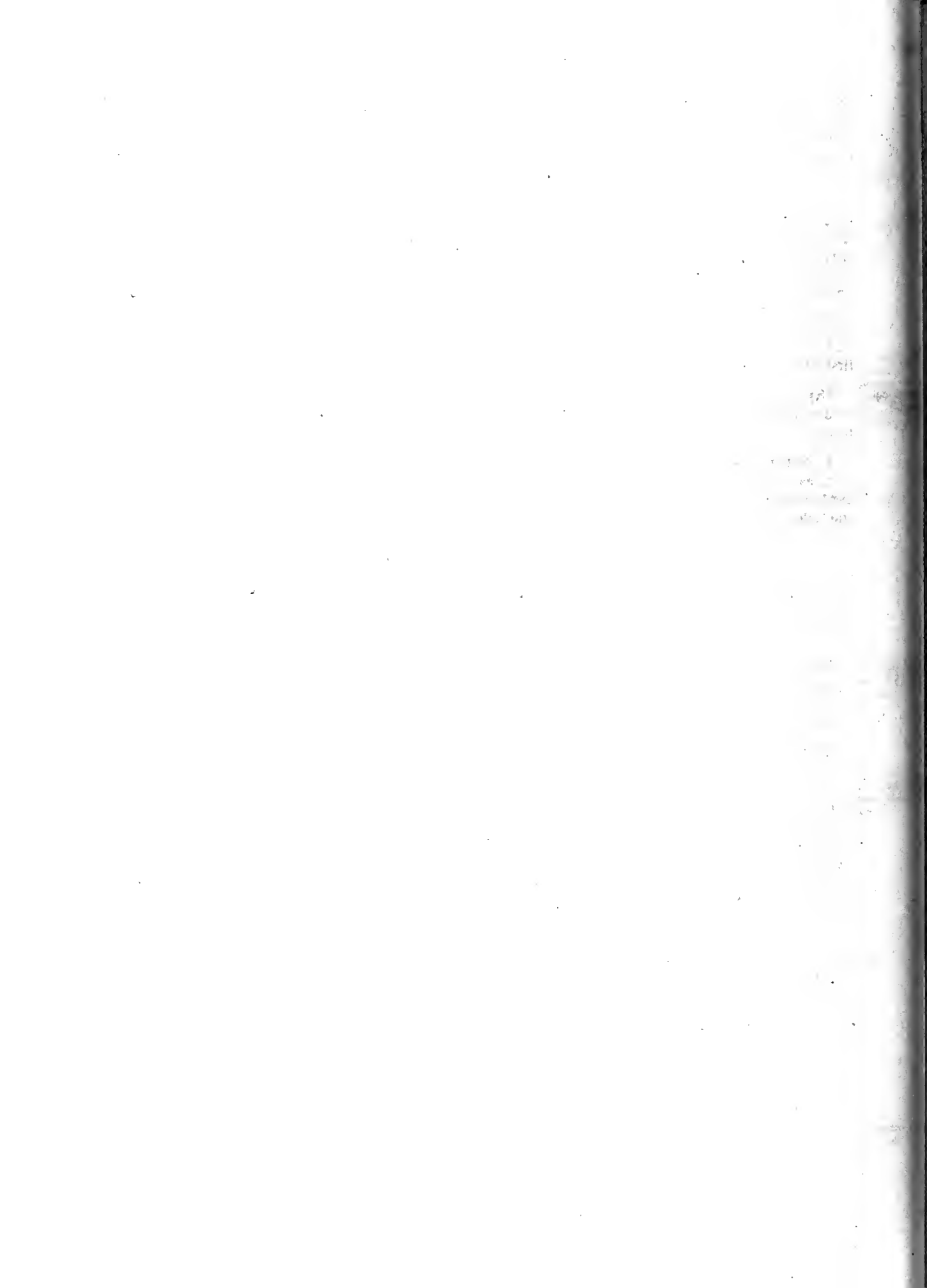
5. This Act comes into force on the day it receives Royal Assent.

Commencement

6. The short title of this Act is the *Employment Standards Amendment Act (Pregnancy and Parental Leave), 1990*.

Short title

Remuneration
where employee operates have been suspended etc.
Transitional benefits
Wages
No discrimination etc., based on leave
Transitional pregnancy leave
Identical
Parental leave







Bill 14

*(Chapter 26
Statutes of Ontario, 1990)*

**An Act to amend the
Employment Standards Act
with respect to Pregnancy and Parental Leave**

The Hon. B. Mackenzie
Minister of Labour

1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format



An Act to amend the Employment Standards Act with respect to Pregnancy and Parental Leave

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

1. The heading preceding section 35 of the *Employment Standards Act* is repealed and the following substituted:

PREGNANCY AND PARENTAL LEAVE

2. Sections 35, 36, 37 and 38 of the Act are repealed and the following substituted:

35. In this Part,

“parent” includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own;

“parental leave” means a leave of absence under subsection 38a (1);

“pregnancy leave” means a leave of absence under subsection 36 (1).

36.—(1) A pregnant employee who started employment with her employer at least thirteen weeks before the expected birth date is entitled to a leave of absence without pay.

(2) An employee may begin pregnancy leave no earlier than seventeen weeks before the expected birth date.

(3) The employee must give the employer,

- (a) at least two weeks written notice of the date the leave is to begin; and
- (b) a certificate from a legally qualified medical practitioner stating the expected birth date.

37.—(1) Subsection 36 (3) does not apply in the case of an employee who stops working because of complications caused by her pregnancy or because of a birth, still-birth or miscarriage that happens earlier than the employee was expected to give birth.

(2) An employee described in subsection (1) must, within two weeks of stopping work, give the employer,

(a) written notice of the date the pregnancy leave began or is to begin; and

(b) a certificate from a legally qualified medical practitioner that,

(i) in the case of an employee who stops working because of complications caused by her pregnancy, states the employee is unable to perform her duties because of complications caused by her pregnancy and states the expected birth date, or

(ii) in any other case, states the date of the birth, still-birth or miscarriage and the date the employee was expected to give birth.

38.—(1) The pregnancy leave of an employee who is entitled to take parental leave ends seventeen weeks after the pregnancy leave began.

(2) The pregnancy leave of an employee who is not entitled to take parental leave ends on the later of the day that is seventeen weeks after the pregnancy leave began or the day that is six weeks after the birth, still-birth or miscarriage.

(3) The pregnancy leave of an employee ends on a day earlier than the day provided for in subsection (1) or (2) if the employee gives the employer at least four weeks written notice of that day.

38a.—(1) An employee who has been employed by his or her employer for at least thirteen weeks and who is the parent of a child is entitled to a leave of absence without pay following,

- (a) the birth of the child; or
- (b) the coming of the child into the custody, care and control of a parent for the first time.

(2) Parental leave may begin no more than thirty-five weeks after the day the child is born or comes into the custody, care and control of a parent for the first time.

End of pregnancy leave if parental leave available

End of pregnancy leave if parental leave not available

End of pregnancy leave on employee notice

Parental leave

Restriction on when leave may begin

Definitions

Pregnancy leave

When leave may begin

Notice

Special circumstances

Notice in special circumstances

When mother's parental leave may begin

(3) The parental leave of an employee who takes a pregnancy leave must begin when the pregnancy leave ends unless the child has not yet come into the custody, care and control of a parent for the first time.

Notice

(4) The employee must give the employer at least two weeks written notice of the date the leave is to begin.

Special circumstances

38b.—(1) Subsection 38a (4) does not apply in the case of an employee who is the parent of a child and who stops working because the child comes into the custody, care and control of a parent for the first time sooner than expected.

When leave in special circumstances begins

(2) The parental leave of an employee described in subsection (1) begins on the day the employee stops working.

Notice

(3) An employee described in subsection (1) must give the employer written notice that the employee wishes to take leave within two weeks after the employee stops working.

End of parental leave

38c. Parental leave ends eighteen weeks after it began or on an earlier day if the employee gives the employer at least four weeks written notice of that day.

Change of notice to begin leave

38d.—(1) An employee who has given notice to begin pregnancy leave or parental leave may change the notice,

- (a) to an earlier date if the employee gives the employer at least two weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least two weeks written notice before the date leave was to begin.

Change of notice to end leave

(2) An employee who has given notice to end leave may change the notice,

- (a) to an earlier date if the employee gives the employer at least four weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least four weeks written notice before the date leave was to end.

Rights during leave

38e.—(1) During pregnancy leave or parental leave, an employee continues to participate in each type of benefit plan described in subsection (2) that is related to his or her employment unless he or she elects in writing not to do so.

Benefit plans

(2) For the purpose of subsection (1), the types of plans are pension plans, life insurance plans, accidental death plans, extended health plans, dental plans and any other types of benefit plans that are prescribed.

Employer contributions

(3) During an employee's pregnancy leave or parental leave, the employer shall continue to make the employer's contributions

for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee's contributions, if any.

(4) Seniority continues to accrue during pregnancy leave or parental leave.

Seniority

38f.—(1) The employer of an employee who has taken pregnancy leave or parental leave shall reinstate the employee when the leave ends to the position the employee most recently held with the employer, if it still exists, or to a comparable position, if it does not.

Reinstatement

(2) If the employer's operations were suspended or discontinued while the employee was on leave and have not resumed when the leave ends, the employer shall reinstate the employee, when the operations resume, in accordance with the employer's seniority system or practice, if any.

Reinstatement where employer's operations have been suspended, etc.

(3) The employer shall pay a reinstated employee wages that are at least equal to the greater of,

Wages

- (a) the wages the employee was most recently paid by the employer; or
- (b) the wages that the employee would be earning had the employee worked throughout the leave.

38g. An employer shall not intimidate, discipline, suspend, lay off, dismiss or impose a penalty on an employee because the employee is or will become eligible to take, intends to take or takes pregnancy leave or parental leave.

No discipline etc. because of leave

38h.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force and who would have been entitled to pregnancy leave if section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave), 1990* had come into force before she stopped work.

Transitional, pregnancy leave

(2) A person to whom this section applies shall be deemed to have taken a pregnancy leave beginning when the person stopped work if,

Idem

- (a) the stopping of work was related to the person's pregnancy; and
- (b) when the person stopped work, she was not entitled to pregnancy leave.

38i.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force, whether or not the person took a pregnancy leave that ended during that period, or whose pregnancy leave ended during that period and

Transitional, parental leave

who did not return to work if the person would have been entitled to parental leave had section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave), 1990* come into force before the person stopped work or before the pregnancy leave ended.

(2) A person to whom this section applies shall be deemed to have taken a parental leave beginning when the person stopped work or when the person's pregnancy leave ended if the stopping of work or the not returning to work was related to the birth of a child or to the coming of a child into the custody, care and control of a parent for the first time.

38j. Section 38e does not apply in respect of any period before this section comes into force.

3. Subclauses 47 (1) (c) (i) and (ii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3, are repealed and the following substituted:

(i) the sum of \$4,000 with respect to any wages other than the employee's severance pay or an amount payable to the employee under Part XI, plus

(ii) the amount of the employee's severance pay, if any, plus

(iii) the amount payable to the employee under Part XI.

4. Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7, is further amended by adding the following clause:

(ra) prescribing types of benefit plans for the purpose of subsection 38e (2).

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

6. The short title of this Act is the *Employment Standards Amendment Act (Pregnancy and Parental Leave), 1990.* Short title





Bill 15

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

The Hon. C. Wildman
Minister Responsible for Native Affairs

1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to fulfil Ontario's obligations to transfer land in Manitoulin, Barrie and Cockburn Islands under an agreement entered into by five First Nations and Ontario.

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

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

1.—(1) Subject to subsection (5), the road allowances described in Schedule 1 are stopped up and closed as highways.

(2) Subject to subsection (4), the administration, management and control and the soil and freehold of the road allowances closed by subsection (1), including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(3) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the road allowances closed by subsection (1).

(4) A right of way for all purposes in, over, along and on the land described Thirdly in Schedule 1 vests in the owners, their heirs and assigns and the occupants from time to time of the portion of Lot 14 in Concession 9 in the Township of Howland, District of Manitoulin lying west of the body of water known as Sucker Creek.

(5) Subsection (1) does not apply in respect of the road allowance of any public highway that, at the time this Act comes into force,

- (a) is in actual use as a public highway or road; and
- (b) is regularly maintained by a provincial or municipal authority.

(6) Work done as a result of a grant paid under the *Public Transportation and Highway Improvement Act* by Ontario to an Indian band does not constitute regular maintenance by a provincial authority within the meaning of subsection (5).

(7) Maintenance of a highway or road by a municipal corporation paid for by an Indian band under an agreement between the band and the municipal corporation does not constitute regular maintenance by a municip-

pal authority within the meaning of subsection (5).

(8) The road allowance between Concession 8 and Concession 9 across lots 11, 12, 13, 14, 15, 16 and 17 in the Township of Howland, District of Manitoulin, bounded on the west by the shore allowance along the limit of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9 to the northwestern corner of Lot 10, Concession 8, shall be deemed not to be a road allowance of a public highway in actual use within the meaning of subsection (5).

2.—(1) Subject to subsection (2), subsection 258 (1) of the *Municipal Act* applies in respect of Manitoulin Island, Barrie Island and Cockburn Island, being islands in the District of Manitoulin.

(2) Subsection 258 (1) of the *Municipal Act* does not apply in respect of,

- (a) the road allowances closed by subsection 1 (1); and
- (b) the King's Highway, any controlled-access highway, any secondary highway and any other highway that is under the jurisdiction and control of the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*.

3.—(1) The administration, management and control and the soil and freehold of the land described in Schedule 2, including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(2) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the land described in Schedule 2.

4.—(1) An easement for water and sewage works in, over, along and on the parts of Lot 1 west of Bay Street and north of Queen Street and the parts of Lot 2 west

ad
allowances
closed

closed road
allowances
vest in
Canada

mineral
rights

right of way

public
highways in
actual use

idem

idem

Idem

Road
allowances
vest in
municipalities

Exception

Schedule 2
land vests in
Canada

Mineral
rights in
Schedule 2
land

Water and
sewage works
easement

of Bay Street and north of Lot 1 in the Town Plot of Manitowaning in the Township of Assiginack, District of Manitoulin shown as Parts 1, 2, 3, 4 and 5 on the plan deposited in the Land Registry Office for the Registry Division of Manitoulin on the 4th day of November, 1974 as Plan 31R-343 vests in Her Majesty the Queen in right of Ontario, as represented by the Minister of the Environment.

Idem

(2) Section 13 of the *Ontario Water Resources Act* applies in relation to the easement vested by subsection (1) and for the purpose this Act shall be deemed to be an instrument of the type mentioned in subsection 13 (1) of the *Ontario Water Resources Act* that has been registered in the proper land registry office.

Schedule 3
land

5. Subject to section 4, an estate in fee simple in the land described in Schedule 3 vests in Debendmang Native Community Economic Development Association (Manitoulin), in trust.

Existing
rights
preserved

6.—(1) No right of way or other easement or other right that is registered under the *Registry Act* or *Land Titles Act* or is openly enjoyed and used or is for public utility purposes and no possessory right that is openly enjoyed and used is affected by this Act.

Idem

(2) Subsection (1) applies only in respect of rights acquired in law or equity before the day on which this Act comes into force.

Commence-
ment

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

Short title

8. The short title of this Act is the *Manitoulin, Barrie and Cockburn Islands Land Act, 1990*.

SCHEDULE 1

FIRSTLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lot 24, Concession 19, bounded on the east by the northern production of the centre line of the road allowance between Lot 24, Concession 19, and the Sheshegwaning Indian Reserve No. 20, and bounded on the west by the eastern production of the northern limit of the road allowance between Concessions 19 and 20.

SECONDLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 25, 26 and 27, Concession 19, bounded on the east by the western production of the northern limit of the road allow-

ance between Concessions 19 and 20, and bounded on the west by the northern production of the western limit of Lot 27, Concession 19.

THIRDLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 16, 17 and 18, bounded on the north by the road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

FOURTHLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 18 and 19, bounded on the south by the road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the road allowance along the shore of Lake Huron.

FIFTHLY:

That part of the shore road allowance along the shore of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

SIXTHLY:

That part of the road allowance between Concessions 15 and 16 in front of Lots 25, 26, 27, and 28.

SEVENTHLY:

The north half of that part of the road allowance between Concessions 15 and 16 in front of Lot 24, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

EIGHTHLY:

That part of the road allowance between Concessions 17 and 18, in front of Lots 24, 25, 26, 27, and 28, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

NINTHLY:

That part of the road allowance between Concessions 19 and 20, in front of Lots 24 and 25, bounded on the east by the road allowance along the shore of Lake Huron, and bounded on the west by the road allowance along the shore of Lake Huron.

SECONDNDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

The road allowance between Concessions 21 and 22 in front of Lots 10, 11, 12, 13, 14, and 15.

SECONDNDLY:

The road allowance between Concessions 21 and 22 in front of Lots 17, 18, and 19.

THIRDLY:

That part of the shore road allowance along the shore of Lake Huron abutting Concessions 20, 21, and 22, bounded on the southeast by the eastern production of the southern limit of Lot 12, Concession 20, and bounded on the southwest by the western production of the southern limit of Lot 21, Concession 20, SAVE AND EXCEPT that portion of the said road allowance in front of Lot 11, Concession 22, and also SAVE AND EXCEPT that portion of the said road allowance in front of Lots 12 and 13, Concession 22, bounded on the east by a line drawn North 45° East astronomic from the eastern corner of Part 2 as shown on a plan deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458, and bounded on the west by a line drawn North 45° West astronomic from the western corner of Part 1 as shown on said plan.

FOURTHLY:

The road allowance between Lots 15 and 16, Concessions 20 and 21, bounded on the north by the shore allowance along the shore of Lake Huron and bounded on the south by the north limit of the road allowance abutting the north boundary of the Sheshewaning Indian Reserve No. 20.

FIFTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Concession 13, in front of Lots 18, 19, 20, 21, 22, and 23 and that part of the road allowance between Concessions 13 and 14 in front of Lot 24, bounded on the east by the shore of Lake Huron, and bounded on the west by a line drawn north astronomic from the northeastern corner of Lot 25, Concession 13.

SIXTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Lot 24, across Concessions 14 and 15, bounded on the north by the eastern production of the centre line of the road allowance between Concessions 15 and 16, and bounded on the south by the road allowance between Concessions 13 and 14.

SEVENTHLY:

The eastern half of that part of the road allowance between the Sheshewaning Indian Reserve and Lot 24 across Concessions 16, 17, and 18, bounded on the north by the shore road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

EIGHTHLY:

That part of the shore road allowance along the shore of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line on the road allowance between the Sheshewaning Indian Reserve and Lot 24, Concession 18.

NINTHLY:

The eastern half of that part of the road allowance between the Sheshewaning Indian Reserve and Lot 24 across Concessions 18 and 19, bounded on the south by the shore road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the shore road allowance along the shore of Lake Huron.

TENTHLY:

That part of the shore road allowance along the southern shore of Lake Huron, on the northern limit of the Sheshewaning Indian Reserve, bounded on the west by the northern production of the centre line of the road allowance between the Sheshewaning Indian Reserve and Lot 24, Concession 19, and bounded on the east by the western production of the southern limit of Lot 21, Concession 20.

ELEVENTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Concession 20, in front of Lots 12 to 22, both inclusive, bounded on the west by the shore road allowance along the shore of Lake Huron and bounded on the east by the shore road allowance along the shore of Lake Huron.

TWELFTHLY:

That part of the shore road allowance along the shore of Lake Huron, on the eastern side of the Sheshewaning Indian Reserve, bounded on the south by the eastern production of the northern limit of Lot 18, Concession 13, and bounded on the north by the eastern production of the southern limit of Lot 12, Concession 20.

THIRTEENTHLY:

That part of the bed of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line of the road allowance between the Sheshewaning Indian Reserve No. 20 and Lot 24, Concession 18.

FOURTEENTHLY:

That part of the road allowance between Lots 20 and 21, Concessions 20 and 21.

THIRDLY

Land for the benefit of The Sucker Creek Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 17, 18, 19, and 20, Concession 8, and Lots 16 and 17, Concession 9, bounded on the west by the northern production of the eastern limit of Lot 21, Concession 7, and bounded on the east by the northern production of the western limit of Lot 15, Concession 9.

SECONDLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 11, 12, 13, 14, 15, 16, and 17, bounded on the west by the shore road allowance along the shore of Lake Huron, and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9, to the northwestern corner of Lot 10, Concession 8.

THIRDLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 12, 13, 14, 15, 16, 17, and 18, bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6, and bounded on the east by the line joining the south-

eastern corner of Lot 12, Concession 7, to the north-eastern corner of Lot 12, Concession 6.

FOURTHLY:

That part of the road allowance between Lots 10 and 11, across Concession 8, bounded on the north by the road allowance between Concessions 8 and 9, and bounded on the south by the line joining the southeastern corner of Lot 11, Concession 8, to the southwestern corner of Lot 10, Concession 8.

FIFTHLY:

That part of the road allowance between Lots 15 and 16, across Concessions 7, 8 and 9, bounded on the south by the road allowance between Concessions 6 and 7, and bounded on the north by the shore road allowance along the shore of Lake Huron.

SIXTHLY:

That part of the road allowance between Lot 20, Concession 8, and Lot 21, Concession 7, bounded on the north by the shore road allowance along the shore of lake Huron, and bounded on the south by a line drawn on the western production of the southern limit of Lot 20, Concession 8.

SAVE AND EXCEPT from the lots and road allowances described in **THIRDLY**, **FOURTHLY** and **FIFTHLY** above, those parts of the said road allowances that have been designated as Secondary Highway No. 540 by Order-in-Council OC-1541/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14585 (Ministry of Transportation Plan P-2607-38).

FOURTHLY

Land for the benefit of The Sheguiandah Band
Township of Sheguiandah

ALL those parcels of land in the Township of Sheguiandah, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concession B, and Lot 5, Concessions 8, 9, 10, 11, 12, and 13, and Assickinack Street, bounded on the north by the road allowance along the shore of Bass Lake and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 5, Concession 8.

SECONDLY:

That part of the road allowance between Concessions A and B, bounded on the north by the line joining the northeastern corner of Lot 31, Concession B, to the northwestern corner of Lot 31, Concession A, and bounded on the south by the line joining the southeastern corner of Lot 22, Concession B, to the southwestern corner of Lot 22, Concession A.

THIRDLY:

That part of the road allowance between Concession A, and Lot 11, Concessions 9, 10, 11, 12, and 13, bounded on the north by a line drawn on a course of East astronomic from the northeastern corner of Lot 31, Concession A, and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 22, Concession A, **SAVE AND EXCEPT** that part of the said road allowance designated as part of Highway No. 6 by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the

District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

FOURTHLY:

That part of the shore road allowance along the southern shore of Bass Lake, in front of Lots 1, 2, 3, 4, and 5, Concession 13, bounded on the west by the road allowance along the line between the Townships of Sheguiandah and Bidwell, and bounded on the east by the eastern limit of Assickinack Street as shown on the Town Plot of Sheguiandah.

FIFTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 1, 2, 3, 4, and 5.

SIXTHLY:

That part of the road allowance between Concessions 10 and 11, in front of Lots 1, 2, 3, 4, and 5.

SEVENTHLY:

That part of the road allowance between Concessions 12 and 13, in front of Lots 1, 2, 3, 4, and 5.

EIGHTHLY:

Those parts of the road allowance between Lots 25 and 26, across Concessions A and B.

NINTHLY:

Anderson Street as shown on the Town Plot of Sheguiandah, bounded on the west by Assickinack Street, and bounded on the east by the western limit of the road allowance between Concession A and Lot 11, Concession 13, **SAVE AND EXCEPT** that part of Anderson Street transferred to the Ministry of Transportation by Order-in-Council P.C. 1958-1676 dated 17th December 1958, and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin under No. 86 (Ministry of Transportation Plan P-2460-14).

TENTHLY:

Those parts of the road allowance between Lots 30 and 31 across Concessions A and B, **SAVE AND EXCEPT** that part of the said road allowance designated as Highway 6, by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

ELEVENTHLY:

In the Plan of the Town Plot of Sheguiandah recorded in the Canada Land Survey Records as No. T660, the shore road allowance on Sheguiandah Bay abutting Lots 13, 14, and 15, North of Anderson Street, bounded on the north by the easterly production of the southerly limit of Dupont Street and on the east by the northerly production of the westerly limit of Robinson Street.

FIFTHLY

Land for the benefit of The Sheguiandah Band
Townships of Sheguiandah and Bidwell

ALL that parcel of land in the Townships of Sheguiandah and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance along the line between the Townships of Sheguiandah and Bidwell bounded on the north by the southern shore of Bass Lake, and bounded on the south by a line drawn on

a course of West astronomic from the southwestern corner of Lot 1, Concession 8, in the Township of Sheguiandah.

SIXTHLY

Land for the benefit of The West Bay Band
Township of Billings and Carnarvon

ALL those parcels of land in the Township of Billings, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concessions 2 and 3 in front of Lots 6, 7, 8, and 9, bounded on the west by the shore road allowance along the shore of Lake Mindemoya and bounded on the east by the line joining the southwestern corner of Lot 5, Concession 3, to the northwestern corner of Lot 5, Concession 2.

SECONDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 18 bounded both on the east and on the west by the shore road allowance along the shore of Lake Mindemoya.

THIRDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 19 bounded on the east by the shore road allowance along the shore of Lake Mindemoya and bounded on the west by the line joining the southeastern corner of Lot 20, Concession 3, to the northeastern corner of Lot 20, Concession 2.

FOURTHLY:

That part of the road allowance between Concessions 4 and 5, in front of Lots 6 to 19, both inclusive, bounded on the east by the shore road allowance along the shore of Whitefish Lake and bounded on the west by the line joining the southwestern corner of Lot 19, Concession 5, to the northwestern corner of Lot 19, Concession 4.

FIFTHLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 6 to 18, both inclusive, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 7, to the northwestern corner of Lot 5, Concession 6, and bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6.

SIXTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lot 6, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 9 to the northwestern corner of Lot 5, Concession 8, and bounded on the west by the shore road allowance along the shore of Honora Bay of Lake Huron.

SEVENTHLY:

That part of the road allowance between Concessions 8 and 9 in front of Lots 10, 11, 12, 13, 14, 15, 16, and 17, bounded on the east by the shore road allowance along the shore of Honora Bay of Lake Huron, and bounded on the west by the shore road allowance along the shore of Saugigansing Lake (Mud Lake).

EIGHTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 18 and 19, bounded on the east by the shore road allowance along the shore of Saugigansing Lake (Mud Lake) and bounded on the west by a line joining the southwestern corner of Lot 19, Concession 9 and the northwestern corner of Lot 19, Concession 8.

NINTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 1, 2 and 3, bounded on the north by the shore road allowance along the shore of Whitefish Lake, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

TENTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 5, 6, 7, 8 and 9, bounded on the south by the shore road allowance along the shore of Whitefish Lake, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

ELEVENTHLY:

Those parts of the road allowance between Lots 10 and 11, across Concessions 3, 4, 5, 6, and 7, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the southern limit of the Kagawong Road. And also those parts of the said road allowance between Lots 10 and 11 across Concessions 8 and 9, bounded on the south by the eastern production of the line at the north limit of the south half of Lot 11, Concession 8, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

TWELFTHLY:

Those parts of the road allowance between Lots 15 and 16, across Concessions 4, 5, 6, 7, 8, and 9, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the line joining the northeastern corner of Lot 16, Concession 9, to the northwestern corner of Lot 15, Concession 9.

THIRTEENTHLY:

The entire shore road allowance along the shore of Saugigansing Lake (Mud Lake).

FOURTEENTHLY:

That part of the shore road allowance along the northern, western and southern shores of Whitefish Lake, bounded on the northern side of the Lake by the southern production of the western limit of Lot 5, Concession 5, and bounded on the southern side of the Lake by the northern production of the western limit of Lot 5, Concession 3.

FIFTEENTHLY:

That part of the shore road allowance along the northeastern shore of Lake Mindemoya, bounded on the west by the southern production of the eastern limit of Lot 20, Concession 2, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

SIXTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the east by the northern production of the west limit of Lot 5, Concession 9, and bounded on the west by the eastern production of the northern limit of Kagawong Road.

SEVENTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the south by the eastern production of the north limit of Lot 10, Concession 8, and bounded on the north by the eastern production of the south limit of Lot 12, Concession 10.

EIGHTEENTHLY:

That part of the road allowance along the line between the Townships of Billings and Carnarvon bounded on the west by the eastern shore of Lake Mindemoya and bounded on the east by the southern production of the west limit of Lot 5, Concession I in the Township of Billings.

SAVE AND EXCEPT from the lots, streets and road allowances described as **FIRSTLY** through **SEVENTEENTHLY** above, those parts of the said lots and streets that have been designated as Secondary Highway by the following:

FIRSTLY:

Secondary Highway No. 540 assumed by Order-in-Council OC 1096/56 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. 79 (Ministry of Transportation Plan A-46-4).

SECONDLY:

Secondary Highway No. 540 designated by Order-in-Council OC 2532/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-15026 (Ministry of Transportation Plan P-2458/13).

THIRDLY:

Secondary Highway No. 551 designated by Order-in-Council OC 1513/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14554 (Ministry of Transportation P-7086-7) and by Order-in-Council OC-710/88 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as Number 4539, (Ministry of Transportation Plan P-7085-25).

FOURTHLY:

Secondary Highway No. 540 as shown on a plan recorded in the Canada Lands Surveys Records in Ottawa as Number Rd 4272 and registered in the Land Registry Office for the District of Manitoulin on the 14th day of May 1965 as Number 75 (Ministry of Transportation Plan P-2458-7).

SEVENTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL those parcels of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron, bounded on the south by the western production of the southern limit of Lot 34,

Concession 11, and bounded on the northeast by the northern production of the eastern limit of the road allowance between Lots 30 and 31, Concession 14.

SECONDLY:

Those parts of the road allowance between Lots 30 and 31, across Concessions 11, 12, 13, and 14, bounded on the south by the line joining the southwestern corner of Lot 30, Concession 11, to the southeastern corner of Lot 31, Concession 11, and bounded on the north by the shore of Lake Huron.

THIRDLY:

That part of the road allowance between Concessions 11 and 12, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 30, Concession 12, to the northwestern corner of Lot 30, Concession 11.

FOURTHLY:

That part of the road allowance between Concessions 13 and 14, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southeastern corner of Lot 30, Concession 14, to the northeastern corner of Lot 30, Concession 13.

EIGHTHLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the southern and western shore of Perch Lake bounded on the north by the eastern production of the northern limit of Lot 20, Concession 1, and bounded on the east by the northern production of the eastern limit of Lot 18, Concession 1.

SECONDLY:

The road allowance between Lots 20 and 21, across Concession 1.

NINTHLY

Land for the benefit of The Sheguiandah Band
Townships of Howland and Bidwell

ALL that parcel of land in the Townships of Howland and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance between the Townships of Howland and Bidwell bounded on the west by the southern production of the western limit of Lot 22, Concession 1, in the Township of Howland, and bounded on the east by the western limit of a Public Road running southerly from the said road allowance between townships opposite Lot 19, Concession 1, in the Township of Howland.

SCHEDULE 2**FIRSTLY**

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 18, 19, 20, 21 and 22, Concession 1.

SECONDLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 25, 26 and 27, Concession 19.

SECONDLY:

That part of the bed of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

THIRDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 12, 13, 14, 15, 16, 17, 18, and 19, Concession 20,

Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, Concession 21,

Lots 10, 14, 15, 17, 18, and 19, Concession 22.

SECONDLY:

Lots 12 and 13, Concession 22, SAVE AND EXCEPT those parts of the said lots designated as Parts 1 and 2 on a Reference Plan of Survey deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458.

THIRDLY:

Lot 24, Concession 14,

Lot 24, Concession 15,

Lots 20, 21, and 22, Concession 20,

Lot 20, Concession 21.

FOURTHLY

Land for the benefit of The West Bay Band
Townships of Billings and Carnarvon

ALL those parcels of land in the Townships of Billings and Carnarvon, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of Whitefish Lake lying west of the line joining the point where the western limit of Lot 5, Concession 3, produced northerly intersects the shore of Whitefish Lake, with the point where the western limit of Lot 5, Concession 5, produced southerly intersects the shore of Whitefish Lake.

SECONDLY:

Lake Saugigansing in front of Lots 17 and 18, Concession 8, and Lots 16, 17, and 18, in Concession 9.

THIRDLY:

That part of Lake Mindemoya lying northeasterly of the line joining the point where the southern limit of the road allowance between the Townships of Billings and Carnarvon intersects the eastern shore of

Lake Mindemoya, to the point where the southern production of the western limit of Lot 19, Concession 2, intersects the shore of Lake Mindemoya.

FIFTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL that parcel of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 30, Concession 13.

SCHEDULE 3

FIRSTLY

Town Plot of Meldrum Bay
Township of Dawson

ALL those parcels of land in the Town Plot of Meldrum Bay, in the Township of Dawson, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 6, West side of McDonald Avenue;

Lots 9, 10, 11 and 12, East side of Young Avenue;

Lots 9, 10, 11 and 12, West side of Young Avenue;

Lots 1 to 12, both inclusive, East side of Scott Avenue;

All as shown on the Plan of the Town Plot of Meldrum Bay recorded in the Canada Lands Surveys Records as No. T416, and recorded in the Land Registry Office for the District of Manitoulin as No. 46.

SECONDLY

Town Plot of Manitowaning
Township of Assignack

ALL those parcels of land in the Town Plot of Manitowaning, in the Township of Assignack, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lot 18, South side of Queen Street;

SECONDLY:

All of Lot 1, West side of Bay Street and North side of Queen Street, and all of Lot 2, West side of Bay Street, and North side of Queen Street;

SAVE AND EXCEPT that part of the said Lots 1 and 2 described as follows:

Commencing at the southwestern corner of the said Lot 1;

THENCE easterly along the northern limit of Queen Street 66 feet;

THENCE northerly parallel with the western limit of the said Lot 1, 132 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet;

THENCE northerly parallel with the western limit of the said Lot 2, 33 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet more or less to the western limit of the said Lot 2;

THENCE southerly along the western limit of the said Lots 2 and 1, 165 feet more or less to the point of commencement;

The excepted lands being the same as those described as Firstly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of July 1962 as Number T-3686.

AND ALSO SAVE AND EXCEPT that part of the said Lot 2 described as follows:

Commencing at the northeastern corner of Lot 3, East side of Arthur Street and North of Queen Street;

THENCE North 68° East astronomic 188.76 feet to the eastern limit of Lot 2, being also the southwestern limit of Bay Street;

THENCE northwesterly along the said eastern limit to the northern corner of Lot 2;

THENCE southwesterly along the western limit of Lot 2, 198 feet more or less to the point of commencement;

The excepted lands being the same as those described as Secondly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of November 1939 as Number 702.

All as shown on the Plan of the Town Plot of Manitowaning recorded in the Canada Lands Surveys Records as No. T329, and recorded in the Land Registry Office for the District of Manitoulin as No. 3.

THIRDLY

Town Plot of Shaftesbury (Little Current) Township of Howland

ALL those parcels of land in the Town Plot of Shaftesbury, in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 28, 29, 30, and 31, North side of Cockburn Street as shown on the Plan of the Town Plot of Shaftesbury recorded in the Canada Lands Surveys Records as No. T330, and recorded in the Land Registry Office for the District of Manitoulin as No. 2.

FOURTHLY

Town Plot of South Baymouth Township of Tehkummah

ALL those parcels of land in the Town Plot of South Baymouth, in the Township of Tehkummah, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 7 to 17, both inclusive, South side of First Street;

Lots 7 to 17, both inclusive, North side of Second Street;

Lots 8 to 17, both inclusive, South side of Second Street;

Lots 8 to 17, both inclusive, North side of Third Street;

Lots 5 to 17, both inclusive, South side of Third Street;

Lots 5 to 17, both inclusive, North side of Fourth Street;

Lots 5, 6, 7, 9, 10, 11, 12, and 13, South side of Fourth Street;

Lots 13, 14, 15, 16, and 17, North side of Fifth Street;

Lots 13, 14, 15, and 16, South side of Fifth Street;

Lots F, G, H, K, M, N, O, and P.

as shown on the Plan of the Town Plot of South Baymouth recorded in the Canada Lands Surveys Records as No. T297, and recorded in the Land Registry Office for the District of Manitoulin as No. 45.

FIFTHLY

Town Plot of Tolsmaville Township of Cockburn Island

ALL those parcels of land in the Town Plot of Tolsmaville, in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 15, 16, 17, 18, 19, 20, and 62 to 74, both inclusive, South side of Water Street;

Lots 61 to 74, both inclusive, 108, 109, and 110, North side of A Street;

Lots 61 to 74, both inclusive, South side of A Street;

Lots 1, 2, and 61 to 74, both inclusive, North side of B Street;

Lots 1, 2, 3, 4, and 61 to 74, both inclusive, South side of B Street;

Lots 2 to 10, both inclusive, 61 to 74, both inclusive, 104 and 105, North side of C Street;

Lots 2 to 10, both inclusive, and 61 to 74, both inclusive, South side of C Street;

Lots 1 to 11, both inclusive, Lots 15 to 18, both inclusive, and 61 to 74, both inclusive, North side of D Street;

Lots 1 to 16, both inclusive, and Lots 61 to 74, both inclusive, South side of D Street;

Lots 1 to 8, both inclusive, 10, 18, 21, 22, 23, 24, and 25, 61 to 74, both inclusive, and 100, 101, and 102, North side of E Street;

Lots 1 to 12, both inclusive, 18 to 29, both inclusive, and 61 to 90, both inclusive, South side of E Street;

Lots 3 to 30, both inclusive, 61 to 66, both inclusive, and 76 to 90, both inclusive, North side of F Street;

Lots 3 to 18, both inclusive, 20 to 51, both inclusive, 55 to 63, both inclusive, and 76 to 90, both inclusive, South side of F Street;

Lots 2, 3, 4, 5, and 9 to 22; both inclusive, 24, 25, 26, 29, 30, and 76 to 90, both inclusive, North side of G Street;

Lots 2 to 19, both inclusive, 21 to 27, both inclusive, and 37 to 44, both inclusive, South side of G Street;

Lots 1, 2, and 4 to 14, both inclusive, 18, 19, 25, 32, 33, 34, 35, and 36, North side of H Street;

Lots 3, 4, 5, and 8 to 13, both inclusive, 15, 32, 33, 34, 35, and 36, South side of H Street;

Lots 2 to 5, both inclusive, 8, 9, 10, 11, 13, 28, 29, 30, 31, 35, 36, 37, 40, 41, 42, 43, and 44, North side of I Street;

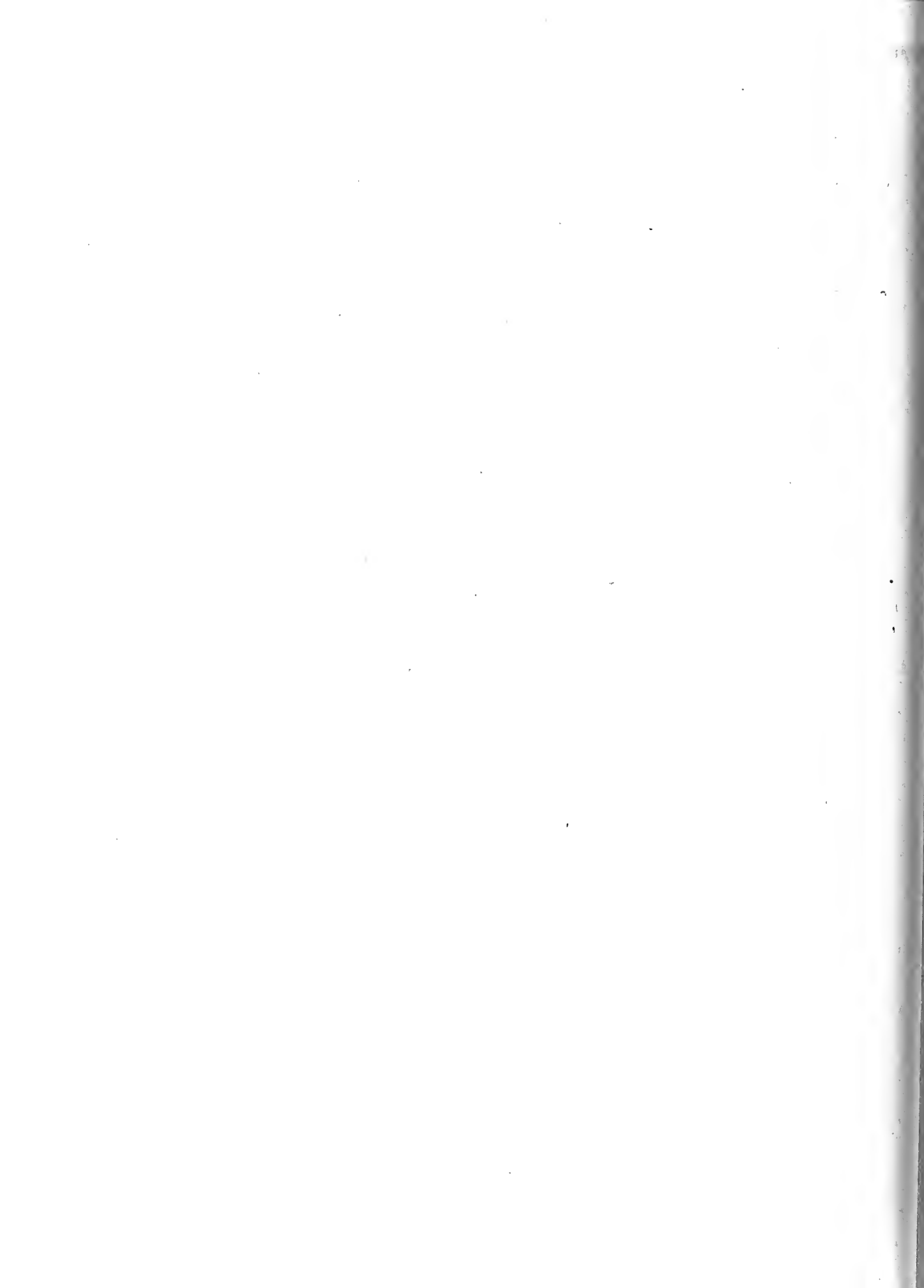
Lots 1, 3, 12, 14, 15, 16, 17, 18, and 19, South side of I Street;

Lots 16, 17, 18, and 19, North side of J Street;

Lots 11, 12, 13, and 14, South side of J Street;

Lots 26 and 27, North side of L Street;

as shown on the plan of the Town Plot of Tolsma-ville recorded in the Canada Lands Surveys Records as No. T469, and recorded in the Land Registry Office for the District of Manitoulin as No. 8.



Bill 15

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

The Hon. C. Wildman

Minister Responsible for Native Affairs

1st Reading December 5th, 1990

2nd Reading December 12th, 1990

3rd Reading

Royal Assent

*(Reprinted as amended by the Committee of the Whole House)
This Bill has been reprinted to conform to the new printing format*

EXPLANATORY NOTE

The purpose of the Bill is to fulfil Ontario's obligations to transfer land in Manitoulin, Barrie and Cockburn Islands under an agreement entered into by five First Nations and Ontario.

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

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

1.—(1) Subject to subsection (5), the road allowances described in Schedule 1 are stopped up and closed as highways.

(2) Subject to subsection (4), the administration, management and control and the soil and freehold of the road allowances closed by subsection (1), including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(3) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the road allowances closed by subsection (1).

(4) A right of way for all purposes in, over, along and on the land described Thirdly in Schedule 1 vests in the owners, their heirs and assigns and the occupants from time to time of the portion of Lot 14 in Concession 9 in the Township of Howland, District of Manitoulin lying west of the body of water known as Sucker Creek.

(5) Subsection (1) does not apply in respect of the road allowance of any public highway that, at the time this Act comes into force,

- (a) is in actual use as a public highway or road; and
- (b) is regularly maintained by a provincial or municipal authority.

(6) Work done as a result of a grant paid under the *Public Transportation and Highway Improvement Act* by Ontario to an Indian band does not constitute regular maintenance by a provincial authority within the meaning of subsection (5).

(7) Maintenance of a highway or road by a municipal corporation paid for by an Indian band under an agreement between the band and the municipal corporation does not constitute regular maintenance by a municipal

authority within the meaning of subsection (5).

(8) The road allowance between Concession 8 and Concession 9 across lots 11, 12, 13, 14, 15, 16 and 17 in the Township of Howland, District of Manitoulin, bounded on the west by the shore allowance along the limit of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9 to the northwestern corner of Lot 10, Concession 8, shall be deemed not to be a road allowance of a public highway in actual use within the meaning of subsection (5).

2.—(1) Subject to subsection (2), subsection 258 (1) of the *Municipal Act* applies in respect of Manitoulin Island, Barrie Island and Cockburn Island, being islands in the District of Manitoulin.

(2) Subsection 258 (1) of the *Municipal Act* does not apply in respect of,

- (a) the road allowances closed by subsection 1 (1); and
- (b) the King's Highway, any controlled-access highway, any secondary highway and any other highway that is under the jurisdiction and control of the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*.

3.—(1) The administration, management and control and the soil and freehold of the land described in Schedule 2, including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(2) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the land described in Schedule 2.

4.—(1) An easement for water and sewage works in, over, along and on the parts of Lot 1 west of Bay Street and north of Queen Street and the parts of Lot 2 west

Idem

Road allowances vest in municipalities

Exception

Schedule 2 land vests in Canada

Mineral rights in Schedule 2 land

Water and sewage works easement

road allowances closed

closed road allowances vest in Canada

mineral rights

right of way

public highways in actual use

idem

idem

of Bay Street and north of Lot 1 in the Town Plot of Manitowaning in the Township of Assiginack, District of Manitoulin shown as Parts 1, 2, 3, 4 and 5 on the plan deposited in the Land Registry Office for the Registry Division of Manitoulin on the 4th day of November, 1974 as Plan 31R-343 vests in Her Majesty the Queen in right of Ontario, as represented by the Minister of the Environment.

Idem

(2) Section 13 of the *Ontario Water Resources Act* applies in relation to the easement vested by subsection (1) and for the purpose this Act shall be deemed to be an instrument of the type mentioned in subsection 13 (1) of the *Ontario Water Resources Act* that has been registered in the proper land registry office.

Schedule 3
land

5. Subject to section 4, an estate in fee simple in the land described in Schedule 3 vests in Debendmang Native Community Economic Development Association (Manitoulin), in trust.

Existing
rights
preserved

6.—(1) No right of way or other easement or other right that is registered under the *Registry Act* or *Land Titles Act* or is openly enjoyed and used or is for public utility purposes and no possessory right that is openly enjoyed and used is affected by this Act.

Idem

(2) Subsection (1) applies only in respect of rights acquired in law or equity before the day on which this Act comes into force.

Commence-
ment

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

Short title

8. The short title of this Act is the *Manitoulin, Barrie and Cockburn Islands Land Act, 1990*.

SCHEDULE 1

FIRSTLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lot 24, Concession 19, bounded on the east by the northern production of the centre line of the road allowance between Lot 24, Concession 19, and the Sheshegwaning Indian Reserve No. 20, and bounded on the west by the eastern production of the northern limit of the road allowance between Concessions 19 and 20.

SECONDLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 25, 26 and 27, Concession 19, bounded on the east by the western production of the northern limit of the road allow-

ance between Concessions 19 and 20, and bounded on the west by the northern production of the western limit of Lot 27, Concession 19.

THIRDLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 16, 17 and 18, bounded on the north by the road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

FOURTHLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 18 and 19, bounded on the south by the road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the road allowance along the shore of Lake Huron.

FIFTHLY:

That part of the shore road allowance along the shore of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

SIXTHLY:

That part of the road allowance between Concessions 15 and 16 in front of Lots 25, 26, 27, and 28.

SEVENTHLY:

The north half of that part of the road allowance between Concessions 15 and 16 in front of Lot 24, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

EIGHTHLY:

That part of the road allowance between Concessions 17 and 18, in front of Lots 24, 25, 26, 27, and 28, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

NINTHLY:

That part of the road allowance between Concessions 19 and 20, in front of Lots 24 and 25, bounded on the east by the road allowance along the shore of Lake Huron, and bounded on the west by the road allowance along the shore of Lake Huron.

SECONDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

The road allowance between Concessions 21 and 22 in front of Lots 10, 11, 12, 13, 14, and 15.

SECONDLY:

The road allowance between Concessions 21 and 22 in front of Lots 17, 18, and 19.

THIRDLY:

That part of the shore road allowance along the shore of Lake Huron abutting Concessions 20, 21, and 22, bounded on the southeast by the eastern production of the southern limit of Lot 12, Concession 20, and bounded on the southwest by the western production of the southern limit of Lot 21, Concession 20, SAVE AND EXCEPT that portion of the said road allowance in front of Lot 11, Concession 22, and also SAVE AND EXCEPT that portion of the said road allowance in front of Lots 12 and 13, Concession 22, bounded on the east by a line drawn North 45° East astronomic from the eastern corner of Part 2 as shown on a plan deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458, and bounded on the west by a line drawn North 45° West astronomic from the western corner of Part 1 as shown on said plan.

FOURTHLY:

The road allowance between Lots 15 and 16, Concessions 20 and 21, bounded on the north by the shore allowance along the shore of Lake Huron and bounded on the south by the north limit of the road allowance abutting the north boundary of the Sheshewaning Indian Reserve No. 20.

FIFTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Concession 13, in front of Lots 18, 19, 20, 21, 22, and 23 and that part of the road allowance between Concessions 13 and 14 in front of Lot 24, bounded on the east by the shore of Lake Huron, and bounded on the west by a line drawn north astronomic from the northeastern corner of Lot 25, Concession 13.

SIXTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Lot 24, across Concessions 14 and 15, bounded on the north by the eastern production of the centre line of the road allowance between Concessions 15 and 16, and bounded on the south by the road allowance between Concessions 13 and 14.

SEVENTHLY:

The eastern half of that part of the road allowance between the Sheshewaning Indian Reserve and Lot 24 across Concessions 16, 17, and 18, bounded on the north by the shore road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

EIGHTHLY:

That part of the shore road allowance along the shore of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line on the road allowance between the Sheshewaning Indian Reserve and Lot 24, Concession 18.

NINTHLY:

The eastern half of that part of the road allowance between the Sheshewaning Indian Reserve and Lot 24 across Concessions 18 and 19, bounded on the south by the shore road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the shore road allowance along the shore of Lake Huron.

TENTHLY:

That part of the shore road allowance along the southern shore of Lake Huron, on the northern limit of the Sheshewaning Indian Reserve, bounded on the west by the northern production of the centre line of the road allowance between the Sheshewaning Indian Reserve and Lot 24, Concession 19, and bounded on the east by the western production of the southern limit of Lot 21, Concession 20.

ELEVENTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Concession 20, in front of Lots 12 to 22, both inclusive, bounded on the west by the shore road allowance along the shore of Lake Huron and bounded on the east by the shore road allowance along the shore of Lake Huron.

TWELFTHLY:

That part of the shore road allowance along the shore of Lake Huron, on the eastern side of the Sheshewaning Indian Reserve, bounded on the south by the eastern production of the northern limit of Lot 18, Concession 13, and bounded on the north by the eastern production of the southern limit of Lot 12, Concession 20.

THIRTEENTHLY:

That part of the bed of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line of the road allowance between the Sheshewaning Indian Reserve No. 20 and Lot 24, Concession 18.

FOURTEENTHLY:

That part of the road allowance between Lot 20, Concessions 20 and 21 and Lot 21, Concession 20.

THIRDLY

Land for the benefit of The Sucker Creek Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 17, 18, 19, and 20, Concession 8, and Lots 16 and 17, Concession 9, bounded on the west by the northern production of the eastern limit of Lot 21, Concession 7, and bounded on the east by the northern production of the western limit of Lot 15, Concession 9.

SECONDLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 11, 12, 13, 14, 15, 16, and 17, bounded on the west by the shore road allowance along the shore of Lake Huron, and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9, to the northwestern corner of Lot 10, Concession 8.

THIRDLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 12, 13, 14, 15, 16, 17, and 18, bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6, and bounded on the east by the line joining the south-

eastern corner of Lot 12, Concession 7, to the north-eastern corner of Lot 12, Concession 6.

FOURTHLY:

That part of the road allowance between Lots 10 and 11, across Concession 8, bounded on the north by the road allowance between Concessions 8 and 9, and bounded on the south by the line joining the southeastern corner of Lot 11, Concession 8, to the southwestern corner of Lot 10, Concession 8.

FIFTHLY:

That part of the road allowance between Lots 15 and 16, across Concessions 7, 8 and 9, bounded on the south by the road allowance between Concessions 6 and 7, and bounded on the north by the shore road allowance along the shore of Lake Huron.

SIXTHLY:

That part of the road allowance between Lot 20, Concession 8, and Lot 21, Concession 7, bounded on the north by the shore road allowance along the shore of Lake Huron, and bounded on the south by a line drawn on the western production of the southern limit of Lot 20, Concession 8.

SAVE AND EXCEPT from the lots and road allowances described in **THIRDLY**, **FOURTHLY** and **FIFTHLY** above, those parts of the said road allowances that have been designated as Secondary Highway No. 540 by Order-in-Council OC-1541/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14585 (Ministry of Transportation Plan P-2607-38).

FOURTHLY

Land for the benefit of The Sheguiandah Band
Township of Sheguiandah

ALL those parcels of land in the Township of Sheguiandah, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concession B, and Lot 5, Concessions 8, 9, 10, 11, 12, and 13, and Assickinack Street, bounded on the north by the shore road allowance along the shore of Bass Lake and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 5, Concession 8.

SECONDLY:

That part of the road allowance between Concessions A and B, bounded on the north by the line joining the northeastern corner of Lot 31, Concession B, to the northwestern corner of Lot 31, Concession A, and bounded on the south by the line joining the southeastern corner of Lot 22, Concession B, to the southwestern corner of Lot 22, Concession A.

THIRDLY:

That part of the road allowance between Concession A, and Lot 11, Concessions 9, 10, 11, 12, and 13, bounded on the north by a line drawn on a course of East astronomic from the northeastern corner of Lot 31, Concession A, and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 22, Concession A, **SAVE AND EXCEPT** that part of the said road allowance designated as part of Highway No. 6 by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the

District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

FOURTHLY:

That part of the shore road allowance along the southern shore of Bass Lake, in front of Lots 1, 2, 3, 4, and 5, Concession 13, bounded on the west by the road allowance along the line between the Townships of Sheguiandah and Bidwell, and bounded on the east by the eastern limit of Assickinack Street as shown on the Town Plot of Sheguiandah.

FIFTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 1, 2, 3, 4, and 5.

SIXTHLY:

That part of the road allowance between Concessions 10 and 11, in front of Lots 1, 2, 3, 4, and 5.

SEVENTHLY:

That part of the road allowance between Concessions 12 and 13, in front of Lots 1, 2, 3, 4, and 5.

EIGHTHLY:

Those parts of the road allowance between Lots 25 and 26, across Concessions A and B.

NINTHLY:

Anderson Street as shown on the Town Plot of Sheguiandah, bounded on the west by Assickinack Street, and bounded on the east by the western limit of the road allowance between Concession A and Lot 11, Concession 13, **SAVE AND EXCEPT** that part of Anderson Street transferred to the Ministry of Transportation by Order-in-Council P.C. 1958-1676 dated 17th December 1958, and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin under No. 86 (Ministry of Transportation Plan P-2460-14).

TENTHLY:

Those parts of the road allowance between Lots 30 and 31 across Concessions A and B, **SAVE AND EXCEPT** that part of the said road allowance designated as Highway 6, by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

ELEVENTHLY:

In the Plan of the Town Plot of Sheguiandah recorded in the Canada Land Survey Records as No. T660 and recorded in the Land Registry Office for the District of Manitoulin as No. 28, the shore road allowance on Sheguiandah Bay abutting Lots 13, 14, and 15, North of Anderson Street, bounded on the north by the easterly production of the southerly limit of Dupont Street and on the east by the northerly production of the westerly limit of Robinson Street.

FIFTHLY

Land for the benefit of The Sheguiandah Band
Townships of Sheguiandah and Bidwell

ALL that parcel of land in the Townships of Sheguiandah and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance along the line between the Townships of Sheguiandah and Bidwell

bounded on the north by the southern shore of Bass Lake, and bounded on the south by a line drawn on a course of West astronomic from the southwestern corner of Lot 1, Concession 8, in the Township of Sheguiandah.

SIXTHLY

Land for the benefit of The West Bay Band
Township of Billings and Carnarvon

ALL those parcels of land in the Township of Billings, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concessions 2 and 3 in front of Lots 6, 7, 8, and 9, bounded on the west by the shore road allowance along the shore of Lake Mindemoya and bounded on the east by the line joining the southwestern corner of Lot 5, Concession 3, to the northwestern corner of Lot 5, Concession 2.

SECONDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 18 bounded both on the east and on the west by the shore road allowance along the shore of Lake Mindemoya.

THIRDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 19 bounded on the east by the shore road allowance along the shore of Lake Mindemoya and bounded on the west by the line joining the southeastern corner of Lot 20, Concession 3, to the northeastern corner of Lot 20, Concession 2.

FOURTHLY:

That part of the road allowance between Concessions 4 and 5, in front of Lots 6 to 19, both inclusive, bounded on the east by the shore road allowance along the shore of Whitefish Lake and bounded on the west by the line joining the southwestern corner of Lot 19, Concession 5, to the northwestern corner of Lot 19, Concession 4.

FIFTHLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 6 to 18, both inclusive, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 7, to the northwestern corner of Lot 5, Concession 6, and bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6.

SIXTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lot 6, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 9 to the northwestern corner of Lot 5, Concession 8, and bounded on the west by the shore road allowance along the shore of Honora Bay of Lake Huron.

SEVENTHLY:

That part of the road allowance between Concessions 8 and 9 in front of Lots 10, 11, 12, 13, 14, 15, 16, and 17, bounded on the east by the shore road allowance along the shore of Honora Bay of Lake Huron, and bounded on the west by the shore road allowance along the shore of Saugigansing Lake (Mud Lake).

EIGHTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 18 and 19, bounded on the east by the shore road allowance along the shore of Saugigansing Lake (Mud Lake) and bounded on the west by a line joining the southwestern corner of Lot 19, Concession 9 and the northwestern corner of Lot 19, Concession 8.

NINTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 1, 2 and 3, bounded on the north by the shore road allowance along the shore of Whitefish Lake, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

TENTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 5, 6, 7, 8 and 9, bounded on the south by the shore road allowance along the shore of Whitefish Lake, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

ELEVENTHLY:

Those parts of the road allowance between Lots 10 and 11, across Concessions 3, 4, 5, 6, and 7, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the southern limit of the Kagawong Road. And also those parts of the said road allowance between Lots 10 and 11 across Concessions 8 and 9, bounded on the south by the eastern production of the line at the north limit of the south half of Lot 11, Concession 8, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

TWELFTHLY:

Those parts of the road allowance between Lots 15 and 16, across Concessions 4, 5, 6, 7, 8, and 9, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the line joining the northeastern corner of Lot 16, Concession 9, to the northwestern corner of Lot 15, Concession 9.

THIRTEENTHLY:

The entire shore road allowance along the shore of Saugigansing Lake (Mud Lake).

FOURTEENTHLY:

That part of the shore road allowance along the northern, western and southern shores of Whitefish Lake, bounded on the northern side of the Lake by the southern production of the western limit of Lot 5, Concession 5, and bounded on the southern side of the Lake by the northern production of the western limit of Lot 5, Concession 3.

FIFTEENTHLY:

That part of the shore road allowance along the northeastern shore of Lake Mindemoya, bounded on the west by the southern production of the eastern limit of Lot 20, Concession 2, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

SIXTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the east by the northern production of the west limit of Lot 5, Concession 9, and bounded on the west by the eastern production of the northern limit of Kagawong Road.

SEVENTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the south by the eastern production of the north limit of Lot 10, Concession 8, and bounded on the north by the eastern production of the south limit of Lot 12, Concession 10.

EIGHTEENTHLY:

That part of the road allowance along the line between the Townships of Billings and Carnarvon bounded on the west by the eastern shore of Lake Mindemoya and bounded on the east by the southern production of the west limit of Lot 5, Concession 1 in the Township of Billings.

SAVE AND EXCEPT from the road allowances described as FIRSTLY through EIGHTEENTHLY above, those parts of the said road allowances that have been designated as Secondary Highway by the following:

FIRSTLY:

Secondary Highway No. 540 assumed by Order-in-Council OC 1096/56 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. 79 (Ministry of Transportation Plan A-46-4).

SECONDLY:

Secondary Highway No. 540 designated by Order-in-Council OC 2532/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-15026 (Ministry of Transportation Plan P-2458/13).

THIRDLY:

Secondary Highway No. 551 designated by Order-in-Council OC 1513/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14554 (Ministry of Transportation P-7086-7) and by Order-in-Council OC-710/88 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as Number 4539, (Ministry of Transportation Plan P-7085-25).

FOURTHLY:

Secondary Highway No. 540 as shown on a plan recorded in the Canada Lands Surveys Records in Ottawa as Number Rd 4272 and registered in the Land Registry Office for the District of Manitoulin on the 14th day of May 1965 as Number 75 (Ministry of Transportation Plan P-2458-7).

SEVENTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL those parcels of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron, bounded on the south by the western production of the southern limit of Lot 34,

Concession 11, and bounded on the northeast by the northern production of the eastern limit of the road allowance between Lots 30 and 31, Concession 14.

SECONDLY:

Those parts of the road allowance between Lots 30 and 31, across Concessions 11, 12, 13, and 14, bounded on the south by the line joining the southwestern corner of Lot 30, Concession 11, to the southeastern corner of Lot 31, Concession 11, and bounded on the north by the shore of Lake Huron.

THIRDLY:

That part of the road allowance between Concessions 11 and 12, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 30, Concession 12, to the northwestern corner of Lot 30, Concession 11.

FOURTHLY:

That part of the road allowance between Concessions 13 and 14, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southeastern corner of Lot 30, Concession 14, to the northeastern corner of Lot 30, Concession 13.

EIGHTHLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the southern and western shore of Perch Lake bounded on the north by the eastern production of the northern limit of Lot 20, Concession 1, and bounded on the east by the northern production of the eastern limit of Lot 18, Concession 1.

SECONDLY:

The road allowance between Lots 20 and 21, across Concession 1.

NINTHLY

Land for the benefit of The Sheguiandah Band
Townships of Howland and Bidwell

ALL that parcel of land in the Townships of Howland and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance between the Townships of Howland and Bidwell bounded on the west by the southern production of the western limit of Lot 22, Concession 1, in the Township of Howland, and bounded on the east by the western limit of a Public Road running southerly from the said road allowance between townships opposite Lot 19, Concession 1, in the Township of Howland.

SCHEDULE 2**FIRSTLY**

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 18, 19, 20, 21 and 22, Concession 1.

SECONDLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 25, 26 and 27, Concession 19.

SECONDLY:

That part of the bed of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

THIRDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 12, 13, 14, 15, 16, 17, 18, and 19, Concession 20,
Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, Concession 21,
Lots 10, 14, 15, 17, 18, and 19, Concession 22.

SECONDLY:

Lots 12 and 13, Concession 22, SAVE AND EXCEPT those parts of the said lots designated as Parts 1 and 2 on a Reference Plan of Survey deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458.

THIRDLY:

Lot 24, Concession 14,
Lot 24, Concession 15,
Lots 20, 21, and 22, Concession 20,
Lot 20, Concession 21.

FOURTHLY

Land for the benefit of The West Bay Band
Townships of Billings and Carnarvon

ALL those parcels of land in the Townships of Billings and Carnarvon, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of Whitefish Lake lying west of the line joining the point where the western limit of Lot 5, Concession 3, produced northerly intersects the shore of Whitefish Lake, with the point where the western limit of Lot 5, Concession 5, produced southerly intersects the shore of Whitefish Lake.

SECONDLY:

Lake Saugigansing in front of Lots 17 and 18, Concession 8, and Lots 16, 17, and 18, in Concession 9.

THIRDLY:

That part of Lake Mindemoya lying northeasterly of the line joining the point where the westerly production of the southern limit of the road allowance between the Townships of Billings and Carnarvon

intersects the eastern shore of Lake Mindemoya, to the point where the southern production of the western limit of Lot 19, Concession 2, intersects the shore of Lake Mindemoya.

FIFTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL that parcel of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 30, Concession 13.

SCHEDULE 3

FIRSTLY

Town Plot of Meldrum Bay
Township of Dawson

ALL those parcels of land in the Town Plot of Meldrum Bay, in the Township of Dawson, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 6, West side of McDonald Avenue;

Lots 9, 10, 11 and 12, East side of Young Avenue;

Lots 9, 10, 11 and 12, West side of Young Avenue;

Lots 1 to 12, both inclusive, East side of Scott Avenue;

All as shown on the Plan of the Town Plot of Meldrum Bay recorded in the Canada Lands Surveys Records as No. T416, and recorded in the Land Registry Office for the District of Manitoulin as No. 46.

SECONDLY

Town Plot of Manitowaning
Township of Assinack

ALL those parcels of land in the Town Plot of Manitowaning, in the Township of Assinack, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lot 18, South side of Queen Street;

SECONDLY:

All of Lot 1, West side of Bay Street and North side of Queen Street, and all of Lot 2, West side of Bay Street, and North side of Queen Street;

SAVE AND EXCEPT that part of the said Lots 1 and 2 described as follows:

Commencing at the southwestern corner of the said Lot 1;

THENCE easterly along the northern limit of Queen Street 66 feet;

THENCE northerly parallel with the western limit of the said Lot 1, 132 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet;

THENCE northerly parallel with the western limit of the said Lot 2, 33 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet more or less to the western limit of the said Lot 2;

THENCE southerly along the western limit of the said Lots 2 and 1, 165 feet more or less to the point of commencement;

The excepted lands being the same as those described as Firstly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of July 1962 as Number T-3686.

AND ALSO SAVE AND EXCEPT that part of the said Lot 2 described as follows:

Commencing at the northeastern corner of Lot 3, East side of Arthur Street and North of Queen Street;

THENCE North 68° East astronomic 188.76 feet to the eastern limit of Lot 2, being also the southwestern limit of Bay Street;

THENCE northwesterly along the said eastern limit to the northern corner of Lot 2;

THENCE southwesterly along the western limit of Lot 2, 198 feet more or less to the point of commencement;

The excepted lands being the same as those described as Secondly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of November 1939 as Number 702.

All as shown on the Plan of the Town Plot of Manitowaning recorded in the Canada Lands Surveys Records as No. T329, and recorded in the Land Registry Office for the District of Manitoulin as No. 3.

THIRDLY

Town Plot of Shaftesbury (Little-Current) Township of Howland

ALL those parcels of land in the Town Plot of Shaftesbury, in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 28, 29, 30, and 31, North side of Cockburn Street as shown on the Plan of the Town Plot of Shaftesbury recorded in the Canada Lands Surveys Records as No. T330, and recorded in the Land Registry Office for the District of Manitoulin as No. 2.

FOURTHLY

Town Plot of South Baymouth Township of Tehkummah

ALL those parcels of land in the Town Plot of South Baymouth, in the Township of Tehkummah, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 7 to 17, both inclusive, South side of First Street;

Lots 7 to 17, both inclusive, North side of Second Street;

Lots 8 to 17, both inclusive, South side of Second Street;

Lots 8 to 17, both inclusive, North side of Third Street;

Lots 5 to 17, both inclusive, South side of Third Street;

Lots 5 to 17, both inclusive, North side of Fourth Street;

Lots 5, 6, 7, 9, 10, 11, 12, and 13, South side of Fourth Street;

Lots 13, 14, 15, 16, and 17, North side of Fifth Street;

Lots 13, 14, 15, and 16, South side of Fifth Street;

Lots F, G, H, K, M, N, O, and P.

All as shown on the Plan of the Town Plot of South Baymouth recorded in the Canada Lands Surveys Records as No. T297, and recorded in the Land Registry Office for the District of Manitoulin as No. 45.

FIFTHLY

Town Plot of Tolsmaville Township of Cockburn Island

ALL those parcels of land in the Town Plot of Tolsmaville, in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 15, 16, 17, 18, 19, 20, and 62 to 74, both inclusive, South side of Water Street;

Lots 61 to 74, both inclusive, 108, 109, and 110, North side of A Street;

Lots 61 to 74, both inclusive, South side of A Street;

Lots 1, 2, and 61 to 74, both inclusive, North side of B Street;

Lots 1, 2, 3, 4, and 61 to 74, both inclusive, South side of B Street;

Lots 2 to 10, both inclusive, 61 to 74, both inclusive, 104 and 105, North side of C Street;

Lots 2 to 10, both inclusive, and 61 to 74, both inclusive, South side of C Street;

Lots 1 to 11, both inclusive, Lots 15 to 18, both inclusive, and 61 to 74, both inclusive, North side of D Street;

Lots 1 to 16, both inclusive, and Lots 61 to 74, both inclusive, South side of D Street;

Lots 1 to 8, both inclusive, 10, 18, 21, 22, 23, 24, and 25, 61 to 74, both inclusive, and 100, 101, and 102, North side of E Street;

Lots 1 to 12, both inclusive, 18 to 29, both inclusive, and 61 to 90, both inclusive, South side of E Street;

Lots 3 to 30, both inclusive, 61 to 66, both inclusive, and 76 to 90, both inclusive, North side of F Street;

Lots 3 to 18, both inclusive, 20 to 51, both inclusive, 55 to 63, both inclusive, and 76 to 90, both inclusive, South side of F Street;

Lots 2, 3, 4, 5, and 9 to 22, both inclusive, 24, 25, 26, 29, 30, and 76 to 90, both inclusive, North side of G Street;

Lots 2 to 19, both inclusive, 21 to 27, both inclusive, and 37 to 44, both inclusive, South side of G Street;

Lots 1, 2, and 4 to 14, both inclusive, 18, 19, 25, 32, 33, 34, 35, and 36, North side of H Street;

Lots 3, 4, 5, and 8 to 13, both inclusive, 15, 32, 33, 34, 35, and 36, South side of H Street;

Lots 1 to 5, both inclusive, 8, 9, 10, 11, 13, 28, 29, 30, 31, 35, 36, 37, 40, 41, 42, 43, and 44, North side of I Street;

Lots 1, 3, 12, 14, 15, 16, 17, 18, and 19, South side of I Street;

Lots 16, 17, 18, and 19, North side of J Street;

Lots 11, 12, 13, and 14, South side of J Street;

Lots 26 and 27, North side of L Street;

All as shown on the plan of the Town Plot of Tolsmaville recorded in the Canada Lands Surveys Records as No. T469, and recorded in the Land Registry Office for the District of Manitoulin as No. 8.



Bill 15

*(Chapter 27
Statutes of Ontario, 1990)*

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

The Hon. C. Wildman

Minister Responsible for Native Affairs

1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 19th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format



An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

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

1.—(1) Subject to subsection (5), the road allowances described in Schedule 1 are stopped up and closed as highways.

(2) Subject to subsection (4), the administration, management and control and the soil and freehold of the road allowances closed by subsection (1), including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(3) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the road allowances closed by subsection (1).

(4) A right of way for all purposes in, over, along and on the land described Thirdly in Schedule 1 vests in the owners, their heirs and assigns and the occupants from time to time of the portion of Lot 14 in Concession 9 in the Township of Howland, District of Manitoulin lying west of the body of water known as Sucker Creek.

(5) Subsection (1) does not apply in respect of the road allowance of any public highway that, at the time this Act comes into force,

- (a) is in actual use as a public highway or road; and
- (b) is regularly maintained by a provincial or municipal authority.

(6) Work done as a result of a grant paid under the *Public Transportation and Highway Improvement Act* by Ontario to an Indian band does not constitute regular maintenance by a provincial authority within the meaning of subsection (5).

(7) Maintenance of a highway or road by a municipal corporation paid for by an Indian band under an agreement between the band and the municipal corporation does not constitute regular maintenance by a municipi-

pal authority within the meaning of subsection (5).

(8) The road allowance between Concession 8 and Concession 9 across lots 11, 12, 13, 14, 15, 16 and 17 in the Township of Howland, District of Manitoulin, bounded on the west by the shore allowance along the limit of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9 to the northwestern corner of Lot 10, Concession 8, shall be deemed not to be a road allowance of a public highway in actual use within the meaning of subsection (5).

2.—(1) Subject to subsection (2), subsection 258 (1) of the *Municipal Act* applies in respect of Manitoulin Island, Barrie Island and Cockburn Island, being islands in the District of Manitoulin.

(2) Subsection 258 (1) of the *Municipal Act* does not apply in respect of,

- (a) the road allowances closed by subsection 1 (1); and
- (b) the King's Highway, any controlled-access highway, any secondary highway and any other highway that is under the jurisdiction and control of the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*.

3.—(1) The administration, management and control and the soil and freehold of the land described in Schedule 2, including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(2) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the land described in Schedule 2.

4.—(1) An easement for water and sewage works in, over, along and on the parts of Lot 1 west of Bay Street and north of Queen Street and the parts of Lot 2 west

road
allowances
closed

closed road
allowances
vest in
Canada

mineral
rights

right of way

public
highways in
actual use

idem

idem

Idem

Road
allowances
vest in
municipalities

Exception

Schedule 2
land vests in
Canada

Mineral
rights in
Schedule 2
land

Water and
sewage works
easement

of Bay Street and north of Lot 1 in the Town Plot of Manitowaning in the Township of Assiginack, District of Manitoulin shown as Parts 1, 2, 3, 4 and 5 on the plan deposited in the Land Registry Office for the Registry Division of Manitoulin on the 4th day of November, 1974 as Plan 31R-343 vests in Her Majesty the Queen in right of Ontario, as represented by the Minister of the Environment.

Idem

(2) Section 13 of the *Ontario Water Resources Act* applies in relation to the easement vested by subsection (1) and for the purpose this Act shall be deemed to be an instrument of the type mentioned in subsection 13 (1) of the *Ontario Water Resources Act* that has been registered in the proper land registry office.

Schedule 3
land

5. Subject to section 4, an estate in fee simple in the land described in Schedule 3 vests in Debendmang Native Community Economic Development Association (Manitoulin), in trust.

Existing
rights
preserved

6.—(1) No right of way or other easement or other right that is registered under the *Registry Act* or *Land Titles Act* or is openly enjoyed and used or is for public utility purposes and no possessory right that is openly enjoyed and used is affected by this Act.

Idem

(2) Subsection (1) applies only in respect of rights acquired in law or equity before the day on which this Act comes into force.

Commence-
ment

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

Short title

8. The short title of this Act is the *Manitoulin, Barrie and Cockburn Islands Land Act, 1990*.

SCHEDULE 1

FIRSTLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lot 24, Concession 19, bounded on the east by the northern production of the centre line of the road allowance between Lot 24, Concession 19, and the Sheshegwaning Indian Reserve No. 20, and bounded on the west by the eastern production of the northern limit of the road allowance between Concessions 19 and 20.

SECONDLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 25, 26 and 27, Concession 19, bounded on the east by the western production of the northern limit of the road allow-

ance between Concessions 19 and 20, and bounded on the west by the northern production of the western limit of Lot 27, Concession 19.

THIRDLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 16, 17 and 18, bounded on the north by the road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

FOURTHLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 18 and 19, bounded on the south by the road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the road allowance along the shore of Lake Huron.

FIFTHLY:

That part of the shore road allowance along the shore of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

SIXTHLY:

That part of the road allowance between Concessions 15 and 16 in front of Lots 25, 26, 27, and 28.

SEVENTHLY:

The north half of that part of the road allowance between Concessions 15 and 16 in front of Lot 24, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

EIGHTHLY:

That part of the road allowance between Concessions 17 and 18, in front of Lots 24, 25, 26, 27, and 28, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

NINTHLY:

That part of the road allowance between Concessions 19 and 20, in front of Lots 24 and 25, bounded on the east by the road allowance along the shore of Lake Huron, and bounded on the west by the road allowance along the shore of Lake Huron.

SECONDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

The road allowance between Concessions 21 and 22 in front of Lots 10, 11, 12, 13, 14, and 15.

SECONDLY:

The road allowance between Concessions 21 and 22 in front of Lots 17, 18, and 19.

THIRDLY:

That part of the shore road allowance along the shore of Lake Huron abutting Concessions 20, 21, and 22, bounded on the southeast by the eastern production of the southern limit of Lot 12, Concession 20, and bounded on the southwest by the western production of the southern limit of Lot 21, Concession 20, SAVE AND EXCEPT that portion of the said road allowance in front of Lot 11, Concession 22, and also SAVE AND EXCEPT that portion of the said road allowance in front of Lots 12 and 13, Concession 22, bounded on the east by a line drawn North 45° East astronomic from the eastern corner of Part 2 as shown on a plan deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458, and bounded on the west by a line drawn North 45° West astronomic from the western corner of Part 1 as shown on said plan.

FOURTHLY:

The road allowance between Lots 15 and 16, Concessions 20 and 21, bounded on the north by the shore allowance along the shore of Lake Huron and bounded on the south by the north limit of the road allowance abutting the north boundary of the Sheshegwaning Indian Reserve No. 20.

FIFTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Concession 13, in front of Lots 18, 19, 20, 21, 22, and 23 and that part of the road allowance between Concessions 13 and 14 in front of Lot 24, bounded on the east by the shore of Lake Huron, and bounded on the west by a line drawn north astronomic from the northeastern corner of Lot 25, Concession 13.

SIXTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24, across Concessions 14 and 15, bounded on the north by the eastern production of the centre line of the road allowance between Concessions 15 and 16, and bounded on the south by the road allowance between Concessions 13 and 14.

SEVENTHLY:

The eastern half of that part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24 across Concessions 16, 17, and 18, bounded on the north by the shore road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

EIGHTHLY:

That part of the shore road allowance along the shore of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line on the road allowance between the Sheshegwaning Indian Reserve and Lot 24, Concession 18.

NINTHLY:

The eastern half of that part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24 across Concessions 18 and 19, bounded on the south by the shore road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the shore road allowance along the shore of Lake Huron.

TENTHLY:

That part of the shore road allowance along the southern shore of Lake Huron, on the northern limit of the Sheshegwaning Indian Reserve, bounded on the west by the northern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve and Lot 24, Concession 19, and bounded on the east by the western production of the southern limit of Lot 21, Concession 20.

ELEVENTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Concession 20, in front of Lots 12 to 22, both inclusive, bounded on the west by the shore road allowance along the shore of Lake Huron and bounded on the east by the shore road allowance along the shore of Lake Huron.

TWELFTHLY:

That part of the shore road allowance along the shore of Lake Huron, on the eastern side of the Sheshegwaning Indian Reserve, bounded on the south by the eastern production of the northern limit of Lot 18, Concession 13, and bounded on the north by the eastern production of the southern limit of Lot 12, Concession 20.

THIRTEENTHLY:

That part of the bed of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

FOURTEENTHLY:

That part of the road allowance between Lot 20, Concessions 20 and 21 and Lot 21, Concession 20.

THIRDLY

Land for the benefit of The Sucker Creek Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 17, 18, 19, and 20, Concession 8, and Lots 16 and 17, Concession 9, bounded on the west by the northern production of the eastern limit of Lot 21, Concession 7, and bounded on the east by the northern production of the western limit of Lot 15, Concession 9.

SECONDLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 11, 12, 13, 14, 15, 16, and 17, bounded on the west by the shore road allowance along the shore of Lake Huron, and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9, to the northwestern corner of Lot 10, Concession 8.

THIRDLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 12, 13, 14, 15, 16, 17, and 18, bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6, and bounded on the east by the line joining the south-

eastern corner of Lot 12, Concession 7, to the north-eastern corner of Lot 12, Concession 6.

FOURTHLY:

That part of the road allowance between Lots 10 and 11, across Concession 8, bounded on the north by the road allowance between Concessions 8 and 9, and bounded on the south by the line joining the southeastern corner of Lot 11, Concession 8, to the southwestern corner of Lot 10, Concession 8.

FIFTHLY:

That part of the road allowance between Lots 15 and 16, across Concessions 7, 8 and 9, bounded on the south by the road allowance between Concessions 6 and 7, and bounded on the north by the shore road allowance along the shore of Lake Huron.

SIXTHLY:

That part of the road allowance between Lot 20, Concession 8, and Lot 21, Concession 7, bounded on the north by the shore road allowance along the shore of lake Huron, and bounded on the south by a line drawn on the western production of the southern limit of Lot 20, Concession 8.

SAVE AND EXCEPT from the lots and road allowances described in **THIRDLY**, **FOURTHLY** and **FIFTHLY** above, those parts of the said road allowances that have been designated as Secondary Highway No. 540 by Order-in-Council OC-1541/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14585 (Ministry of Transportation Plan P-2607-38).

FOURTHLY

Land for the benefit of The Sheguiandah Band
Township of Sheguiandah

ALL those parcels of land in the Township of Sheguiandah, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concession B, and Lot 5, Concessions 8, 9, 10, 11, 12, and 13, and Assickinack Street, bounded on the north by the shore road allowance along the shore of Bass Lake and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 5, Concession 8.

SECONDLY:

That part of the road allowance between Concessions A and B, bounded on the north by the line joining the northeastern corner of Lot 31, Concession B, to the northwestern corner of Lot 31, Concession A, and bounded on the south by the line joining the southeastern corner of Lot 22, Concession B, to the southwestern corner of Lot 22, Concession A.

THIRDLY:

That part of the road allowance between Concession A, and Lot 11, Concessions 9, 10, 11, 12, and 13, bounded on the north by a line drawn on a course of East astronomic from the northeastern corner of Lot 31, Concession A, and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 22, Concession A, **SAVE AND EXCEPT** that part of the said road allowance designated as part of Highway No. 6 by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the

District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

FOURTHLY:

That part of the shore road allowance along the southern shore of Bass Lake, in front of Lots 1, 2, 3, 4, and 5, Concession 13, bounded on the west by the road allowance along the line between the Townships of Sheguiandah and Bidwell, and bounded on the east by the eastern limit of Assickinack Street as shown on the Town Plot of Sheguiandah.

FIFTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 1, 2, 3, 4, and 5.

SIXTHLY:

That part of the road allowance between Concessions 10 and 11, in front of Lots 1, 2, 3, 4, and 5.

SEVENTHLY:

That part of the road allowance between Concessions 12 and 13, in front of Lots 1, 2, 3, 4, and 5.

EIGHTHLY:

Those parts of the road allowance between Lots 25 and 26, across Concessions A and B.

NINTHLY:

Anderson Street as shown on the Town Plot of Sheguiandah, bounded on the west by Assickinack Street, and bounded on the east by the western limit of the road allowance between Concession A and Lot 11, Concession 13, **SAVE AND EXCEPT** that part of Anderson Street transferred to the Ministry of Transportation by Order-in-Council P.C. 1958-1676 dated 17th December 1958, and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin under No. 86 (Ministry of Transportation Plan P-2460-14).

TENTHLY:

Those parts of the road allowance between Lots 30 and 31 across Concessions A and B, **SAVE AND EXCEPT** that part of the said road allowance designated as Highway 6, by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

ELEVENTHLY:

In the Plan of the Town Plot of Sheguiandah recorded in the Canada Land Survey Records as No. T660 and recorded in the Land Registry Office for the District of Manitoulin as No. 28, the shore road allowance on Sheguiandah Bay abutting Lots 13, 14, and 15, North of Anderson Street, bounded on the north by the easterly production of the southerly limit of Dupont Street and on the east by the northerly production of the westerly limit of Robinson Street.

FIFTHLY

Land for the benefit of The Sheguiandah Band
Townships of Sheguiandah and Bidwell

ALL that parcel of land in the Townships of Sheguiandah and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance along the line between the Townships of Sheguiandah and Bidwell

bounded on the north by the southern shore of Bass Lake, and bounded on the south by a line drawn on a course of West astronomic from the southwestern corner of Lot 1, Concession 8, in the Township of Sheguiandah.

SIXTHLY

Land for the benefit of The West Bay Band
Township of Billings and Carnarvon

ALL those parcels of land in the Township of Billings, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concessions 2 and 3 in front of Lots 6, 7, 8, and 9, bounded on the west by the shore road allowance along the shore of Lake Mindemoya and bounded on the east by the line joining the southwestern corner of Lot 5, Concession 3, to the northwestern corner of Lot 5, Concession 2.

SECONDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 18 bounded both on the east and on the west by the shore road allowance along the shore of Lake Mindemoya.

THIRDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 19 bounded on the east by the shore road allowance along the shore of Lake Mindemoya and bounded on the west by the line joining the southeastern corner of Lot 20, Concession 3, to the northeastern corner of Lot 20, Concession 2.

FOURTHLY:

That part of the road allowance between Concessions 4 and 5, in front of Lots 6 to 19, both inclusive, bounded on the east by the shore road allowance along the shore of Whitefish Lake and bounded on the west by the line joining the southwestern corner of Lot 19, Concession 5, to the northwestern corner of Lot 19, Concession 4.

FIFTHLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 6 to 18, both inclusive, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 7, to the northwestern corner of Lot 5, Concession 6, and bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6.

SIXTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lot 6, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 9 to the northwestern corner of Lot 5, Concession 8, and bounded on the west by the shore road allowance along the shore of Honora Bay of Lake Huron.

SEVENTHLY:

That part of the road allowance between Concessions 8 and 9 in front of Lots 10, 11, 12, 13, 14, 15, 16, and 17, bounded on the east by the shore road allowance along the shore of Honora Bay of Lake Huron, and bounded on the west by the shore road allowance along the shore of Saugigansing Lake (Mud Lake).

EIGHTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 18 and 19, bounded on the east by the shore road allowance along the shore of Saugigansing Lake (Mud Lake) and bounded on the west by a line joining the southwestern corner of Lot 19, Concession 9 and the northwestern corner of Lot 19, Concession 8.

NINTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 1, 2 and 3, bounded on the north by the shore road allowance along the shore of Whitefish Lake, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

TENTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 5, 6, 7, 8 and 9, bounded on the south by the shore road allowance along the shore of Whitefish Lake, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

ELEVENTHLY:

Those parts of the road allowance between Lots 10 and 11, across Concessions 3, 4, 5, 6, and 7, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the southern limit of the Kagawong Road. And also those parts of the said road allowance between Lots 10 and 11 across Concessions 8 and 9, bounded on the south by the eastern production of the line at the north limit of the south half of Lot 11, Concession 8, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

TWELFTHLY:

Those parts of the road allowance between Lots 15 and 16, across Concessions 4, 5, 6, 7, 8, and 9, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the line joining the northeastern corner of Lot 16, Concession 9, to the northwestern corner of Lot 15, Concession 9.

THIRTEENTHLY:

The entire shore road allowance along the shore of Saugigansing Lake (Mud Lake).

FOURTEENTHLY:

That part of the shore road allowance along the northern, western and southern shores of Whitefish Lake, bounded on the northern side of the Lake by the southern production of the western limit of Lot 5, Concession 5, and bounded on the southern side of the Lake by the northern production of the western limit of Lot 5, Concession 3.

FIFTEENTHLY:

That part of the shore road allowance along the northeastern shore of Lake Mindemoya, bounded on the west by the southern production of the eastern limit of Lot 20, Concession 2, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

SIXTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the east by the northern production of the west limit of Lot 5, Concession 9, and bounded on the west by the eastern production of the northern limit of Kagawong Road.

SEVENTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the south by the eastern production of the north limit of Lot 10, Concession 8, and bounded on the north by the eastern production of the south limit of Lot 12, Concession 10.

EIGHTEENTHLY:

That part of the road allowance along the line between the Townships of Billings and Carnarvon bounded on the west by the eastern shore of Lake Mindemoya and bounded on the east by the southern production of the west limit of Lot 5, Concession 1 in the Township of Billings.

SAVE AND EXCEPT from the road allowances described as **FIRSTLY** through **EIGHTEENTHLY** above, those parts of the said road allowances that have been designated as Secondary Highway by the following:

FIRSTLY:

Secondary Highway No. 540 assumed by Order-in-Council OC 1096/56 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. 79 (Ministry of Transportation Plan A-46-4).

SECONDLY:

Secondary Highway No. 540 designated by Order-in-Council OC 2532/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-15026 (Ministry of Transportation Plan P-2458/13).

THIRDLY:

Secondary Highway No. 551 designated by Order-in-Council OC 1513/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14554 (Ministry of Transportation P-7086-7) and by Order-in-Council OC-710/88 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as Number 4539, (Ministry of Transportation Plan P-7085-25).

FOURTHLY:

Secondary Highway No. 540 as shown on a plan recorded in the Canada Lands Surveys Records in Ottawa as Number Rd 4272 and registered in the Land Registry Office for the District of Manitoulin on the 14th day of May 1965 as Number 75 (Ministry of Transportation Plan P-2458-7).

SEVENTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL those parcels of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron, bounded on the south by the western production of the southern limit of Lot 34,

Concession 11, and bounded on the northeast by the northern production of the eastern limit of the road allowance between Lots 30 and 31, Concession 14.

SECONDLY:

Those parts of the road allowance between Lots 30 and 31, across Concessions 11, 12, 13, and 14, bounded on the south by the line joining the southwestern corner of Lot 30, Concession 11, to the southeastern corner of Lot 31, Concession 11, and bounded on the north by the shore of Lake Huron.

THIRDLY:

That part of the road allowance between Concessions 11 and 12, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 30, Concession 12, to the northwestern corner of Lot 30, Concession 11.

FOURTHLY:

That part of the road allowance between Concessions 13 and 14, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southeastern corner of Lot 30, Concession 14, to the northeastern corner of Lot 30, Concession 13.

EIGHTHLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the southern and western shore of Perch Lake bounded on the north by the eastern production of the northern limit of Lot 20, Concession 1, and bounded on the east by the northern production of the eastern limit of Lot 18, Concession 1.

SECONDLY:

The road allowance between Lots 20 and 21, across Concession 1.

NINTHLY

Land for the benefit of The Sheguiandah Band
Townships of Howland and Bidwell

ALL that parcel of land in the Townships of Howland and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance between the Townships of Howland and Bidwell bounded on the west by the southern production of the western limit of Lot 22, Concession 1, in the Township of Howland, and bounded on the east by the western limit of a Public Road running southerly from the said road allowance between townships opposite Lot 19, Concession 1, in the Township of Howland.

SCHEDULE 2**FIRSTLY**

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 18, 19, 20, 21 and 22, Concession 1.

SECONDLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 25, 26 and 27, Concession 19.

SECONDLY:

That part of the bed of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

THIRDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 12, 13, 14, 15, 16, 17, 18, and 19, Concession 20,

Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, Concession 21,

Lots 10, 14, 15, 17, 18, and 19, Concession 22.

SECONDLY:

Lots 12 and 13, Concession 22, SAVE AND EXCEPT those parts of the said lots designated as Parts 1 and 2 on a Reference Plan of Survey deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458.

THIRDLY:

Lot 24, Concession 14,

Lot 24, Concession 15,

Lots 20, 21, and 22, Concession 20,

Lot 20, Concession 21.

FOURTHLY

Land for the benefit of The West Bay Band
Townships of Billings and Carnarvon

ALL those parcels of land in the Townships of Billings and Carnarvon, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of Whitefish Lake lying west of the line joining the point where the western limit of Lot 5, Concession 3, produced northerly intersects the shore of Whitefish Lake, with the point where the western limit of Lot 5, Concession 5, produced southerly intersects the shore of Whitefish Lake.

SECONDLY:

Lake Saugansang in front of Lots 17 and 18, Concession 8, and Lots 16, 17, and 18, in Concession 9.

THIRDLY:

That part of Lake Mindemoya lying northeasterly of the line joining the point where the westerly production of the southern limit of the road allowance between the Townships of Billings and Carnarvon

intersects the eastern shore of Lake Mindemoya, to the point where the southern production of the western limit of Lot 19, Concession 2, intersects the shore of Lake Mindemoya.

FIFTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL that parcel of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 30, Concession 13.

SCHEDULE 3

FIRSTLY

Town Plot of Meldrum Bay
Township of Dawson

ALL those parcels of land in the Town Plot of Meldrum Bay, in the Township of Dawson, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 6, West side of McDonald Avenue;

Lots 9, 10, 11 and 12, East side of Young Avenue;

Lots 9, 10, 11 and 12, West side of Young Avenue;

Lots 1 to 12, both inclusive, East side of Scott Avenue;

All as shown on the Plan of the Town Plot of Meldrum Bay recorded in the Canada Lands Surveys Records as No. T416, and recorded in the Land Registry Office for the District of Manitoulin as No. 46.

SECONDLY

Town Plot of Manitowaning
Township of Assignack

ALL those parcels of land in the Town Plot of Manitowaning, in the Township of Assignack, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lot 18, South side of Queen Street;

SECONDLY:

All of Lot 1, West side of Bay Street and North side of Queen Street, and all of Lot 2, West side of Bay Street, and North side of Queen Street;

SAVE AND EXCEPT that part of the said Lots 1 and 2 described as follows:

Commencing at the southwestern corner of the said Lot 1;

THENCE easterly along the northern limit of Queen Street 66 feet;

THENCE northerly parallel with the western limit of the said Lot 1, 132 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet;

THENCE northerly parallel with the western limit of the said Lot 2, 33 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet more or less to the western limit of the said Lot 2;

THENCE southerly along the western limit of the said Lots 2 and 1, 165 feet more or less to the point of commencement;

The excepted lands being the same as those described as Firstly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of July 1962 as Number T-3686.

AND ALSO SAVE AND EXCEPT that part of the said Lot 2 described as follows:

Commencing at the northeastern corner of Lot 3, East side of Arthur Street and North of Queen Street;

THENCE North 68° East astronomic 188.76 feet to the eastern limit of Lot 2, being also the southwestern limit of Bay Street;

THENCE northwesterly along the said eastern limit to the northern corner of Lot 2;

THENCE southwesterly along the western limit of Lot 2, 198 feet more or less to the point of commencement;

The excepted lands being the same as those described as Secondly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of November 1939 as Number 702.

All as shown on the Plan of the Town Plot of Manitowaning recorded in the Canada Lands Surveys Records as No. T329, and recorded in the Land Registry Office for the District of Manitoulin as No. 3.

THIRDLY

Town Plot of Shaftesbury (Little Current) Township of Howland

ALL those parcels of land in the Town Plot of Shaftesbury, in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 28, 29, 30, and 31, North side of Cockburn Street as shown on the Plan of the Town Plot of Shaftesbury recorded in the Canada Lands Surveys Records as No. T330, and recorded in the Land Registry Office for the District of Manitoulin as No. 2.

FOURTHLY

Town Plot of South Baymouth Township of Tehkummah

ALL those parcels of land in the Town Plot of South Baymouth, in the Township of Tehkummah, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 7 to 17, both inclusive, South side of First Street;

Lots 7 to 17, both inclusive, North side of Second Street;

Lots 8 to 17, both inclusive, South side of Second Street;

Lots 8 to 17, both inclusive, North side of Third Street;

Lots 5 to 17, both inclusive, South side of Third Street;

Lots 5 to 17, both inclusive, North side of Fourth Street;

Lots 5, 6, 7, 9, 10, 11, 12, and 13, South side of Fourth Street;

Lots 13, 14, 15, 16, and 17, North side of Fifth Street;

Lots 13, 14, 15, and 16, South side of Fifth Street;

Lots F, G, H, K, M, N, O, and P.

All as shown on the Plan of the Town Plot of South Baymouth recorded in the Canada Lands Surveys Records as No. T297, and recorded in the Land Registry Office for the District of Manitoulin as No. 45.

FIFTHLY

Town Plot of Tolmsville Township of Cockburn Island

ALL those parcels of land in the Town Plot of Tolmsville, in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 15, 16, 17, 18, 19, 20, and 62 to 74, both inclusive, South side of Water Street;

Lots 61 to 74, both inclusive, 108, 109, and 110, North side of A Street;

Lots 61 to 74, both inclusive, South side of A Street;

Lots 1, 2, and 61 to 74, both inclusive, North side of B Street;

Lots 1, 2, 3, 4, and 61 to 74, both inclusive, South side of B Street;

Lots 2 to 10, both inclusive, 61 to 74, both inclusive, 104 and 105, North side of C Street;

Lots 2 to 10, both inclusive, and 61 to 74, both inclusive, South side of C Street;

Lots 1 to 11, both inclusive, Lots 15 to 18, both inclusive, and 61 to 74, both inclusive, North side of D Street;

Lots 1 to 16, both inclusive, and Lots 61 to 74, both inclusive, South side of D Street;

Lots 1 to 8, both inclusive, 10, 18, 21, 22, 23, 24, and 25, 61 to 74, both inclusive, and 100, 101, and 102, North side of E Street;

Lots 1 to 12, both inclusive, 18 to 29, both inclusive, and 61 to 90, both inclusive, South side of E Street;

Lots 3 to 30, both inclusive, 61 to 66, both inclusive, and 76 to 90, both inclusive, North side of F Street;

Lots 3 to 18, both inclusive, 20 to 51, both inclusive, 55 to 63, both inclusive, and 76 to 90, both inclusive, South side of F Street;

Lots 2, 3, 4, 5, and 9 to 22, both inclusive, 24, 25, 26, 29, 30, and 76 to 90, both inclusive, North side of G Street;

Lots 2 to 19, both inclusive, 21 to 27, both inclusive, and 37 to 44, both inclusive, South side of G Street;

Lots 1, 2, and 4 to 14, both inclusive, 18, 19, 25, 32, 33, 34, 35, and 36, North side of H Street;

Lots 3, 4, 5, and 8 to 13, both inclusive, 15, 32, 33, 34, 35, and 36, South side of H Street;

Lots 1 to 5, both inclusive, 8, 9, 10, 11, 13, 28, 29, 30, 31, 35, 36, 37, 40, 41, 42, 43, and 44, North side of I Street;

Lots 1, 3, 12, 14, 15, 16, 17, 18, and 19, South side of I Street;

Lots 16, 17, 18, and 19, North side of J Street;

Lots 11, 12, 13, and 14, South side of J Street;

Lots 26 and 27, North side of L Street;

All as shown on the plan of the Town Plot of Tolmaville recorded in the Canada Lands Surveys Records as No. T469, and recorded in the Land Registry Office for the District of Manitoulin as No. 8.

Bill 16

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill would make numerous changes to the municipal election procedure in respect of voting accessibility, accountability in campaign financing and administrative efficiency. Many of the changes are minor or technical in nature. The major substantive changes are as follows:

1. The proxy voting process would be changed to permit the clerk to require that a person exercising a proxy provide proof of his or her identification. It would be clarified that an elector may act as a voting proxy for either a relative or a non-relative, but not both.
2. Municipalities would be given the authority to pass a by-law providing for alternative forms of ballots for the benefit of visually impaired electors.
3. Municipalities would be permitted to provide election related information in languages other than English.
4. The clerk would be given the power to requisition municipal facilities, school board facilities, provincially funded institutions and buildings with 100 or more dwelling units for use as polling places as needed.
5. Candidates not complying with the financial reporting and disclosure requirements would be ineligible to be elected to any municipal or related office. The clerk would give notice of the disqualification to both the elected and non-elected candidates.
6. The threshold for which a registered candidate may file a statutory declaration rather than a complete financial statement has been increased from \$1,000 to \$2,000.
7. Campaign surpluses are to be held in trust for each candidate until the next municipal election. Any surplus would be applied against the debts incurred in the immediate past election of the candidate or become the starting balance of the upcoming campaign, or both. If the candidate does not seek office in the next municipal election, the surplus will be transferred to the relevant municipality, school board or local board.
8. A limit of \$5,000 would be established as the maximum aggregate amount the individual, trade union, or corporation may contribute to a campaign. This

limit would apply separately to each jurisdiction in which representatives are directly elected.

9. The costs for tax credits or rebates in respect of jointly elected offices would be apportioned equally between the upper and lower tier municipalities participating in the system.
10. A new procedure is set up for requiring a compliance audit upon the complaint of an elector. The procedures are set out in the proposed sections 134a to 134c of the Act.
11. The revision period for the preliminary list of electors is reduced from forty-two to thirty-nine days.
12. The clerk would be authorized to remove the names of deceased persons from the preliminary list of electors without the need for a hearing.
13. The maximum number of electors in polling subdivisions would be increased from 350 to 1,000 electors.
14. The clerk would be authorized to require proof of identification from those persons wishing to add their names to the polling list.
15. A recount would be automatic if the vote differential between an elected and non-elected candidate is less than the greater of (a) 10 votes; and (b) the lesser of one-half of a vote for each polling subdivision and .25 per cent of the total number of votes cast for the office.
16. The sale or use of voters' lists for commercial purposes would be prohibited.
17. Nomination day is changed to the Friday which is thirty-one days before polling day.
18. The definition of "residence" is expanded to include homeless persons. As a result homeless persons will be eligible to vote. The residence of a homeless person is based on the places that person sleeps and eats.
19. Provision is made for the preparation of a supplementary enumeration list of residents of on-campus residences and psychiatric hospitals. The normal enumeration process occurs too early to deal with the rapid turnover of residents in these institutions.

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

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

1.—(1) Section 1 of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. "Commission" means the Commission on Election Finances established by the *Election Finances Act, 1986*.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out "and Housing" in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. "normal office hours" means those days and hours that an office is open to the public;

32a. "regional municipality" means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.

2. Part I of the Act is amended by adding the following section:

1a.—(1) In this Act, "residence" and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person's family resides is that person's residence

unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.

3. Subclause 2 (a) (ii) of the Act is amended by striking out "of an area municipality" at the end and substituting "of one or more area municipalities".

4.—(1) Subsection 3 (1) of the Act is amended by striking out "Subject to subsections (2) and (3)" at the beginning and substituting "Except as otherwise provided in this section".

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

Returning officer for school board

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

Returning officer, Hamilton-Wentworth

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after "candidate" in the sixth line "or spouse of a candidate".

(2) Subsection 4 (5) of the Act is amended by inserting after "candidate" in the fifth line "or spouse of a candidate".

6. Subsection 6 (3) of the Act is amended by striking out "if requested to do so" in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

Expenses of by-election of local board

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

Payment

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out "Monday in October that precedes polling day by twenty-eight" in the amendment of 1988 and substituting "Friday in October that precedes polling day by thirty-one".

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out "Monday in October that precedes polling

day by twenty-eight" in the amendment of 1988 and substituting "Friday in October that precedes polling day by thirty-one".

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

Ineligibility to vote

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 1,000 electors or extend beyond the boundaries of one ward.

Size

12.—(1) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

Proviso

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after "list" in the second line "under subsection (1) or an extract of the enumeration list under subsection (3)".

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.

Extracts of list

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

When request to be made

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

Mandatory request

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

Copy to school board

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

Copy to registered candidate

(a) who is a registered candidate, as defined in section 121 or 138; and

(b) who is registered to run in an election for the office of a member of a school board.

and times as the clerk or secretary may determine.

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

Mailing of notice of electoral status

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

(a) a notice in the form prescribed by the Minister of Revenue under the *Assessment Act*, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and

(b) an application for revision of the list in the form prescribed.

13. The Act is amended by adding the following section:

22a.—(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.

15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.

(b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).

(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:

(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.

(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.

Posting of list

(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

Revision period

(2) **Clauses 25 (5) (b), (d) and (f) of the Act are repealed.**

(3) **Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:**

(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situated makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

Copies upon request

14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25, and at such other places

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors containing the names of the electors who are entitled to vote in the election for the office

Registered candidate entitled to copies

status of lists

payment for producing extracts

supplementary enumeration list

contents

format

name on supplementary list

correction of list

limitation

revision of list

for which that registered candidate is registered.

Format of list

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

Filing

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

Where application filed by agent

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out “may” in the fifth line and substituting “shall”.

18.—(1) Subsection 28 (5) of the Act is amended by striking out “shall” in the second line and substituting “may”.

(2) Subsection 28 (7) of the Act is amended by striking out “registered” in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person’s own name or the name of a deceased person.

Deletions

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

Identification

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she,

Who may be nominated

(a) is qualified to hold that office under an Act constituting the office; and

(b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday, the thirty-first day before polling day.

Nomination day

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day.

Period for nomination

23.—(1) Subsection 36 (1) of the Act is amended by inserting after “person” in the first line “who is qualified under section 34”.

(2) Clause 36 (1) (c) of the Act is amended by striking out “or a separate school elector, as the fact is” at the end and substituting “a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be”.

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school

Determination as to type of elector

elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:

(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

- (a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and
- (b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

(3a) In this section, "qualifying address" means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out "if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day" at the beginning and substituting "the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if".

(4) Subsection 37 (5) of the Act is amended by striking out "day following nomination day" in the first and second lines and substituting "first day following nomination day that is not a Saturday or a holiday".

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations.

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later

than 4 p.m. on the Thursday following nomination day.

25. Section 39 of the Act is repealed and the following substituted:

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

(3) Subsection 40 (4) of the Act is amended by inserting after "election" in the third line "under section 92".

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

Withdrawal

Where nominated for more than one office

Acclamation

Idem

Quorum

Voting by ballot

posting

definition

list of candidates

Completion of list

USE OF VOTING DEVICES

Use of voting devices

42a.—(1) The council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

Repealing of by-law

(2) A by-law passed under subsection (1) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Order of Minister

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used including the procedures for,
 - (i) the taking of the votes,
 - (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
 - (iii) the counting, by machine or otherwise, of the votes, and
 - (iv) the recounting, by machine or otherwise, of the votes.

Conflicts

(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

Application to court

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1). Procedures

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act. Contents of order

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act. Idem

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3). Restriction

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election. Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after "arranged" in the third line "and, if the candidates have identical surnames, in order of their given names alphabetically arranged".

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor. Borough in Metropolitan Toronto

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

- (ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

Additional polling places

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

Space provided without charge

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end "or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors".

31. Subsection 47 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which has twenty or more beds occupied by persons who are disabled;
- (c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or
- (d) a retirement home which has fifty or more beds occupied.

Interpretation

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

Ballot box

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

Restriction

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31.

Determination of status

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

Closing of polling place

35. Subsection 53 (2) of the Act is amended by adding at the end "if the inspection does not impede the opening of the poll on time".

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

Inspection, sealing of ballot box

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in

each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after “presence of” in the second line “the poll clerk and”.

41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for, Limitation

- (a) one person who is not a relative; or
- (b) one or more persons who are relatives.

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy. Definition

(2) Subsection 67 (5) of the Act is amended by striking out “may apply to the clerk” in the first and second lines and substituting “shall appear before the clerk in person during normal office hours and complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy”.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect. Certificate of proxy

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate. Idem

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot. Where part of votes rejected

Recount

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning "Despite section 90".

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

(4) No person shall be appointed as a recount officer who,

- (a) is a candidate or the spouse of a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.

46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount, Where vote is close

(a) if a candidate who was not declared elected requests it in writing; and

(b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,

(i) ten votes, and

(ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3). Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by inserting after "give" in the first line "by personal service or registered mail".

(2) Subsection 88 (5) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "have present a scrutineer appointed for that purpose" in the fourth line and substitut-

Recount officer

Substitution for clerk

Idem

Disqualification

Limitation

ing "appoint and have present one scrutineer for each recount station established by the recount officer".

(3) Subsection 88 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "Subsections 4 (8) and (10)" in the first line and substituting "Subsection 4 (8)".

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning "Subject to sections 88c and 88d".

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) calculate the result excluding the disputed ballots in the envelope described in clause (d);
- (c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

(5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

(6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, sec-

tion 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

(2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

(3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

(4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

- (a) a certified copy of the result of the recount conducted by the recount officer;
- (b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and
- (d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

- (a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;
- (b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and
- (c) calculate the result of the election excluding the ballots disputed under subsection (6).

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, despite any order to the contrary made by the judge under this section, is disputed by the party.

(7) Upon completion of the recount, the judge shall make an order providing for

Duties of recount officer after recount

Certification

Tied vote

After certification

Application for recount

Service

Procedures

Documents to be provided by recount officer

Determination by judge

Disputed ballots

Order

those matters described in subsection (5) and shall,

- (a) announce the result of the recount, including the number of disputed ballots, to the persons present at the recount;
- (b) seal any ballots the validity of which is disputed under subsection (6) in a separate envelope clearly marked so as to indicate its contents;
- (c) except for the ballots described in clause (b), seal the disputed ballots from the recount conducted by the recount officer in their original envelope;
- (d) give the envelope referred to in clause (b) to the recount officer; and
- (e) return the envelopes referred to in clause (c) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an appeal is made under subsection 88d (1).

55. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

88d.—(1) Any party to the recount under section 88c may, within fifteen days following the completion of the recount of the judge under that section, appeal the decision of the judge to the Ontario Court (General Division).

(2) The appeal under subsection (1) shall be a recount limited to the disputed ballots in the envelope described in clause 88c (7) (b).

(3) The appellant shall serve the notice of appeal upon the recount officer and, if the appeal concerns an election to office, upon each candidate for that office.

(4) Subsection 107 (1) applies with necessary modifications to an appeal under subsection (1).

(5) If an appeal is made under subsection (1), the recount officer shall attend the appeal and provide the court with,

- (a) a certified copy of the order of the judge under section 88c;
- (b) the sealed envelope described in clause 88c (7) (b) containing the disputed ballots from the recount conducted by the judge under section 88c; and
- (c) any other documents relating to the election that are relevant to the appeal.

(6) One judge of the Ontario Court (General Division) shall, in the presence of the parties who have attended the appeal,

- (a) determine the validity of the disputed ballots or of the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots; and
- (b) recalculate the result of the election using the determinations made in clause (a) and the calculations of the judge of the Ontario Court (Provincial Division) described in clause 88c (5) (c).

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (6) and shall,

- (a) announce the result of the recount to the persons present at the recount;
- (b) seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of

Procedures

Documents to be provided by recount officer

Determination

Order

Certified copy of order

Tied vote

Declaration or certification by returning officer

Certified copy of order

Tied vote

Results declared or certified by returning officer

Appeal

Nature of appeal

Service

the vote with respect to a by-law or question, as applicable.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1),

- (a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or
- (b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

59. The Act is further amended by adding the following section:

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(1) Where a new election is required under this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;
- (d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;
- (e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or
- (f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after “mail” in the second line “or personal service”.

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration

Prohibition respecting use of lists

Prohibition respecting sale of lists

New election

Costs of recount

Frivolous proceedings

Discretion of court not restricted

Records to be returned

Right to sit

Retention of ballots

list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

62. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

(2) Where the court determines that a person has committed a corrupt practice, it may, in addition to any other penalty, impose the penalties provided therefor under sections 96 to 102.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

119a. The council of a municipality may by by-law provide that any election related information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

65.—(1) The definition of "campaign expense" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "polling day" at the end of clause (d) and substituting "the closing of the poll".

(2) The definitions of "campaign period", "contribution" and "municipality" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

"campaign period" means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing the day on which,
- (i) an order to hold a new election is given in any judicial proceeding,
- (ii) the council of the municipality passes a by-law to hold a new election,
- (iii) the clerk receives from the secretary of a school board notice that a new election is required,
- (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
- (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

"contribution" means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and
- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988,

Associated corporations

Neglect of duties

Ineligibility

Penalties for corrupt practice

Election information in languages other than English

chapter 33, section 12, is repealed and the following substituted:

Registration
of candidate

(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) **Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:**

- (c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) **Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding "or" at the end of clause (d) and by adding the following clause:**

- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) **Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "contributions" in the third line "or incur expenses".**

(5) **Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:**

(5) The clerk shall keep a register of all notices of registration filed under this section.

Register

(6) **Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.**

(7) **Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:**

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Change of
office

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration.

Onus

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) **Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:**

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

Where no
chief
financial
officer
appointed

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of

Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Contributions

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

Restriction

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Change of office

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(3) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(5)" in the second line "or (5a)".

(4) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Limitation on contributions

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(5) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "section" in the fourth line and substituting "Part".

(6) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Receipts

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Group contributions

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Record of contributions

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.

70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Definition

(1) In this section, "fund-raising function" means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A fund-raising function shall only be held for a person who is registered under this Part.

When fund-raising function to be held

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

Charges as contribution

71. The Act is further amended by adding the following section:

126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

Restrictions respecting advertising

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by add-

ing at the end "entitled to vote for the head of council".

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end "entitled to vote for that office".

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "an area municipality" in the third line and substituting "one or more area municipalities".

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor was more than \$100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or" in the second line and substituting "and".

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$2,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election. Release of funds

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election. Idem

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust. Interest

(5) In any election, a surplus is the amount by which the total of, Surplus

(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

(b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

(c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and

(d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b). Deficit

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced. Restriction

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1), Disposal of surplus

Where
statutory
declaration
sufficient

Surplus

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered.

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

133.—(1) If a registered candidate,

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or
- (b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) A notice served by registered mail under subsection (2) shall be deemed to be received on the fifth day after the day of mailing.

(4) The penalties and disabilities under subsections (1) and (2) take effect,

- (a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or

- (b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.

(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith.

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2).

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who,

- (a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or
- (b) incurs campaign expenses in excess of the amount permitted under section 129,

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the penalties and disabilities under subsection (1).

133b.—(1) If the financial statement, report or statutory declaration of a registered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk,

Application to judge

Consequence of order

Offence

Relief

Ineligibility

dem

Ineligibility respecting future elections

Forfeiture of office

Service

Effective date

Office
declared
vacant

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

Penalties
unaffected by
vacancy

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

Audit
requested

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

Consideration
of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Resolution
required

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

Appeal to
Commission

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

Compliance
audit

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under section 122; and
- (e) any other books, papers, documents or things relevant to the compliance audit.

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

Report of
auditor

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

(4) For the purpose of performing a compliance audit under this Part, the auditor,

Powers of
auditor

- (a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school board or local board relevant to the compliance audit; and
- (b) has the powers of a commission under Part 11 of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act.

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the reg-

Costs

istered candidate who was the subject of the compliance audit was registered to run for office.

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

134d.—(1) Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

79.—(1) The definition of “campaign expense” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “closing of the poll”.

(2) The definitions of “campaign period”, “Commission”, “contribution” and “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing on the day on which,

(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

(b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

“municipality” means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

By-laws to be sent to Commission and clerk

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or metropolitan" in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

O.M.B. approval not required

(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Application for registration

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day file with the clerk of the municipality who is responsible for the conduct of the election an application for registration in the form prescribed by the Commission.

Application, new elections

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;

(d) an order to hold a new election is given by the Minister under the *Municipal Act*; or

(e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by pre-paid registered mail to the Commission immediately upon their receipt.

Documents to Commission

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contributions to unregistered candidate

(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

Register

(a) the name of the office for which the candidate has been or proposes to be nominated;

(b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;

(c) the full name and address of the registered candidate;

(d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;

(e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;

(f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;

(g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and

(h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or

Timing

notice under subsection (8) was filed with the clerk, as the case may be.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal; and
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 143 (4)" in the first and second lines and substituting "section 143".

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "Commission" in the second line and substituting "clerk".

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the Commission under section 143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

Contributions

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

Where change of office

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(1)" in the second line "or (1a)".

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

Limitation on contributions

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

Expiry of campaign period

Declaration to Commission

No contribution to registered candidate

Notice of alteration

Change of office

onus

Replacement

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Political advertisements

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Definition

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

When fund-raising function to be held

(2) A fund-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Charges as contributions

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Group contributions

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Record of contributions

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(iii) all contributions in the form of goods or services and the values of them received by or on behalf of the registered candidate during the campaign period, and

(iv) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than \$100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(3a) In any election, a surplus is the amount by which the total of,

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(3b) A deficit under clause (3a) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a) (c) and (d) exceed the total of the amount described in clauses (3a) (a) and (b).

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

Office declared vacant

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

Penalties unaffected by vacancy

99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

Recovery of tax credit

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of an area municipality, the clerk shall recover from the regional municipality,

Idem

(a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and

(b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to

surplus

deficit

interest

forfeiture of office

any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Guidelines

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

Disqualification

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

Definitions

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the *Municipal Elections Act*.

102. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted:

1. I am a Canadian citizen.

103. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed.

104. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted:

1. I am a Canadian citizen.

105. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted:

1. I am a Canadian citizen.

106. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

1. I am a Canadian citizen.

107. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted:

1. I am a Canadian citizen.

108. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted:

1. I am a Canadian citizen.

109. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991. Commencement

116. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*. Short title

Bill 16

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading December 5th, 1990
2nd Reading December 12th, 1990
3rd Reading
Royal Assent

*(Reprinted as amended by the Committee of the Whole House)
This Bill has been reprinted to conform to the new printing format*

EXPLANATORY NOTES

The Bill would make numerous changes to the municipal election procedure in respect of voting accessibility, accountability in campaign financing and administrative efficiency. Many of the changes are minor or technical in nature. The major substantive changes are as follows:

1. The proxy voting process would be changed to permit the clerk to require that a person exercising a proxy provide proof of his or her identification. It would be clarified that an elector may act as a voting proxy for either a relative or a non-relative, but not both.
2. Municipalities would be given the authority to pass a by-law providing for alternative forms of ballots for the benefit of visually impaired electors.
3. Municipalities would be permitted to provide election related information in languages other than English.
4. The clerk would be given the power to requisition municipal facilities, school board facilities, provincially funded institutions and buildings with 100 or more dwelling units for use as polling places as needed.
5. Candidates not complying with the financial reporting and disclosure requirements would be ineligible to be elected to any municipal or related office. The clerk would give notice of the disqualification to both the elected and non-elected candidates.
6. The threshold for which a registered candidate may file a statutory declaration rather than a complete financial statement has been increased from \$1,000 to \$2,000.
7. Campaign surpluses are to be held in trust for each candidate until the next municipal election. Any surplus would be applied against the debts incurred in the immediate past election of the candidate or become the starting balance of the upcoming campaign, or both. If the candidate does not seek office in the next municipal election, the surplus will be transferred to the relevant municipality, school board or local board.
8. A limit of \$5,000 would be established as the maximum aggregate amount the individual, trade union, or corporation may contribute to a campaign. This limit would apply separately to each jurisdiction in which representatives are directly elected.
9. The costs for tax credits or rebates in respect of jointly elected offices would be apportioned equally between the upper and lower tier municipalities participating in the system.
10. A new procedure is set up for requiring a compliance audit upon the complaint of an elector. The procedures are set out in the proposed sections 134a to 134c of the Act.
11. The revision period for the preliminary list of electors is reduced from forty-two to thirty-nine days.
12. The clerk would be authorized to remove the name of deceased persons from the preliminary list of electors without the need for a hearing.
13. The maximum number of electors in polling subdivisions would be increased from 350 to 500 electors.
14. The clerk would be authorized to require proof of identification from those persons wishing to add their names to the polling list.
15. A recount would be automatic if the vote differential between an elected and non-elected candidate is less than the greater of (a) 10 votes; and (b) the lesser of one-half of a vote for each polling subdivision and .25 per cent of the total number of votes cast for the office.
16. The sale or use of voters' lists for commercial purposes would be prohibited.
17. Nomination day is changed to the Friday which is thirty-one days before polling day.
18. The definition of "residence" is expanded to include homeless persons. As a result homeless persons will be eligible to vote. The residence of a homeless person is based on the places that person sleeps at and eats.
19. Provision is made for the preparation of a supplementary enumeration list of residents of on-campus residences and psychiatric hospitals. The normal enumeration process occurs too early to deal with the rapid turnover of residents in these institutions.

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

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

1.—(1) Section 1 of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. “Commission” means the Commission on Election Finances established by the *Election Finances Act*, 1986.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. “normal office hours” means those days and hours that an office is open to the public;

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.

2. Part I of the Act is amended by adding the following section:

1a.—(1) In this Act, “residence” and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person’s family resides is that person’s residence

unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.

concept of residence

3.—(1) Subclause 2 (a) (ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

(2) Subclause 2 (a) (iv) of the Act is amended by adding at the beginning “trustee, commissioner or other”.

4.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

6. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 500 electors or extend beyond the boundaries of one ward.

12.—(1) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after “list” in the second line “under subsection (1) or an extract of the enumeration list under subsection (3)”.

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

Ineligibility to vote

Size

Proviso

Extracts of list

When request to be made

Mandatory request

Copy to school board

Copy to registered candidate

Returning officer for school board

Returning officer, Hamilton-Wentworth

Expenses of by-election of local board

Payment

- (a) who is a registered candidate, as defined in section 121 or 138; and
- (b) who is registered to run in an election for the office of a member of a school board.

atus of lists

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

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tracts

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

13. The Act is amended by adding the following section:

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22a.—(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.

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(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.

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(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

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mentary list

(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.

orrection of
st

(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.

Limitation

(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.

14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

Revision of
list

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during nor-

mal office hours during the revision period under section 25, and at such other places and times as the clerk or secretary may determine.

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

Mailing of
notice of
electoral
status

(a) a notice in the form prescribed by the Minister of Revenue under the *Assessment Act*, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and

(b) an application for revision of the list in the form prescribed.

15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

(b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).

16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:

(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.

Posting of
list

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

Revision
period

(2) Clauses 25 (5) (b), (d) and (f) of the Act are repealed.

(3) Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situated makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

Copies upon
request

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors

Registered
candidate
entitled to
copies

containing the names of the electors who are entitled to vote in the election for the office for which that registered candidate is registered.

Format of list

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

Filing

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

Where application filed by agent

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out "may" in the fifth line and substituting "shall".

18.—(1) Subsection 28 (5) of the Act is amended by striking out "shall" in the second line and substituting "may".

(2) Subsection 28 (7) of the Act is amended by striking out "registered" in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

Deletions

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

Identification

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she,

Who may be nominated

(a) is qualified to hold that office under an Act constituting the office; and

(b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday, the thirty-first day before polling day.

Nomination day

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day.

Period for nomination

23.—(1) Subsection 36 (1) of the Act is amended by inserting after "person" in the first line "who is qualified under section 34".

(2) Clause 36 (1) (c) of the Act is amended by striking out "or a separate school elector, as the fact is" at the end and substituting "a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be".

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school

Determination as to type of elector

elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:

(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

- (a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and
- (b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

(3a) In this section, “qualifying address” means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out “if, on examination of the nomination paper prior to 4 o’clock in the afternoon on the day following nomination day” at the beginning and substituting “the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if”.

(4) Subsection 37 (5) of the Act is amended by striking out “day following nomination day” in the first and second lines and substituting “first day following nomination day that is not a Saturday or a holiday”.

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations.

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later

than 4 p.m. on the Thursday following nomination day.

25. Section 39 of the Act is repealed and the following substituted:

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

Withdrawal

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

Where nominated for more than one office

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

Acclamation

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

Idem

(3) Subsection 40 (4) of the Act is amended by inserting after “election” in the third line “under section 92”.

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

Quorum

27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

Voting by ballot

USE OF VOTING DEVICES

Use of voting devices

42a.—(1) The council of a municipality may, by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

Repealing of by-law

(2) A by-law passed under subsection (1) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Order of Minister

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used including the procedures for,
 - (i) the taking of the votes,
 - (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
 - (iii) the counting, by machine or otherwise, of the votes, and
 - (iv) the recounting, by machine or otherwise, of the votes.

Conflicts

(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

Application to court

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1). Procedures

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act. Contents of order

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act. Idem

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3). Restriction

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election. Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after "arranged" in the third line "and, if the candidates have identical surnames, in order of their given names alphabetically arranged".

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor. Borough in Metropolitan Toronto

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

- (ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

Additional
polling places

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

Space
provided
without
charge

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end "or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors".

31. Subsection 47 (1) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special
polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which has twenty or more beds occupied by persons who are disabled;
- (c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or
- (d) a retirement home which has fifty or more beds occupied.

Interpretation

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

Ballot box

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

Restriction

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

Determin-
ation
of status

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31.

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

Closing of
polling place

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

35. Subsection 53 (2) of the Act is amended by adding at the end "if the inspection does not impede the opening of the poll on time".

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

Inspection,
sealing of
ballot box

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

Identification **57a.** For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out "unable to read" in the first and second lines and substituting "illiterate".

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

Advance poll (1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

List of persons voting (5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in

each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after "presence of" in the second line "the poll clerk and".

41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for,

Limitation

- (a) one person who is not a relative; or
- (b) one or more persons who are relatives.

(3a) In subsection (3), "relative" means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy.

Definition

(2) Subsection 67 (5) of the Act is repealed and the following substituted:

(5) A person who has been appointed a voting proxy shall complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy, and shall appear before the clerk in person for this purpose at the clerk's office,

Application for proxy certificate

- (a) during normal office hours; or
- (b) during the period from 12 noon to 5 p.m. on the Saturday of the advance poll held under section 66.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

Certificate of proxy

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out "can" in the second line and substituting "may".

(2) Section 71 of the Act is amended by adding the following subsection:

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate.

Idem

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

Where part
of votes
rejected

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

Recount

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning "Despite section 90".

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

Recount
officer

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

Substitution
of clerk

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

Recount
officer

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

Disqualifi-
cation

(4) No person shall be appointed as a recount officer who,

- (a) is a candidate or the spouse of a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

Limitation

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.

46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking

out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount, Where vote
is close

- (a) if a candidate who was not declared elected requests it in writing; and
- (b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,

(i) ten votes, and

(ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3). Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by insert-

ing after "give" in the first line "by personal service or registered mail".

(2) Subsection 88 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "have present a scrutineer appointed for that purpose" in the fourth line and substituting "appoint and have present one scrutineer for each recount station established by the recount officer".

(3) Subsection 88 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "Subsections 4 (8) and (10)" in the first line and substituting "Subsection 4 (8)".

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning "Subject to sections 88c and 88d".

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) calculate the result excluding the disputed ballots in the envelope described in clause (d);
- (c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

(5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

(6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify

to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

(2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

(3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

(4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

- (a) a certified copy of the result of the recount conducted by the recount officer;
- (b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and
- (d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

- (a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;
- (b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and
- (c) calculate the result of the election excluding the ballots disputed under subsection (6).

Duties of recount officer after recount

Certification

Tied vote

After certification

Application for recount

Service

Procedure

Document to be provided to recount officer

Determination by judge

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, despite any order to the contrary made by the judge under this section, is disputed by the party.

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (5) and shall,

- (a) announce the result of the recount, including the number of disputed ballots, to the persons present at the recount;
- (b) seal any ballots the validity of which is disputed under subsection (6) in a separate envelope clearly marked so as to indicate its contents;
- (c) except for the ballots described in clause (b), seal the disputed ballots from the recount conducted by the recount officer in their original envelope;
- (d) give the envelope referred to in clause (b) to the recount officer; and
- (e) return the envelopes referred to in clause (c) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an appeal is made under subsection 88d (1).

55. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

88d.—(1) Any party to the recount under section 88c may, within fifteen days following the completion of the recount of the judge under that section, appeal the decision of the judge to the Ontario Court (General Division).

(2) The appeal under subsection (1) shall be a recount limited to the disputed ballots in the envelope described in clause 88c (7) (b).

(3) The appellant shall serve the notice of appeal upon the recount officer and, if the appeal concerns an election to office, upon each candidate for that office.

(4) Subsection 107 (1) applies with necessary modifications to an appeal under subsection (1).

(5) If an appeal is made under subsection (1), the recount officer shall attend the appeal and provide the court with,

- (a) a certified copy of the order of the judge under section 88c;
- (b) the sealed envelope described in clause 88c (7) (b) containing the disputed ballots from the recount conducted by the judge under section 88c; and
- (c) any other documents relating to the election that are relevant to the appeal.

(6) One judge of the Ontario Court (General Division) shall, in the presence of the parties who have attended the appeal,

- (a) determine the validity of the disputed ballots or of the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots; and
- (b) recalculate the result of the election using the determinations made in clause (a) and the calculations of the judge of the Ontario Court (Provincial Division) described in clause 88c (5) (c).

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (6) and shall,

- (a) announce the result of the recount to the persons present at the recount;
- (b) seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the

Nature of appeal

Service

Procedures

Documents to be provided by recount officer

Determination

Order

Certified copy of order

Tied vote

disputed ballots

order

application or recount

service

procedures

documents to be provided by recount officer

certified copy of order

tied vote

faults declared or certified by returning officer

appeal

lot to the returning officer together with the order under subsection (8).

Declaration or certification by returning officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

Costs of recount

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

Frivolous proceedings

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

Discretion of court not restricted

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

Records to be returned

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

Right to sit

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1),

Retention of ballots

(a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or

(b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

59. The Act is further amended by adding the following section:

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

Prohibition respecting use of lists

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

Prohibition respecting sale of lists

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(1) Where a new election is required under this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

New election

(a) an order to hold a new election is given in any judicial proceedings;

(b) the council of the municipality passes a by-law to hold a new election;

(c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;

(d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;

(e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or

(f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after "mail" in the second line "or personal service".

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

(d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

62. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

(2) Where the court determines that a person has committed a corrupt practice, it may, in addition to any other penalty, impose the penalties provided therefor under sections 96 to 102.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

119a. The council of a municipality may by by-law provide that any election related

information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

65.—(1) The definition of "campaign expense" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "polling day" at the end of clause (d) and substituting "the closing of the poll".

(2) The definitions of "campaign period", "contribution" and "municipality" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

"campaign period" means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing the day on which,

(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

"contribution" means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

(b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

Neglect of duties

Ineligibility

Penalties for corrupt practice

Election information in languages other than English

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Registration of candidate

(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding "or" at the end of clause (d) and by adding the following clause:

- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "contributions" in the third line "or incur expenses".

(5) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) The clerk shall keep a register of all notices of registration filed under this section. Register

(6) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

(7) Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be. Change of office

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration. Onus

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;

- (ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(4) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(5)" in the second line "or (5a)".

(5) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the

case may be, which in total exceeds \$5,000 in value.

(6) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "section" in the fourth line and substituting "Part".

(7) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.

70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, "fund-raising function" means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A fund-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

Where no chief financial officer appointed

Contributions

Restriction

Change of office

Limitation on contributions

Receipts

Group contributions

Record of contributions

Definition

When fund-raising function to be held

Charges as contribution

71. The Act is further amended by adding the following section:

Restrictions respecting advertising

126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” in the third line and substituting “one or more area municipalities”.

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor was more than \$100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or” in the second line and substituting “and”.

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Where statutory declaration sufficient

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$2,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

Surplus

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election.

Release of funds

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election.

Idem

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

Interest

(5) In any election, a surplus is the amount by which the total of,

Surplus

(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

(b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

(c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and

(d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Deficit

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b).

Restriction

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on

the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered.

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

133.—(1) If a registered candidate,

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or
- (b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) A notice served by registered mail under subsection (2) shall be deemed to be

received on the fifth day after the day of mailing.

(4) The penalties and disabilities under subsections (1) and (2) take effect,

- (a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or
- (b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.

(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith.

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2).

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who,

- (a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or
- (b) incurs campaign expenses in excess of the amount permitted under section 129,

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the penalties and disabilities under subsection (1).

133b.—(1) If the financial statement, report or statutory declaration of a regis-

Effective date

Application to judge

Consequence of order

Offence

Relief

Ineligibility

Disposal of surplus

Idem

Ineligibility respecting future elections

Forfeiture of office

Service

tered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk.

Office declared vacant

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

Penalties unaffected by vacancy

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

Audit requested

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

Consideration of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Resolution required

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Appeal to Commission

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

Compliance audit

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

Idem

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under section 122; and
- (e) any other books, papers, documents or things relevant to the compliance audit.

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

Report of auditor

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

(4) For the purpose of performing a compliance audit under this Part, the auditor,

Powers of auditor

- (a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school

board or local board relevant to the compliance audit; and

- (b) has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act.

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the registered candidate who was the subject of the compliance audit was registered to run for office.

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

134d.—(1) Except as otherwise provided in this Part, the provisions of the

Election Finances Act, 1986 relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

79.—(1) The definition of “campaign expense” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “closing of the poll”.

(2) The definitions of “campaign period”, “Commission”, “contribution” and “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing on the day on which,

(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

(b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement

Guidelines

Legal proceedings

Costs

Frivolous applications

Immunity respecting audit

Legal proceeding

Commission to be notified

Legal proceedings

Powers and duties

with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

By-laws to be sent to Commission and clerk

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or metropolitan" in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

O.M.B. approval not required

(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Application for registration

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day file with the clerk of the municipality who is responsible for the conduct of the election an application for registration in the form prescribed by the Commission.

Application, new elections

(2) In the case of a new election, the application for registration referred to in sub-

section (1) shall be filed with the clerk no earlier than the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*; or
- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by pre-paid registered mail to the Commission immediately upon their receipt.

Documents to Commission

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contributions to unregistered candidate

(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

Register

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by

or on behalf of the registered candidate for the deposit of any contributions; and

(h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or notice under subsection (8) was filed with the clerk, as the case may be.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

(a) where the nomination is withdrawn, on the day of the withdrawal; and

(b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 143 (4)" in the first and second lines and substituting "section 143".

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "Commission" in the second line and substituting "clerk".

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is repealed and the following substituted:

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the Commission under section 143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(1)" in the second line "or (1a)".

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

Replacement

Contributions

Where change of office

Limitation on contributions

Timing

Expiry of campaign period

Notice of alteration

Change of office

Onus

- (a) to any registered candidate which in total exceeds \$750 in value; or
- (b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A funding-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is repealed and the following substituted:

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

Group contributions

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

Record of contributions

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(iii) all contributions in the form of goods or services and the values of them received by or on behalf of the registered candidate during the campaign period, and

(iv) the name, address and contribution of each individual, corporation or trade union that made

Political advertisements

Definition

When fund-raising function to be held

Charges as contributions

one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than \$100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(3a) In any election, a surplus is the amount by which the total of,

(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

(b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

(c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and

(d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(3b) A deficit under clause (3a) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a) (c) and (d) exceed the total of the amount described in clauses (3a) (a) and (b).

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "in the municipality" in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for

which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of

surplus

Ineligibility

Office declared vacant

deficit

Penalties unaffected by vacancy

interest

Recovery of tax credit

forfeiture of office

Idem

an area municipality, the clerk shall recover from the regional municipality,

- (a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and
- (b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Guidelines

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

Disqualifi-
cation

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

Definitions

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the *Municipal Elections Act*.

102. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

103. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed.

104. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

105. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

106. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

107. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

108. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

109. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991.

Commence-
ment

116. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*.

Short title



Bill 16

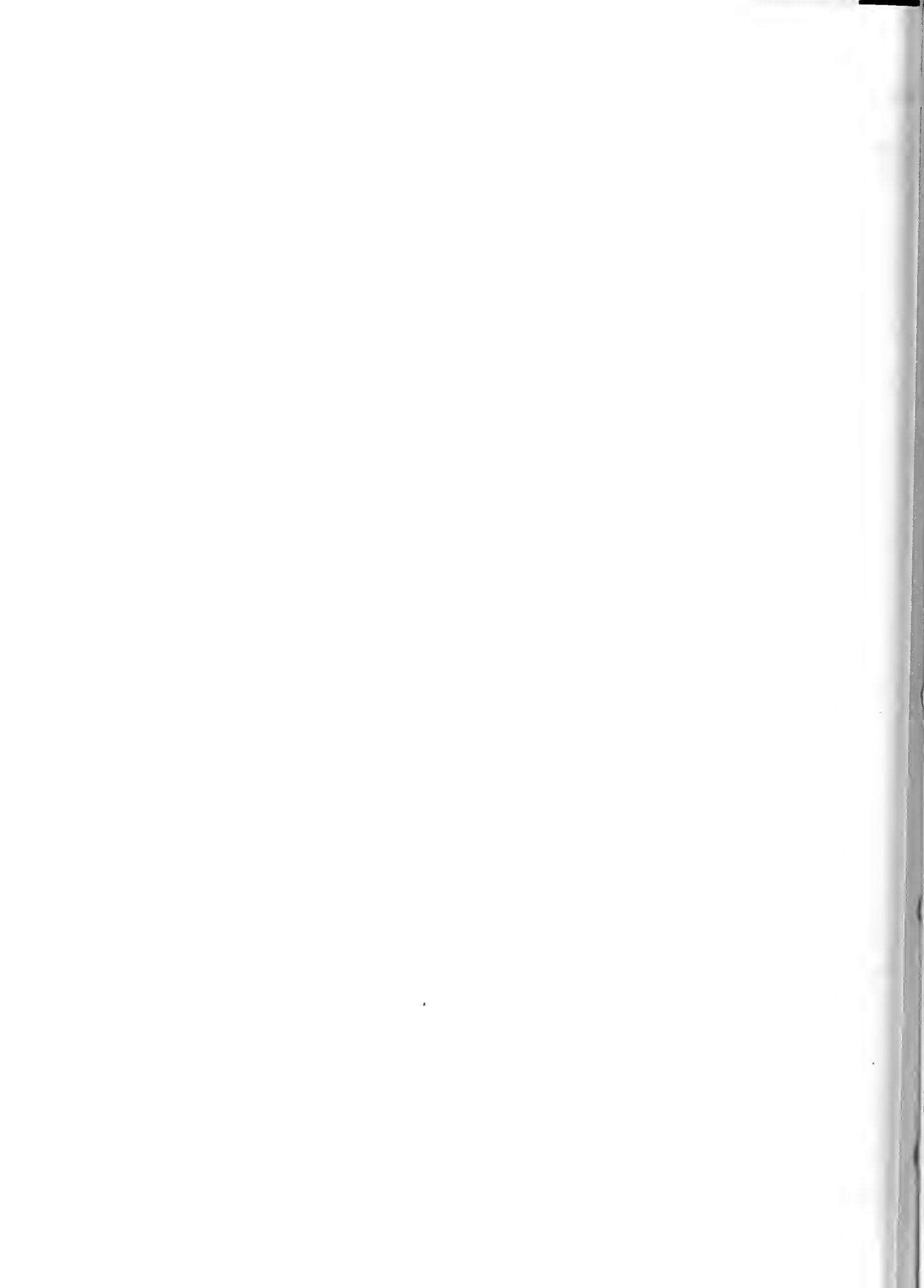
*(Chapter 28
Statutes of Ontario, 1990)*

**An Act to amend the
Municipal Elections Act and
certain other Acts related to Municipal Elections**

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 19th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format



An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

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

1.—(1) Section 1 of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. “Commission” means the Commission on Election Finances established by the *Election Finances Act*, 1986.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. “normal office hours” means those days and hours that an office is open to the public;

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.

2. Part I of the Act is amended by adding the following section:

1a.—(1) In this Act, “residence” and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person’s family resides is that person’s residence

unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.

Concept of residence

3.—(1) Subclause 2 (a) (ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

(2) Subclause 2 (a) (iv) of the Act is amended by adding at the beginning “trustee, commissioner or other”.

4.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

6. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

Ineligibility to vote

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 500 electors or extend beyond the boundaries of one ward.

Size

12.—(1) Section 22 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

Proviso

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after “list” in the second line “under subsection (1) or an extract of the enumeration list under subsection (3)”.

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.

Extracts of list

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

When request to be made

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

Mandatory request

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

Copy to school board

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

Copy to registered candidate

Returning officer for school board

Returning officer, Hamilton-Wentworth

Expenses of by-election of local board

Payment

- (a) who is a registered candidate, as defined in section 121 or 138; and
- (b) who is registered to run in an election for the office of a member of a school board.

tatus of lists

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

ayment for producing extracts

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

13. The Act is amended by adding the following section:

upplementary enumeration list

22a.—(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.

ontents

(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.

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(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Name on supplementary list

(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.

Correction of list

(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.

Limitation

(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.

14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

Revision of list

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during nor-

mal office hours during the revision period under section 25, and at such other places and times as the clerk or secretary may determine.

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

Mailing of notice of electoral status

(a) a notice in the form prescribed by the Minister of Revenue under the *Assessment Act*, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and

(b) an application for revision of the list in the form prescribed.

15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

(b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).

16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:

(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.

Posting of list

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

Revision period

(2) Clauses 25 (5) (b), (d) and (f) of the Act are repealed.

(3) Subsection 25 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

Copies upon request

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors

Registered candidate entitled to copies

containing the names of the electors who are entitled to vote in the election for the office for which that registered candidate is registered.

Format of list

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

Filing

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

Where application filed by agent

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out "may" in the fifth line and substituting "shall".

18.—(1) Subsection 28 (5) of the Act is amended by striking out "shall" in the second line and substituting "may".

(2) Subsection 28 (7) of the Act is amended by striking out "registered" in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

Deletions

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

Identification

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she,

Who may be nominated

- (a) is qualified to hold that office under an Act constituting the office; and
- (b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday, the thirty-first day before polling day.

Nomination day

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day.

Period for nomination

23.—(1) Subsection 36 (1) of the Act is amended by inserting after "person" in the first line "who is qualified under section 34".

(2) Clause 36 (1) (c) of the Act is amended by striking out "or a separate school elector, as the fact is" at the end and substituting "a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be".

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school

Determination as to type of elector

elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:

(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

- (a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and
- (b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

(3a) In this section, "qualifying address" means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out "if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day" at the beginning and substituting "the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if".

(4) Subsection 37 (5) of the Act is amended by striking out "day following nomination day" in the first and second lines and substituting "first day following nomination day that is not a Saturday or a holiday".

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations.

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later

than 4 p.m. on the Thursday following nomination day.

25. Section 39 of the Act is repealed and the following substituted:

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

(3) Subsection 40 (4) of the Act is amended by inserting after "election" in the third line "under section 92".

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

Withdrawal

Where nominated for more than one office

Acclamation

Idem

Quorum

Voting by ballot

Posting

Definition

List of candidates

Completion of list

USE OF VOTING DEVICES

Use of voting devices

42a.—(1) The council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

Repealing of by-law

(2) A by-law passed under subsection (1) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Order of Minister

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used including the procedures for,
 - (i) the taking of the votes,
 - (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
 - (iii) the counting, by machine or otherwise, of the votes, and
 - (iv) the recounting, by machine or otherwise, of the votes.

Conflicts

(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

Application to court

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1).

Procedures

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act.

Contents of order

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act.

Idem

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3).

Restriction

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election.

Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after "arranged" in the third line "and, if the candidates have identical surnames, in order of their given names alphabetically arranged".

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor.

Borough in Metropolitan Toronto

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

- (ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

Additional polling places

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

Space provided without charge

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end "or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors".

31. Subsection 47 (1) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which has twenty or more beds occupied by persons who are disabled;
- (c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or
- (d) a retirement home which has fifty or more beds occupied.

Interpretation

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

Ballot box

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

Restriction

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31.

Determination of status

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

Closing of polling place

35. Subsection 53 (2) of the Act is amended by adding at the end "if the inspection does not impede the opening of the poll on time".

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

Inspection, sealing of ballot box

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

Identification

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in

List of persons voting

each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after “presence of” in the second line “the poll clerk and”.

41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for,

Limitation

- (a) one person who is not a relative; or
- (b) one or more persons who are relatives.

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy.

Definition

(2) Subsection 67 (5) of the Act is repealed and the following substituted:

(5) A person who has been appointed a voting proxy shall complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy, and shall appear before the clerk in person for this purpose at the clerk’s office,

Application for proxy certificate

- (a) during normal office hours; or
- (b) during the period from 12 noon to 5 p.m. on the Saturday of the advance poll held under section 66.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

Certificate of proxy

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate.

Idem

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

Where part
of votes
rejected

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

Recount

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning "Despite section 90".

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

(4) No person shall be appointed as a recount officer who,

- (a) is a candidate or the spouse of a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.

46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking

out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount, Where vote is close

- (a) if a candidate who was not declared elected requests it in writing; and
- (b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,
 - (i) ten votes, and
 - (ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3). Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by insert-

Recount
officer

Substitution
for clerk

Idem

Disqualifi-
cation

Limitation

ing after "give" in the first line "by personal service or registered mail".

(2) Subsection 88 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "have present a scrutineer appointed for that purpose" in the fourth line and substituting "appoint and have present one scrutineer for each recount station established by the recount officer".

(3) Subsection 88 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "Subsections 4 (8) and (10)" in the first line and substituting "Subsection 4 (8)".

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning "Subject to sections 88c and 88d".

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) calculate the result excluding the disputed ballots in the envelope described in clause (d);
- (c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

(5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

(6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify

to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

(2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

(3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

(4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

- (a) a certified copy of the result of the recount conducted by the recount officer;
- (b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and
- (d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

- (a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;
- (b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and
- (c) calculate the result of the election excluding the ballots disputed under subsection (6).

Application for recount

Service

Procedures

Documents to be provided by recount officer

Determination by judge

Duties of recount officer after recount

Certification

Tied vote

After certification

Disputed ballots

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, despite any order to the contrary made by the judge under this section, is disputed by the party.

(2) The appeal under subsection (1) shall be a recount limited to the disputed ballots in the envelope described in clause 88c (7) (b).

Nature of appeal

Order

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (5) and shall,

(3) The appellant shall serve the notice of appeal upon the recount officer and, if the appeal concerns an election to office, upon each candidate for that office.

Service

- (a) announce the result of the recount, including the number of disputed ballots, to the persons present at the recount;
- (b) seal any ballots the validity of which is disputed under subsection (6) in a separate envelope clearly marked so as to indicate its contents;
- (c) except for the ballots described in clause (b), seal the disputed ballots from the recount conducted by the recount officer in their original envelope;
- (d) give the envelope referred to in clause (b) to the recount officer; and
- (e) return the envelopes referred to in clause (c) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(4) Subsection 107 (1) applies with necessary modifications to an appeal under subsection (1).

Procedures

(5) If an appeal is made under subsection (1), the recount officer shall attend the appeal and provide the court with,

Documents to be provided by recount officer

- (a) a certified copy of the order of the judge under section 88c;
- (b) the sealed envelope described in clause 88c (7) (b) containing the disputed ballots from the recount conducted by the judge under section 88c; and
- (c) any other documents relating to the election that are relevant to the appeal.

(6) One judge of the Ontario Court (General Division) shall, in the presence of the parties who have attended the appeal,

Determination

- (a) determine the validity of the disputed ballots or of the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots; and
- (b) recalculate the result of the election using the determinations made in clause (a) and the calculations of the judge of the Ontario Court (Provincial Division) described in clause 88c (5) (c).

Certified copy of order

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

Tied vote

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (6) and shall,

Order

- (a) announce the result of the recount to the persons present at the recount;
- (b) seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

Results declared or certified by returning officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an appeal is made under subsection 88d (1).

55. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

Appeal

88d.—(1) Any party to the recount under section 88c may, within fifteen days following the completion of the recount of the judge under that section, appeal the decision of the judge to the Ontario Court (General Division).

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

Certified copy of order

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the

Tied vote

lot to the returning officer together with the order under subsection (8).

(1a) The clerk shall not destroy the ballots under subsection (1),

Retention of ballots

Declaration or certification by returning officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

(a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or

(b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

59. The Act is further amended by adding the following section:

Costs of recount

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

Prohibition respecting use of lists

Frivolous proceedings

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

Prohibition respecting sale of lists

Discretion of court not restricted

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

Records to be returned

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

(1) Where a new election is required under this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

New election

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

Right to sit

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

(a) an order to hold a new election is given in any judicial proceedings;

(b) the council of the municipality passes a by-law to hold a new election;

(c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;

(d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;

(e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or

(f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after "mail" in the second line "or personal service".

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

(d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

62. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

(2) Where the court determines that a person has committed a corrupt practice, it may, in addition to any other penalty, impose the penalties provided therefor under sections 96 to 102.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

119a. The council of a municipality may by by-law provide that any election related information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

Election information in languages other than English

65.—(1) The definition of "campaign expense" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "polling day" at the end of clause (d) and substituting "the closing of the poll".

(2) The definitions of "campaign period", "contribution" and "municipality" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

"campaign period" means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing the day on which,

(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

"contribution" means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

(b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

Neglect of duties

Ineligibility

Penalties for corrupt practice

“municipality” means a city, town, village, police village, township or regional municipality.

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Registration of candidate

(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding “or” at the end of clause (d) and by adding the following clause:

(e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “contributions” in the third line “or incur expenses”.

(5) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) The clerk shall keep a register of all notices of registration filed under this section.

Register

(6) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

(7) Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Change of office

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration.

Onus

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(4) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(5)" in the second line "or (5a)".

(5) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(6) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "section" in the fourth line and substituting "Part".

(7) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.

70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, "fund-raising function" means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A fund-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988,

Where no chief financial officer appointed

Contributions

Restriction

Change of office

Limitation on contributions

Receipts

Group contributions

Record of contributions

Definition

When fund-raising function to be held

chapter 33, section 12, is repealed and the following substituted:

Charges as contribution

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

71. The Act is further amended by adding the following section:

Restrictions respecting advertising

126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” in the third line and substituting “one or more area municipalities”.

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor was more than \$100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or” in the second line and substituting “and”.

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Where statutory declaration sufficient

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$2,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory

declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

Surplus

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election.

Release of funds

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election.

Idem

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

Interest

(5) In any election, a surplus is the amount by which the total of,

Surplus

(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

(b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

(c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and

(d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b).

Deficit

Restriction

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

vacant and the registered candidate shall forfeit the office.

(3) A notice served by registered mail under subsection (2) shall be deemed to be received on the fifth day after the day of mailing.

Service

(4) The penalties and disabilities under subsections (1) and (2) take effect,

Effective date

Disposal of surplus

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

(a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or

(a) notifies the clerk in writing that the candidate does not intend to seek nomination;

(b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.

(b) fails to be nominated;

(c) is ineligible to be nominated; or

(d) fails to become registered.

(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith.

Application to judge

Idem

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2).

Consequence of order

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

133.—(1) If a registered candidate,

(a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who,

Offence

(b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

(a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

(b) incurs campaign expenses in excess of the amount permitted under section 129,

Ineligibility respecting future elections

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the

Relief

penalties and disabilities under subsection (1).

Ineligibility

133b.—(1) If the financial statement, report or statutory declaration of a registered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk.

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

Resolution required

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Appeal to Commission

Office declared vacant

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

Compliance audit

Penalties unaffected by vacancy

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

Idem

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

Audit requested

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under section 122; and
- (e) any other books, papers, documents or things relevant to the compliance audit.

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

Report of auditor

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

Consideration of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

(4) For the purpose of performing a compliance audit under this Part, the auditor,

Powers of auditor

- (a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school board or local board relevant to the compliance audit; and
- (b) has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act.

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the registered candidate who was the subject of the compliance audit was registered to run for office.

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

134d.—(1) Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

79.—(1) The definition of “campaign expense” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “closing of the poll”.

(2) The definitions of “campaign period”, “Commission”, “contribution” and “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing on the day on which,
- (i) an order to hold a new election is given in any judicial proceeding,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required,
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
 - (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and

Powers and duties

Guidelines

Legal proceedings

Costs

Frivolous applications

Immunity respecting audit

Legal proceeding

Commission to be notified

Legal proceedings

- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

By-laws to be sent to Commission and clerk

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or metropolitan" in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

O.M.B. approval not required

(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Application for registration

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day file with the clerk of the municipality who is responsible for the conduct of the election an applica-

tion for registration in the form prescribed by the Commission.

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

Application, new elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*; or
- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by prepaid registered mail to the Commission immediately upon their receipt.

Documents to Commission

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contributions to unregistered candidate

(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

Register

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;

- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or notice under subsection (8) was filed with the clerk, as the case may be.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal; and
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 143 (4)" in the first and second lines and substituting "section 143".

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is amended by striking out "Commission" in the second line and substituting "clerk".

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

Replacement

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the Commission under section 143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

Contributions

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

Where change of office

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(1)" in the second line "or (1a)".

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Timing

Expiry of campaign period

Notice of alteration

Change of office

Onus

Limitation on contributions

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

- (a) to any registered candidate which in total exceeds \$750 in value; or
- (b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Political advertisements

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Definition

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

When fund-raising function to be held

(2) A funding-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

Charges at contribution

91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

Group contributions

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

Record of contribution

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (iii) all contributions in the form of goods or services and the values of them received by or on behalf

of the registered candidate during the campaign period, and

- (iv) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than \$100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(3a) In any election, a surplus is the amount by which the total of,

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(3b) A deficit under clause (3a) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a) (c) and (d) exceed the total of the amount described in clauses (3a) (a) and (b).

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or

(b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

Ineligibility

Office declared vacant

Penalties unaffected by vacancy

Recovery of tax credit

Surplus

Deficit

Interest

Forfeiture of office

Charges
contributed
Group of
persons

Idem

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of an area municipality, the clerk shall recover from the regional municipality,

- (a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and
- (b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the *Municipal Elections Act*.

102. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted:

1. I am a Canadian citizen.

103. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed.

104. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted:

1. I am a Canadian citizen.

105. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted:

1. I am a Canadian citizen.

106. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

1. I am a Canadian citizen.

107. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted:

1. I am a Canadian citizen.

108. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted:

1. I am a Canadian citizen.

109. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991. Commencement

116. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*. Short title

Guidelines

Disqualification

Definitions



1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

The Hon. H. Hampton
Attorney General

Projet de loi 17

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**

L'honorable H. Hampton
Procureur général

1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

1^{re} lecture 5 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTES

The Bill amends the *Support and Custody Orders Enforcement Act, 1985*, which under section 12 of the Bill will be renamed the *Child and Family Support Act, 1985*. It also amends the *Employment Standards Act*.

PART I

Support and Custody Orders Enforcement Act, 1985

The principal purpose of the amendments to the *Support and Custody Orders Enforcement Act, 1985* is to provide for automatic deduction of support payments from the income of people required to pay support and to provide for the payment to the Director of the Child and Family Support Office of the amount deducted. This will be done through a new court order which is created by the Bill. The principal features of this new method of support order enforcement are as follows:

1. The new order will be known as a "support deduction order".
2. A support deduction order will be made by an Ontario court at the time it makes a support order. (Proposed section 3a of the Act, as set out in section 3 of the Bill). Special provision is made for existing support orders made by Ontario courts and for domestic contracts and paternity agreements that have been filed in the Director's office. (Proposed section 3k of the Act, as set out in section 3 of the Bill)
3. A person who makes periodic payments (an "income source") to a person who is required to make support payments (a "debtor") will be required to deduct up to 50 per cent of each periodic payment owed to the debtor and pay the amount deducted to the Director. The Director will pay the amounts collected to the person entitled to payment under the support order to which the support deduction order relates. (Proposed section 3c of the Act as set out in section 3 of the Bill)
4. The Director must enforce a support deduction order unless its operation is suspended by the court. A suspension order may only be made if the conditions set out in the Act are met. In particular, suspension is available only if enforcement of the order would be unconscionable or if the parties agree and the debtor posts security. (Proposed sections 3c and 3d of the Act as set out in section 3 of the Bill)
5. Support deduction orders in respect of on-going support obligations can be varied only by a court and only if the support order to which it relates is varied. The parties cannot opt out of the program unless the court issues a suspension order. (Proposed sections 3e and 3f of the Act, as set out in section 3 of the Bill)
6. The Director will be required to enforce support orders until they are terminated or withdrawn from the Director's office. A support deduction order, unless suspended, must be enforced until the support order to which it relates is terminated. If the parties do not agree that termination has occurred, enforcement will continue until the dispute is resolved. (Proposed section 3g of the Act, as set out in section 3 of the Bill)

NOTES EXPLICATIVES

Le projet de loi modifie la *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants*, laquelle, aux termes de l'article 12 du projet de loi, reçoit le nouveau titre *Loi 1985 sur les obligations alimentaires*. Il modifie également la *Loi sur les normes d'emploi*.

PARTIE I

Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants

L'objectif principal des modifications apportées à la *Loi 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est de prévoir la retenue automatique des versements d'aliments du revenu des personnes qui doivent verser des aliments et prévoir le versement de la somme retenue au directeur du Bureau des obligations alimentaires. Cette retenue automatique s'effectuera au moyen d'une nouvelle ordonnance du tribunal créée par le projet de loi. Les principales caractéristiques de ce nouveau mode d'exécution des ordonnances alimentaires sont les suivantes :

1. La nouvelle ordonnance s'appellera «ordonnance de retenue des aliments».
2. L'ordonnance de retenue des aliments sera rendue par un tribunal de l'Ontario lorsque celui-ci rend une ordonnance alimentaire. (Article 3a proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi) Des dispositions spéciales sont prévues pour les ordonnances alimentaires existantes qui ont été rendues par des tribunaux de l'Ontario et pour les contrats familiaux et les accords de paternité qui ont été déposés au bureau du directeur. (Article 3k proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
3. La personne qui fait des versements périodiques («source de revenu») à la personne qui doit verser des aliments (le «débiteur») devra retenir jusqu'à 50 pour cent de chaque versement périodique dû au débiteur et verser la somme retenue au directeur. Celui-ci versera les sommes perçues à la personne qui a droit au versement aux termes de l'ordonnance alimentaire à laquelle se rapporte l'ordonnance de retenue des aliments. (Article 3c proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
4. Le directeur doit exécuter une ordonnance de retenue des aliments, sauf si l'application de celle-ci est suspendue par le tribunal. L'ordonnance de suspension ne peut être rendue que si les conditions énoncées par la Loi sont remplies. En particulier, la suspension ne peut être obtenue que si l'exécution de l'ordonnance est déraisonnable ou que les parties s'entendent et que le débiteur fournit une sûreté. (Articles 3c et 3d proposés de la Loi, tels qu'ils sont énoncés à l'article 3 du projet de loi)
5. L'ordonnance de retenue des aliments à l'égard des obligations alimentaires existantes et à venir ne peut être modifiée que par un tribunal et que si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée. Les parties sont obligées de se conformer au programme, sauf si le tribunal rend une ordonnance de suspension. (Articles 3e et 3f proposés de la Loi, tels qu'ils sont énoncés à l'article 3 du projet de loi)
6. Le directeur sera tenu d'exécuter les ordonnances alimentaires jusqu'à leur révocation ou leur retrait du bureau du directeur. À moins qu'elles ne soient suspendues, les ordonnances de retenue des aliments doivent être exécutées, jusqu'à la révocation de l'ordonnance alimentaire à laquelle elles se rapportent. Si les parties ne s'entendent pas sur la question de savoir s'il y a un cas de révocation, l'exécution continuera jusqu'à ce que le conflit soit réglé. (Article 3g proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)

7. A debtor will be able to dispute the amount being deducted under a support deduction order if he or she believes that a mistake has been made and whether or not a suspension order has been properly terminated. The debtor may also seek relief with respect to the payment of arrears under a support deduction order. (Proposed section 3i of the Act, as set out in section 3 of the Bill)
8. New procedures are provided for obtaining financial statements from debtors. (Proposed section 3j of the Act, as set out in section 3 of the Bill)

The Bill also amends the Act:

9. To clarify the definitions of "custody order" and "support order" and to change the title of the Director to "Director of the Child and Family Support Office". (Subsections 1 (1) and (2) and section 2 of the Bill)
10. To add definitions of "debtor", "Director's office", "income source", "regulations" and "support deduction order". (Subsection 1 (3) of the Bill)
11. To clarify the provisions regarding the filing of support and custody orders. (Proposed section 3 of the Act, as set out in section 3 of the Bill)
12. To clarify that the Director is not a party to any proceeding to determine entitlement under support order. (Proposed section 3h of the Act, as set out in section 3 of the Bill)
13. To improve enforcement of support orders by requiring debtors to advise the Director's office of address changes. (Proposed section 3L of the Act, as set out in section 3 of the Bill)
14. To clarify the circumstances under which a support order filed in the Director's office by the Minister of Community and Social Services may be withdrawn. (Section 4 of the Bill)
15. To establish the notice provision related to the filing and withdrawal of support and custody orders as a separate section. (Section 5 of the Bill)
16. To permit information sharing with officials in other jurisdictions who are responsible for the enforcement of support and custody orders. (Subsection 6 (1) of the Bill)
17. To permit information to be released only in compliance with the *Freedom of Information and Protection of Privacy Act, 1987*. (Subsections 6 (2) and (3) and section 7 of the Bill)
18. To permit the effective use of writs of seizure and sale to enforce support orders. (Proposed section 10a of the Act as set out in section 8 of the Bill)
19. To strengthen the default hearing procedure. (Section 9 of the Bill)
20. To provide penalties for certain contraventions of the Act and to provide for enforcement where there is contempt of any court process, rule or order and to give the Ontario Court (Provincial Division) the power to restrain the disposition or wasting of assets and to make contempt orders. (Proposed sections 12, 12a and 12b of the Act, as set out in section 10 of the Bill)

7. Le débiteur pourra contester la somme retenue aux termes d'une ordonnance de retenue des aliments s'il croit qu'une erreur a été commise et il pourra contester le fait qu'une ordonnance de suspension a été révoquée de façon appropriée ou non. Le débiteur peut également demander un redressement à l'égard du paiement d'un arriéré exigible aux termes d'une ordonnance de retenue des aliments. (Article 3i proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
8. De nouvelles procédures sont prévues afin d'obtenir des états financiers des débiteurs. (Article 3j proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)

Le projet de loi modifie également la Loi aux fins suivantes :

9. Clarifier la définition des expressions «ordonnance de garde d'enfants» et «ordonnance alimentaire» et remplacer le titre du directeur par «directeur du Bureau des obligations alimentaires». (Paragraphe 1 (1) et (2) et l'article 2 du projet de loi)
10. Ajouter la définition de «bureau du directeur», «débiteur», «ordonnance de retenue des aliments», «règlements» et «source de revenu». (Paragraphe 1 (3) du projet de loi)
11. Clarifier les dispositions relatives au dépôt des ordonnances alimentaires et de garde d'enfants. (Article 3 proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
12. Préciser que le directeur n'est pas une partie aux instances visant à déterminer un droit aux termes d'une ordonnance alimentaire. (Article 3h proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
13. Améliorer l'exécution des ordonnances alimentaires en exigeant des débiteurs qu'ils avisent le bureau du directeur des changements d'adresse. (Article 3L proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
14. Clarifier les circonstances dans lesquelles une ordonnance alimentaire déposée au bureau du directeur par le ministre des Services sociaux et communautaires peut être retirée. (Article 4 du projet de loi)
15. Créer la disposition sur les avis relative au dépôt et au retrait des ordonnances alimentaires et de garde d'enfants en tant qu'article distinct. (Article 5 du projet de loi)
16. Permettre l'échange de renseignements avec les fonctionnaires d'autres compétences qui sont chargés de l'exécution des ordonnances alimentaires et de garde d'enfants. (Paragraphe 6 (1) du projet de loi)
17. Ne permettre la divulgation de renseignements que conformément à la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*. (Paragraphe 6 (2) et (3) et article 7 du projet de loi)
18. Permettre l'emploi efficace des brefs de saisie-exécution pour l'exécution des ordonnances alimentaires. (Article 10a proposé de la Loi, tel qu'il est énoncé à l'article 8 du projet de loi)
19. Consolider la procédure d'audience sur le défaut. (Article 9 du projet de loi)
20. Prévoir des peines pour certaines infractions à la Loi, prévoir des mécanismes d'application en cas de désobéissance à un acte de procédure, à une règle ou à une ordonnance d'un tribunal et donner à la Cour de l'Ontario (Division provinciale) le pouvoir d'interdire l'aliénation ou la dilapidation de biens et de rendre des ordonnances pour outrage. (Articles 12, 12a et 12b proposés de la Loi, tels qu'ils sont énoncés à l'article 10 du projet de loi)

21. To clarify that the use of one method of enforcing a support order, custody order or support deduction order does not preclude the use of other methods. (Proposed section 13a of the Act, as set out in section 11 of the Bill)
22. To permit the Lieutenant Governor in Council to make regulations for the purposes of the Act. (Proposed section 13b of the Act, as set out in section 11 of the Bill)
23. To rename the Act as the *Child and Family Support Act, 1985*. (Section 12 of the Bill)

PART II

Employment Standards Act

Part II of the Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French language version of this Act.

The amendment ensures that an employer does not penalize an employee because a court has ordered the employer to make payments to a third party on the employee's behalf. At present, employees are only protected against penalties related to garnishment proceedings.

It also empowers an employment standards officer to order the reinstatement of the employee, where appropriate.

21. Préciser que l'emploi d'un moyen pour l'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments n'empêche pas l'emploi d'autres moyens. (Article 13a proposé de la Loi, tel qu'il est énoncé à l'article 11 du projet de loi)
22. Permettre au lieutenant-gouverneur en conseil de prendre des règlements pour l'application de la Loi. (Article 13b proposé de la Loi, tel qu'il est énoncé à l'article 11 du projet de loi)
23. Remplacer le titre de la Loi par *Loi de 1985 sur les obligations alimentaires*. (Article 12 du projet de loi)

PARTIE II

Loi sur les normes d'emploi

La partie II du projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

La modification fait en sorte qu'un employeur ne pénalise pas un employé parce qu'un tribunal a ordonné à cet employeur de faire des versements à un tiers pour le compte de l'employé. Actuellement, les employés ne sont protégés que contre les sanctions relatives à une saisie-arrêt.

Elle permet également à un agent des normes d'emploi d'ordonner la réintégration de l'employé, dans les cas appropriés.

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

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

PART I

*Support and Custody Orders Enforcement Act,
1985*

1.—(1) The definitions of “custody order” and “Director” in subsection 1 (1) of the *Support and Custody Orders Enforcement Act, 1985* are repealed and the following substituted:

“custody order” means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children’s Law Reform Act*; (“ordonnance de garde d’enfants”)

“Director” means the Director of the Child and Family Support Office. (“directeur”)

(2) The definition of “support order” in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting “and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*”.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“debtor” means a person who is required to pay support under a support order; (“débiteur”)

“Director’s office” means the Child and Family Support Office. (“bureau du directeur”)

**Loi portant modification
des lois relatives à l’exécution
d’ordonnances alimentaires et de
garde d’enfants**

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l’exécution d’ordonnances
alimentaires et de garde d’enfants*

1 (1) La définition du terme «directeur» et de l’expression «ordonnance de garde d’enfants» au paragraphe 1 (1) de la *Loi de 1985 sur l’exécution d’ordonnances alimentaires et de garde d’enfants* est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Bureau des obligations alimentaires. («Director»)

«ordonnance de garde d’enfants» Disposition contenue dans une ordonnance émanant d’un tribunal de l’Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d’un enfant, mais non au droit de visite relatif à l’enfant. S’entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l’enfance*. («custody order»)

(2) La définition de l’expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S’entend en outre d’une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l’article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la Loi est modifié par l’adjonction des définitions suivantes :

«bureau du directeur» Le Bureau des obligations alimentaires. («Director’s Office»)

«débiteur» Personne qui est tenue de verser des aliments aux termes d’une ordonnance alimentaire. («debtor»)

«ordonnance de retenue des aliments» Ordonnance enjoignant à une source de revenu qui reçoit un avis de l’ordonnance

“income source” means an individual, a corporation or other entity that owes periodic payment to a debtor of,

- (a) wages or salary,
- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the debtor should the debtor fail to earn the commission or bonus or fails to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; (“source de revenu”)

“regulations” means the regulations made under this Act; (“règlements”)

“support deduction order” means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the debtor named in the order out of money owed by the income source to the debtor. (“ordonnance de retenue des aliments”)

2. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Child and Family Support Office who shall be appointed by the Lieutenant Governor in Council.

3. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director’s office.

(2) An order may be filed even if it has been previously withdrawn.

(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the debtor.

(4) A custody order may only be filed by a person entitled to custody under it.

(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director’s office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall

de faire des versements au directeur, prélevés sur l’argent qu’elle doit au débiteur, à l’égard du débiteur nommé dans l’ordonnance. («support deduction order»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou tout autre entité qui doit faire des versements périodiques à un débiteur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d’allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du débiteur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu’il n’arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d’un régime en raison d’un accident, d’une invalidité ou d’une maladie,
- d) à titre de pension d’invalidité ou de retraite ou d’une autre pension,
- e) à titre de rente,
- f) à titre de revenu d’un type visé par les règlements. («income source»)

2 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Bureau des obligations alimentaires.

3 L’article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L’ordonnance alimentaire ou de garde d’enfants peut être déposée au bureau du directeur.

(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.

(3) Sous réserve des paragraphes (6) et (8), l’ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l’ordonnance ou le parent, autre que le débiteur, d’un enfant qui a droit aux aliments aux termes de l’ordonnance.

(4) L’ordonnance de garde d’enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l’ordonnance.

(5) L’ordonnance alimentaire rendue par un tribunal de l’Ontario, autre que l’ordonnance conditionnelle, doit contenir dans son dispositif la mention que l’ordonnance, à moins d’être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l’ordonnance sont

Director of the Child and Family Support Office

Filing of orders

Idem

Who may file

Idem

Director to enforce support orders

Directeur d Bureau des obligations alimentaires

Dépôt des ordonnance

Idem

Personnes pouvant déposer un ordonnance

Idem

Exécution d ordonnance alimentaire par le directeur

pay them to the person to whom they are owed.

versées au directeur, qui les verse à la personne à qui elles sont dues.

Prompt filing

(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.

(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.

Dépôt rapide

Filing orders of other jurisdictions

(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.

(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.

Dépôt des ordonnances rendues dans d'autres compétences

Filing by Minister

(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the *Family Benefits Act* or assistance under the *General Welfare Assistance Act*, the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.

(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la *Loi sur les prestations familiales* ou une aide en vertu de la *Loi sur l'aide sociale générale*, y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.

Dépôt par le ministre

Filing of past orders

(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under section 27 of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.

(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée *Family Law Reform Act*, qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.

Dépôts d'ordonnances antérieures

Support deduction order

3a. An Ontario court that makes a support order, other than a provisional order, shall also make a support deduction order in respect of the debtor under the support order.

3a Le tribunal de l'Ontario qui rend une ordonnance alimentaire, autre qu'une ordonnance conditionnelle, rend également une ordonnance de retenue des aliments à l'égard du débiteur aux termes de l'ordonnance alimentaire.

Ordonnance de retenue des aliments

Form of support deduction order

3b.—(1) A support deduction order shall be in the form prescribed by the regulations.

3b (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.

Formule de l'ordonnance de retenue des aliments

Completion of form

(2) The support deduction order shall be completed by the court and signed at the time the support order is made even though the support order may not have been settled or signed at that time.

(2) L'ordonnance de retenue des aliments est remplie par le tribunal et signée au moment où est rendue l'ordonnance alimentaire, même si celle-ci peut ne pas avoir été réglée ou signée à ce moment-là.

Rédaction de la formule

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

Persons bound

3c.—(1) A support deduction order binds every income source who is served by the Director's office with a notice of the order whether or not the income source is named in the order.

Director to enforce support deduction orders

(2) Unless the operation of a support deduction order has been suspended by the court that made it, it shall be enforced by the Director, in the manner, if any, that appears practical to the Director, and the amounts collected by the Director under an order shall be paid by the Director to the person to whom they are owed.

Idem

(3) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

Idem

(4) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing unless the contrary is shown.

Idem

(5) The notice shall state the name of the debtor and the amount required to be deducted and paid to the Director's office.

Arrears

(6) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under the support order but the amount deducted for arrears shall not exceed 50 per cent of the amount that is payable on a periodic basis under the support order.

When payments begin

(7) An income source shall begin making payments to the Director's office not later than the later of fourteen days after the income source is served with the notice and the day the first payment is to be paid to the debtor after the income source is served with the notice.

Maximum payment

(8) Subject to subsections (9) and (10), an income source shall pay to the Director's office the lesser of,

- (a) the amount claimed in the notice; and
- (b) 50 per cent of the net amount owed by the income source to the debtor at the time each payment is to be made to the Director's office, which net amount shall be calculated in accordance with the following formula:

$$\text{Net amount} = T - S$$

Where

3c (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'ordonnance, qu'elles soient nommées ou non dans l'ordonnance.

Personnes liées

(2) Sauf si l'application de l'ordonnance de retenue des aliments a été suspendue par le tribunal qui a rendu cette dernière, l'ordonnance est exécutée par le directeur, de la façon, s'il en est, qui lui semble pratique. Les sommes perçues par le directeur en vertu de l'ordonnance sont versées par celui-ci à la personne à qui elles sont dues.

Exécution des ordonnances de retenue des aliments par le directeur

(3) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

Idem

(4) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste.

Idem

(5) L'avis mentionne le nom du débiteur et la somme qui doit être retenue et versée au bureau du directeur.

Idem

(6) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représentant un arriéré aux termes de l'ordonnance alimentaire. La somme retenue à titre d'arriéré ne doit toutefois pas dépasser 50 pour cent de la somme à payer périodiquement aux termes de l'ordonnance alimentaire.

Arriéré

(7) La source de revenu commence à faire des versements au bureau du directeur au plus tard, soit quatorze jours après que la signification de l'avis lui est faite, soit le jour où le premier versement doit être fait au débiteur après que la source de revenu a reçu signification de l'avis, selon l'éventualité qui est postérieure à l'autre.

Commencement des versements

(8) Sous réserve des paragraphes (9) et (10), la source de revenu verse au bureau du directeur la moins élevée des sommes suivantes :

Versement maximal

- a) la somme demandée dans l'avis;
- b) 50 pour cent du montant net que la source de revenu doit au débiteur au moment où chaque versement doit être fait au bureau du directeur, lequel montant net est calculé selon la formule suivante :

$$\text{Montant net} = T - S$$

Où

T = the total amount owed by the income source to the debtor at the time payment is to be made to the Director's office

S = the total of all deductions required to be made from T under any statute.

T = le montant total que la source de revenu doit au débiteur au moment où le versement doit être fait au bureau du directeur

S = le montant total de toutes les retenues qui doivent être faites sur T aux termes de toute loi.

Idem

(9) Subject to subsection (10), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources named in the order pay an amount that is higher than the amount described in clause (8) (b) and such an income source shall pay to the Director's office the amount set out in the order.

(9) Sous réserve du paragraphe (10), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou à la suite d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu nommées dans l'ordonnance paient une somme plus élevée que la somme prévue à l'alinéa (8) b) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Idem

Idem

(10) An income source is not required to pay to the Director's office more than the income source owes to the debtor at the time of the payment.

(10) Une source de revenu n'est pas obligée de verser au bureau du directeur une somme plus élevée que celle qu'elle doit au débiteur au moment du versement.

Idem

Person not income source

(11) If an individual, corporation or other entity served with notice is not an income source of the debtor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

(11) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du débiteur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Personne qui n'est pas une source de revenu

Dispute

(12) If the Director disagrees with an income source as to the amount being deducted and paid to the Director's office or, as to whether an individual, corporation or other entity is an income source or if an income source has failed to comply with a support deduction order, the Director, on notice to the income source, individual, corporation or other entity, may bring a motion in the Ontario Court (Provincial Division) or the Unified Family Court to determine the issue and the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(12) Si le directeur ne s'entend pas avec la source de revenu quant à la somme retenue et versée au bureau du directeur ou quant à la question de savoir si une personne, physique ou morale, ou une autre entité est une source de revenu ou si la source de revenu n'a pas observé l'ordonnance de retenue des aliments, le directeur peut, sur avis à la source de revenu ou à une personne, physique ou morale, ou une autre entité, présenter une motion devant la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, qui procède de façon sommaire afin de régler la question et qui rend l'ordonnance qu'elle estime opportune dans les circonstances.

Conflit

Liability

(13) An income source is personally liable for paying to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and in a motion under subsection (12) the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

(13) La source de revenu est personnellement responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur présentation d'une motion prévue au paragraphe (12), le tribunal peut ordonner à la source de revenu de verser la somme qui aurait dû être retenue et versée au bureau du directeur.

Responsabilité

Enforceability

(14) In addition to any other method available to enforce an order in a civil proceeding, a support deduction order and any order made under subsection (12) or (13)

(14) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, l'ordonnance de retenue des aliments et les ordonnances rendues aux termes

Exécution

may be enforced under this Act in the same manner and with the same remedies as a support order.

du paragraphe (12) ou (13) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire.

Duty to inform

(15) Within ten days following the termination or beginning of an interruption of payments by an income source to a debtor, both the income source and the debtor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

(15) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au débiteur, la source de revenu et le débiteur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Obligation d'informer

Idem

(16) If notice has been or should have been given under subsection (15),

(16) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (15) :

Idem

(a) the debtor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;

a) le débiteur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;

(b) the debtor, within ten days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director's office of the new employment or the entitlement and of the name and address of the income source.

b) le débiteur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Information confidential

(17) Information about a debtor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

(17) Les renseignements sur le débiteur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Renseignements confidentiels

Priority

(18) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

(18) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'a l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Priorité

Idem

(19) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order before making any other payment in respect of the garnishment.

(19) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrêt relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments avant de faire tout autre versement à l'égard de la saisie-arrêt.

Idem

Conflict with other Acts

(20) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other pro-

(20) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou

Incompatibilité avec d'autres lois

cess for the enforcement of a judgment debt any periodic payment owed by an income source to a debtor.

(21) A support deduction order shall not be used to make deductions from any amount payable to a debtor as a benefit under the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

3d.—(1) A court that makes a support deduction order may immediately suspend its operation.

(2) A court that made a support deduction order may, on motion, suspend its operation if it is satisfied that there has been a material change in the circumstances of any of the parties since the order was first made.

(3) The court may suspend a support deduction order under subsection (1) or (2) or subsection 3k (6) only if,

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the debtor to make support payments through a support deduction order; or
- (b) it determines that the parties to the support order have agreed that they do not want support payments collected through a support deduction order.

(4) The court shall not make an order under clause (3) (b) unless in its order it requires the debtor to post such security as it considers adequate and as provided in the regulations.

(5) A suspension order shall be completed by the court and signed at the time it is made.

(6) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

(7) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

(8) A suspension order is automatically terminated if the debtor fails to post security of the type or within the time period set out in the suspension order or if the debtor fails to comply with the support order.

d'un autre acte de procédure visant l'exécution d'une dette constatée par jugement tout versement périodique que doit la source de revenu au débiteur.

(21) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un débiteur à titre de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

3d (1) Le tribunal qui rend une ordonnance de retenue des aliments peut en suspendre immédiatement l'application.

(2) Le tribunal qui a rendu une ordonnance de retenue des aliments peut, sur présentation d'une motion, suspendre l'application de celle-ci s'il est convaincu qu'il y a eu un changement important de la situation d'une des parties depuis que l'ordonnance a été rendue.

(3) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou (2) ou du paragraphe 3k (6) que si l'une des conditions suivantes est remplie :

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le débiteur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) il établit que les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments.

(4) Le tribunal ne doit pas rendre d'ordonnance en vertu de l'alinéa (3) b), sauf s'il exige dans celle-ci que le débiteur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

(5) L'ordonnance de suspension est remplie par le tribunal et signée au moment où elle est rendue.

(6) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

(7) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

(8) L'ordonnance de suspension est automatiquement révoquée si le débiteur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le débiteur ne se conforme pas à l'ordonnance alimentaire.

Prestations d'aide sociale

Suspension immédiate de l'ordonnance de retenue des aliments

Suspension subséquente

Conditions nécessaires à l'approbation d'une suspension

Idem

Rédaction de la formule

Dépôt rapide

Formule et entrée en vigueur

Révocation de l'ordonnance de suspension

Welfare benefits

Immediate suspension of support deduction order

Subsequent suspension

Conditions for granting suspension

Idem

Completion of form

Prompt filing

Form and effective date

Termination of suspension order

Effect of termination

(9) When a suspension order is terminated under subsection (8), the support deduction order is reinstated and the Director may immediately realize on any security that was posted.

(9) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (8), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie.

Effet de la révocation

Variation of support deduction order

3e.—(1) Despite any other provision of this Act, when a court varies a support order it may vary the amount to be paid under a support deduction order by such amount as it considers appropriate to enforce the support order.

3e (1) Malgré toute autre disposition de la présente loi, lorsqu'il modifie l'ordonnance alimentaire, le tribunal peut modifier le montant à verser aux termes de l'ordonnance de retenue des aliments par un montant qu'il estime juste afin d'exécuter l'ordonnance alimentaire.

Modification de l'ordonnance de retenue des aliments

Interim order

(2) A court to which an application to vary a support order has been made may make an interim order varying a support deduction order.

(2) Le tribunal devant lequel une requête visant à modifier l'ordonnance alimentaire a été présentée peut rendre une ordonnance provisoire modifiant l'ordonnance de retenue des aliments.

Ordonnance provisoire

No opting out

3f. An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

3f L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

Obligation c se conforme à l'ordonnance de retenue des aliments

Termination of support order

3g.—(1) The Director shall continue to enforce a support order filed in the Director's office until he or she is satisfied that the support order is terminated or until it is withdrawn from the Director's office, whichever occurs first.

3g (1) Le directeur continue d'exécuter l'ordonnance alimentaire déposée à son bureau jusqu'à ce qu'il soit convaincu que celle-ci a pris fin ou jusqu'à ce qu'elle soit retirée du bureau du directeur, l'éventualité qui se présente la première étant retenue.

Fin de l'ordonnance alimentaire

Support deduction order

(2) The Director shall continue to enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and despite the fact that the support order to which it relates has been withdrawn from the Director's office.

(2) Le directeur continue d'exécuter l'ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait pris fin l'ordonnance alimentaire à laquelle elle se rapporte et en dépit du fait que l'ordonnance alimentaire a été retirée du bureau du directeur.

Ordonnance de retenue des aliments

Procedures on termination

(3) Notice of the termination of a support obligation under a support order filed in the Director's office or under a support deduction order where the support order has been withdrawn shall be given to the Director in the manner and by the persons prescribed by the regulations.

(3) Un avis de la fin de l'obligation alimentaire prévue par l'ordonnance alimentaire déposée au bureau du directeur ou par l'ordonnance de retenue des aliments si l'ordonnance alimentaire a été retirée est donné au directeur de la façon et par les personnes prescrites par les règlements.

Procédure à la fin de l'obligation alimentaire

Mutual agreement

(4) If the parties to a support order agree, in the manner prescribed by the regulations, the Director shall cease enforcement of a support obligation that has terminated.

(4) Si les parties à une ordonnance alimentaire s'entendent, de la façon prescrite par les règlements, le directeur cesse d'exécuter une obligation alimentaire qui a pris fin.

Accord mutuel

Disputes

(5) If the parties to a support order do not agree, the court that made a support order shall on the motion of a party to the order decide if a support obligation has terminated.

(5) Si les parties à une ordonnance alimentaire ne s'entendent pas, le tribunal qui a rendu l'ordonnance alimentaire décide, sur motion présentée par une partie à l'ordonnance, si l'obligation alimentaire a pris fin.

Conflits

Continued enforcement

(6) The Director shall continue enforcement until he or she receives a copy of the court's decision.

(6) Le directeur continue d'exécuter l'ordonnance jusqu'à ce qu'il reçoive une copie de la décision du tribunal.

L'exécution continue

(7) The parties to the support order are the parties to a motion under this section.

(7) Les parties à l'ordonnance alimentaire sont les parties à une motion prévue au présent article.

Parties

3h. The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order.

3h Le directeur n'est pas une partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire.

Le directeur n'est pas une partie

3i.—(1) A debtor, on motion in the Ontario Court (Provincial Division) or the Unified Family Court,

3i (1) Le débiteur, qui présente une motion devant la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, peut :

Contestations du débiteur

- (a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act;
- (b) may dispute whether he or she has defaulted in paying support after a suspension order has been made under section 3d;
- (c) may seek relief regarding the amount which is being deducted under a support deduction order for arrears under a support order.

- a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue;
- b) contester son défaut de verser des aliments après qu'une ordonnance de suspension a été rendue en vertu de l'article 3d;
- c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des aliments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

(2) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(2) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

Pouvoir du tribunal

(3) On a motion under clause (1) (c), the debtor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the debtor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

(3) À la présentation d'une motion en vertu de l'alinéa (1) c), le débiteur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le débiteur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

Idem

3j.—(1) The Director may require a debtor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.

3j (1) Le directeur peut exiger que le débiteur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur, accompagné de preuves relatives à son revenu que les règlements peuvent exiger.

États financiers

(2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the debtor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.

(2) Le directeur peut demander que soit rempli l'état financier en envoyant au débiteur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du débiteur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.

Idem

Idem	(3) The request shall be deemed to have been served on the debtor on the fifth day following mailing unless the contrary is shown.	(3) La demande est réputée avoir été signifiée au débiteur le cinquième jour qui suit la mise à la poste, à moins qu'il ne soit démontré le contraire.	Idem
Idem	(4) The debtor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.	(4) Le débiteur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.	Idem
Changes in information	(5) If a debtor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.	(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le débiteur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.	Changements relatifs aux renseignements
Failure to comply	(6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a debtor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.	(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au débiteur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.	Défaut de conformer
Limitation	(7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.	(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.	Restriction
Old orders, domestic contracts, paternity agreements	<p>3k.—(1) This section applies only to support orders filed with the Director's office that are,</p> <p>(a) support orders made by an Ontario court before this section comes into force;</p> <p>(b) domestic contracts and paternity agreements that are enforceable under section 35 of the <i>Family Law Act, 1986</i>.</p>	<p>3k (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :</p> <p>a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;</p> <p>b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la <i>Loi de 1986 sur le droit de la famille</i>.</p>	Anciennes ordonnances anciens contrats familiaux et accords de paternité
Enforcement	(2) The Director may enforce payments under a support order to which this section applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall do so if the recipient requests enforcement under this section and the Director considers it practical to do so.	(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire et il le fait si le bénéficiaire en demande l'exécution en vertu du présent article et que le directeur estime qu'il est pratique de le faire.	Exécution
Notice	(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the debtor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.	(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le débiteur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du débiteur indiquée dans les dossiers du bureau du directeur.	Avis
Idem	(4) A notice given by mail shall be deemed to have been served on the debtor on the fifth day following mailing unless the contrary is shown.	(4) L'avis envoyé par courrier est réputé avoir été signifié au débiteur le cinquième jour qui suit la mise à la poste, sauf s'il est démontré le contraire.	Idem
Deemed support deduction order	(5) A support deduction order shall be deemed to have been made by the appropri-	(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal	Ordonnance de retenue des aliments réputée rendue

ate court thirty days after the notice is served on the debtor.

(6) The debtor may, on motion under section 3d to the appropriate court within thirty days of being served with the notice, obtain a suspension of the operation of a support deduction order described in subsection (5).

(7) A support deduction order described in subsection (5) does not come into force until a motion under subsection (6) has been determined.

(8) Section 3b does not apply to an order described in subsection (5).

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

3L. If a debtor changes address, he or she shall advise the Director's office of the new address within ten days of the change.

4. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

(2) Despite subsection (1), a support order filed by the Minister of Community and Social Services may not be withdrawn except by the Minister or except with the Minister's consent if the support order is under assignment to the Ministry of Community and Social Services or there are arrears owing to that Ministry from a past assignment.

5. The Act is amended by renumbering subsection 4 (4) as section 4a.

6.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

(aa) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

approprié trente jours après que l'avis est signifié au débiteur.

(6) Le débiteur peut, sur présentation d'une motion devant le tribunal approprié, aux termes de l'article 3d, et dans les trente jours après que l'avis lui est signifié, obtenir que soit suspendue l'application de l'ordonnance de retenue des aliments visée au paragraphe (5).

(7) L'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion prévue au paragraphe (6) n'a pas été prise.

(8) L'article 3b ne s'applique pas à l'ordonnance visée au paragraphe (5).

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

3L Si le débiteur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.

4 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) Malgré le paragraphe (1), l'ordonnance alimentaire déposée par le ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement si l'ordonnance alimentaire est cédée au ministère des Services sociaux et communautaires ou qu'un arriéré provenant d'une cession antérieure est dû à ce ministère.

5 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4a.

6 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

(2) Le paragraphe 6 (2) de la Loi est modifié par l'adjonction de l'alinéa suivant :

aa) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Le paragraphe 6 (5) de la Loi est modifié par l'adjonction de l'alinéa suivant :

Suspension

Suspension

Delay of enforcement

Retard de l'exécution

No form required

Aucune formule exigée

Appropriate court

Tribunal approprié

Duty to advise on address change

Changement d'adresse

Withdrawal not permitted

Retrait non autorisé

Access to information

Accès aux renseignements

(aa) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

7. Subsection 7 (2) of the Act is repealed and the following substituted:

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act (Canada)* for the enforcement of a support or custody order, except,

- (a) to the extent necessary for the enforcement of the order; or
- (b) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

8. The Act is further amended by adding the following section:

10a.—(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall, not later than two days after receiving the request, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1) and shall not remove the writ from his or her file until,

- (a) a statutory declaration has been filed and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or
- (b) the writ has been fully satisfied and ten days have elapsed after the sheriff gave notice under this subsection.

aa) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

7 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales (Canada)* en vue de l'exécution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

- a) dans la mesure nécessaire à l'exécution de l'ordonnance;
- b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8 La Loi est modifiée de nouveau par l'adjonction de l'article suivant :

10a (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise, au plus tard deux jours après réception de la demande, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1) et le shérif ne doit pas enlever le bref de son dossier tant que, selon le cas :

- a) une déclaration solennelle n'a pas été déposée et que le bref, tel qu'il est réputé modifié en vertu du paragraphe (2), n'a pas été complètement exécuté;
- b) le bref n'a pas été complètement exécuté et que dix jours ne se sont pas écoulés après que le shérif a donné un

Information obtained from federal government

Notice to sheriff of amount owing

Effect of statutory declaration

Notice from sheriff of opportunity to give statutory declaration

Removal of writ from sheriff's file

Renseignements obtenus du gouvernement fédéral

Avis au shérif concernant la somme due

Effet de la déclaration solennelle

Avis du shérif concernant la déclaration solennelle

Enlèvement d'un bref du dossier du shérif

anner of
iving notice

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

9.—(1) Subsection 11 (6) of the Act is amended by striking out “that there are no arrears or” in the first and second lines.

(2) Clause 11 (6) (a) of the Act is repealed and the following substituted:

(a) pay all or part of the arrears by such periodic payments as the court considers just but an order for partial payment does not discharge any unpaid arrears.

(3) Section 11 of the Act is amended by adding the following subsection:

(6a) The court may make an interim order against the debtor that includes any order that may be made under subsection (6).

10. Section 12 of the Act is repealed and the following substituted:

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

12a.—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

12b. A person who knowingly contravenes subsection 3c (7), (11), (15), (16) or (17), subsection 3j (4) or (5) or section 3k is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

avis aux termes du présent paragraphe.

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

9 (1) Le paragraphe 11 (6) de la Loi est modifié par la suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(2) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

a) enjoindre au débiteur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(3) L'article 11 de la Loi est modifié par l'adjonction du paragraphe suivant :

(6a) Le tribunal peut rendre une ordonnance provisoire contre le débiteur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

10 L'article 12 de la Loi est modifié et remplacé par ce qui suit :

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

12a (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

12b Quiconque contrevient sciemment au paragraphe 3c (7), (11), (15), (16) ou (17), au paragraphe 3j (4) ou (5) ou à l'article 3k est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Façon de
donner l'avis

Ordonnances
provisoires

Ordonnance
de ne pas
faire

Désobéissance

Emprisonne-
ment

Infractions

Interim
orders

Restraining
order

Contempt

Conditions
of imprison-
ment

Offences

11. The Act is further amended by adding the following sections:

11 La Loi est modifiée de nouveau par l'adjonction des articles suivants :

Enforcement alternatives

13a. Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

13a L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres moyens employés pour l'exécution

Regulations

13b. The Lieutenant Governor in Council may make regulations,

13b Le lieutenant-gouverneur en conseil peut, par règlement :

Règlement

- (a) prescribing forms and providing for their use;
- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;
- (c) prescribing types of income for the purposes of clause (f) of the definition of income source in subsection 1 (1);
- (d) prescribing information that shall be supplied under subsection 3c (15);
- (e) governing the posting of security by a debtor for the purposes of a suspension order under clause 3d (3) (b) and the realization thereon;
- (f) respecting proof of income for the purposes of section 3i.

- a) prescrire des formules et prévoir les modalités de leur emploi;
- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;
- c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la source de revenu au paragraphe 1 (1);
- d) prescrire les renseignements qui sont fournis aux termes du paragraphe 3c (15);
- e) régir la façon de fournir une sûreté par le débiteur aux fins de l'ordonnance de suspension visée par l'alinéa 3d (3) b) et la réalisation de cette sûreté;
- f) traiter des preuves relatives au revenu aux fins de l'article 3i.

12. Section 18 of the Act is repealed and the following substituted:

12 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

Short title

18. The short title of this Act is the *Child and Family Support Act, 1985*.

18 Le titre abrégé de la Loi est *Loi de 1985 sur les obligations alimentaires*.

Titre abrégé

PART II

PARTIE II

Employment Standards Act

Loi sur les normes d'emploi

13. Section 9 of the *Employment Standards Act* is repealed.

13 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

14. The Act is amended by adding the following Part:

14 La Loi est modifiée par l'adjonction de la partie suivante :

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to

pay to a third party any amount owing by the employer to the employee.

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

15. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

16. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

PART III

Commencement, Short Title

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

18. The short title of this Act is the *Child and Family Support Statute Law Amendment Act, 1990*.

15 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

16 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PARTIE III

Entrée en vigueur et titre abrégé

17 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

18 Le titre abrégé de la présente loi est *Loi de 1990 modifiant les lois relatives aux obligations alimentaires*.

Entrée en
vigueur

Titre abrégé

Commence-
ment

Short title



1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

The Hon. H. Hampton
Attorney General

1st Reading December 5th, 1990
2nd Reading December 18th, 1990
3rd Reading
Royal Assent

*(Reprinted as amended by the Administration
of Justice Committee)*

Projet de loi 17

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**

L'honorable H. Hampton
Procureur général

1^{re} lecture 5 décembre 1990
2^e lecture 18 décembre 1990
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le
Comité de l'administration de la justice)*

EXPLANATORY NOTES

The Bill amends the *Support and Custody Orders Enforcement Act, 1985*, which under section 13 of the Bill will be renamed the *Family Support Plan Act, 1985*. It also amends the *Employment Standards Act*.

PART I

Support and Custody Orders Enforcement Act, 1985

The principal purpose of the amendments to the *Support and Custody Orders Enforcement Act, 1985* is to provide for automatic deduction of support payments from the income of people required to pay support and to provide for the payment to the Director of the Child and Family Support Office of the amount deducted. This will be done through a new court order which is created by the Bill. The principal features of this new method of support order enforcement are as follows:

1. The new order will be known as a "support deduction order".
2. A support deduction order will be made by an Ontario court at the time it makes a support order. (Proposed section 3.1 of the Act, as set out in section 4 of the Bill). Special provision is made for existing support orders made by Ontario courts and for domestic contracts and paternity agreements that have been filed in the Director's office. (Proposed section 3.8 of the Act, as set out in section 4 of the Bill)
3. A person who makes periodic payments (an "income source") to a person who is required to make support payments (a "payor") will be required to deduct up to 50 per cent of each periodic payment owed to the payor and pay the amount deducted to the Director. The Director will pay the amounts collected to the person entitled to payment under the support order to which the support deduction order relates. (Proposed section 3.3 of the Act, as set out in section 4 of the Bill)
4. The Director must enforce a support deduction order unless its operation is suspended by the court. A suspension order may only be made if the conditions set out in the Act are met. In particular, suspension is available only if enforcement of the order would be unconscionable or if the parties agree and the payor posts security. (Proposed sections 3.3 and 3.4 of the Act, as set out in section 4 of the Bill)
5. The Director will be required to enforce support orders until they are terminated or withdrawn from the Director's office. A support deduction order, unless suspended, must be enforced until the support order to which it relates is terminated. If the parties do not agree that termination has occurred, enforcement will continue until the dispute is resolved. (Proposed sections 3.3 and 3.9 of the Act, as set out in section 4 of the Bill)
6. A payor will be able to dispute the amount being deducted under a support deduction order if he or she believes that a mistake has been made and whether or not a suspension order has been properly terminated. The payor may also seek relief with respect to the payment of arrears under a support deduction order. (Proposed section 3.5 of the Act, as set out in section 4 of the Bill)

NOTES EXPLICATIVES

Le projet de loi modifie la *Loi de 1985 sur l'exécution de ordonnances alimentaires et de garde d'enfants*, laquelle, aux termes de l'article 13 du projet de loi, reçoit le nouveau titre *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*, modifie également la *Loi sur les normes d'emploi*.

PARTIE I

Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants

L'objectif principal des modifications apportées à la *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est de prévoir la retenue automatique des versements d'aliments du revenu des personnes qui doivent verser des aliments et prévoir le versement de la somme retenue au directeur du Bureau des obligations alimentaires. Cette retenue automatique s'effectuera au moyen d'une nouvelle ordonnance du tribunal créée par le projet de loi. Les principales caractéristiques de ce nouveau mode d'exécution des ordonnances alimentaires sont les suivantes :

1. La nouvelle ordonnance s'appellera «ordonnance de retenue des aliments».
2. L'ordonnance de retenue des aliments sera rendue par un tribunal de l'Ontario lorsque celui-ci rend une ordonnance alimentaire. (Article 3.1 proposé de la Loi tel qu'il est énoncé à l'article 4 du projet de loi). Des dispositions spéciales sont prévues pour les ordonnances alimentaires existantes qui ont été rendues par des tribunaux de l'Ontario et pour les contrats familiaux et les accords de paternité qui ont été déposés au bureau du directeur. (Article 3.8 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
3. La personne qui fait des versements périodiques («source de revenu») à la personne qui doit verser des aliments (le «payeur») devra retenir jusqu'à 50 pour cent de chaque versement périodique dû au payeur et verser la somme retenue au directeur. Celui-ci versera les sommes perçues à la personne qui a droit au versement aux termes de l'ordonnance alimentaire à laquelle se rapporte l'ordonnance de retenue des aliments. (Article 3.3 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
4. Le directeur doit exécuter une ordonnance de retenue des aliments, sauf si l'application de celle-ci est suspendue par le tribunal. L'ordonnance de suspension ne peut être rendue que si les conditions énoncées par la Loi sont remplies. En particulier, la suspension ne peut être obtenue que si l'exécution de l'ordonnance était déraisonnable ou que les parties s'entendent et que le payeur fournit une sûreté. (Articles 3.3 et 3.4 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
5. Le directeur sera tenu d'exécuter les ordonnances alimentaires jusqu'à leur révocation ou leur retrait du bureau du directeur. À moins qu'elles ne soient suspendues, les ordonnances de retenue des aliments doivent être exécutées, jusqu'à la révocation de l'ordonnance alimentaire à laquelle elles se rapportent. Si les parties ne s'entendent pas sur la question de savoir s'il y a eu un cas de révocation, l'exécution continuera jusqu'à ce que le conflit soit réglé. (Articles 3.3 et 3.9 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
6. Le payeur pourra contester la somme retenue aux termes d'une ordonnance de retenue des aliments s'il croit qu'une erreur a été commise et il pourra contester le fait qu'une ordonnance de suspension a été révoquée de façon appropriée ou non. Le payeur peut également demander un redressement à l'égard du paiement d'arriéré exigible aux termes d'une ordonnance de retenue des aliments. (Article 3.5 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

7. Support deduction orders in respect of on-going support obligations can be varied only by a court and only if the support order to which it relates is varied. The parties cannot opt out of the program unless the court issues a suspension order. (Proposed sections 3.6 and 3.7 of the Act, as set out in section 4 of the Bill)

8. New procedures are provided for obtaining financial statements from payors. (Proposed section 3.10 of the Act, as set out in section 4 of the Bill)

The Bill also amends the Act:

9. To clarify the definitions of "custody order" and "support order" and to change the title of the Director to "Director of the Child and Family Support Office". (Subsections 2 (1) and (2) and section 3 of the Bill)

10. To add definitions of "payor", "Director's office", "income source", "provisional order", "regulations" and "support deduction order". (Subsection 2 (3) of the Bill)

11. To clarify the provisions regarding the filing of support and custody orders. (Proposed section 3 of the Act, as set out in section 4 of the Bill)

12. To clarify that the Director is not a party to any proceeding to determine entitlement under a support order. (Proposed subsection 3.9 (11) of the Act, as set out in section 4 of the Bill)

13. To improve enforcement of support orders by requiring payors to advise the Director's office of address changes. (Proposed section 3.12 of the Act, as set out in section 4 of the Bill)

14. To clarify the circumstances under which a support order filed in the Director's office by the Minister of Community and Social Services may be withdrawn. (Section 5 of the Bill)

15. To establish the notice provision related to the filing and withdrawal of support and custody orders as a separate section. (Section 6 of the Bill)

16. To permit information sharing with officials in other jurisdictions who are responsible for the enforcement of support and custody orders. (Subsection 7 (1) of the Bill)

17. To permit information to be released only in compliance with the *Freedom of Information and Protection of Privacy Act, 1987*. (Subsections 7 (2) and (3) and section 8 of the Bill)

18. To permit the effective use of writs of seizure and sale to enforce support orders. (Proposed section 10.1 of the Act, as set out in section 9 of the Bill)

19. To strengthen the default hearing procedure. (Section 10 of the Bill)

20. To provide penalties for certain contraventions of the Act and to provide for enforcement where there is contempt of any court process, rule or order and to give the Ontario Court (Provincial Division) the power to restrain the disposition or wasting of assets and to make contempt orders. (Proposed sections 12, 12.1 and 12.2 of the Act, as set out in section 11 of the Bill)

7. L'ordonnance de retenue des aliments à l'égard des obligations alimentaires existantes et à venir ne peut être modifiée que par un tribunal et que si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée. Les parties sont obligées de se conformer au programme, sauf si le tribunal rend une ordonnance de suspension. (Articles 3.6 et 3.7 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)

8. De nouvelles procédures sont prévues afin d'obtenir des états financiers des payeurs. (Article 3.10 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

Le projet de loi modifie également la Loi aux fins suivantes :

9. Clarifier la définition des expressions «ordonnance de garde d'enfants» et «ordonnance alimentaire» et remplacer le titre du directeur par «directeur du Bureau des obligations alimentaires». (Paragraphe 2 (1) et (2) et l'article 3 du projet de loi)

10. Ajouter la définition de «bureau du directeur», «payeur», «ordonnance conditionnelle», «ordonnance de retenue des aliments», «règlements» et «source de revenu». (Paragraphe 2 (3) du projet de loi)

11. Clarifier les dispositions relatives au dépôt des ordonnances alimentaires et de garde d'enfants. (Article 3 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

12. Préciser que le directeur n'est pas une partie aux instances visant à déterminer un droit aux termes d'une ordonnance alimentaire. (Paragraphe 3.9 (11) proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

13. Améliorer l'exécution des ordonnances alimentaires en exigeant des payeurs qu'ils avisent le bureau du directeur des changements d'adresse. (Article 3.12 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

14. Clarifier les circonstances dans lesquelles une ordonnance alimentaire déposée au bureau du directeur par le ministre des Services sociaux et communautaires peut être retirée. (Article 5 du projet de loi)

15. Créer la disposition sur les avis relative au dépôt et au retrait des ordonnances alimentaires et de garde d'enfants en tant qu'article distinct. (Article 6 du projet de loi)

16. Permettre l'échange de renseignements avec les fonctionnaires d'autres compétences qui sont chargés de l'exécution des ordonnances alimentaires et de garde d'enfants. (Paragraphe 7 (1) du projet de loi)

17. Ne permettre la divulgation de renseignements que conformément à la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*. (Paragraphe 7 (2) et (3) et article 8 du projet de loi)

18. Permettre l'emploi efficace des brefs de saisie-exécution pour l'exécution des ordonnances alimentaires. (Article 10.1 proposé de la Loi, tel qu'il est énoncé à l'article 9 du projet de loi)

19. Consolider la procédure d'audience sur le défaut. (Article 10 du projet de loi)

20. Prévoir des peines pour certaines infractions à la Loi, prévoir des mécanismes d'application en cas de désobéissance à un acte de procédure, à une règle ou à une ordonnance d'un tribunal et donner à la Cour de l'Ontario (Division provinciale) le pouvoir d'interdire l'aliénation ou la dilapidation de biens et de rendre des ordonnances pour outrage. (Articles 12, 12.1 et 12.2 proposés de la Loi, tels qu'ils sont énoncés à l'article 11 du projet de loi)

21. To clarify that the use of one method of enforcing a support order, custody order or support deduction order does not preclude the use of other methods. (Proposed section 13.1 of the Act, as set out in section 12 of the Bill)
22. To permit the Lieutenant Governor in Council to make regulations for the purposes of the Act. (Proposed section 13.2 of the Act, as set out in section 12 of the Bill)
23. To rename the Act as the *Family Support Plan Act, 1985*. (Section 13 of the Bill)

PART II

Employment Standards Act

Part II of the Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French language version of this Act.

The amendments ensure that an employer does not penalize an employee because a court has ordered the employer to make payments to a third party on the employee's behalf. At present, employees are only protected against penalties related to garnishment proceedings.

They also permit an employment standards officer to order the reinstatement of the employee, where appropriate.

21. Préciser que l'emploi d'un moyen pour l'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments n'empêche pas l'emploi d'autres moyens. (Article 13.1 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
22. Permettre au lieutenant-gouverneur en conseil de prendre des règlements pour l'application de la Loi. (Article 13.2 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
23. Remplacer le titre de la Loi par *Loi de 1985 sur le Régime des obligations alimentaires envers la famille* (Article 13 du projet de loi)

PARTIE II

Loi sur les normes d'emploi

La partie II du projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

Les modifications font en sorte qu'un employeur ne pénalise pas un employé parce qu'un tribunal a ordonné à cet employeur de faire des versements à un tiers pour le compte de l'employé. Actuellement, les employés ne sont protégés que contre les sanctions relatives à une saisie-arrêt.

Elles permettent également à un agent des normes d'emploi d'ordonner la réintégration de l'employé, dans les cas appropriés.

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires et de
garde d'enfants**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PART I

*Support and Custody Orders Enforcement Act,
1985*

PARTIE I

*Loi de 1985 sur l'exécution d'ordonnances
alimentaires et de garde d'enfants*

1. The *Support and Custody Orders Enforcement Act, 1985* is amended by striking out "debtor" and "debtor's" wherever those words appear and replacing them in each case with "payor" or "payor's" as is appropriate.

1 La *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est modifiée par substitution du terme «payeur» au terme «débiteur», partout où apparaît celui-ci.

2.—(1) The definitions of "custody order" and "Director" in subsection 1 (1) of the Act are repealed and the following substituted:

2 (1) La définition du terme «directeur» et de l'expression «ordonnance de garde d'enfants» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

"custody order" means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children's Law Reform Act*; ("ordonnance de garde d'enfants")

«directeur» Le directeur du Bureau des obligations alimentaires envers l'enfant et la famille. («Director»)

"Director" means the Director of the Child and Family Support Office. ("directeur")

«ordonnance de garde d'enfants» Disposition contenue dans une ordonnance émanant d'un tribunal de l'Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d'un enfant, mais non au droit de visite relatif à l'enfant. S'entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l'enfance*. («custody order»)

(2) The definition of "support order" in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting "and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*".

(2) La définition de l'expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S'entend en outre d'une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l'article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

"Director's office" means the Child and Family Support Office; ("bureau du directeur")

«bureau du directeur» Le Bureau des obligations alimentaires envers l'enfant et la famille. («Director's office»)

“income source” means an individual, a corporation or other entity that owes periodic payment at regular intervals to a payor of,

- (a) wages or salary,
- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; (“source de revenu”)

“payor” means a person who is required to pay support under a support order; (“payeur”)

“provisional order” means an order that has no effect until it is confirmed by another court and includes orders made under subsection 18 (2) of the *Divorce Act, 1985* (Canada), sections 3 and 7 of the *Reciprocal Enforcement of Maintenance Orders Act, 1982* and section 44 of the *Family Law Act, 1986*; (“ordonnance conditionnelle”)

“regulations” means the regulations made under this Act; (“règlements”)

“support deduction order” means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the payor named in the order out of money owed by the income source to the payor. (“ordonnance de retenue des aliments”)

(4) Section 1 of the Act is amended by adding the following subsection:

(1.1) An individual, a corporation or other entity continues to be an income source despite temporary interruptions in the periodic payments owed to a payor.

3. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Child and Family Support Office who shall be appointed by the Lieutenant Governor in Council.

«ordonnance conditionnelle» Ordonnance qui n'a aucun effet tant qu'elle n'est pas homologuée par un autre tribunal. S'entend en outre des ordonnances rendues en vertu du paragraphe 18 (2) de la *Loi de 1985 sur le divorce* (Canada), des articles 3 et 7 de la *Loi de 1982 sur l'exécution réciproque d'ordonnances alimentaires* et de l'article 44 de la *Loi de 1986 sur le droit de la famille*. («provisional order»)

«ordonnance de retenue des aliments» Ordonnance enjoignant à une source de revenu qui reçoit un avis de l'ordonnance de faire des versements au directeur, prélevés sur l'argent qu'elle doit au payeur, à l'égard du payeur nommé dans l'ordonnance. («support deduction order»)

«payeur» Personne qui est tenue de verser des aliments aux termes d'une ordonnance alimentaire. («payor»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou une autre entité qui doit faire des versements périodiques, à intervalles réguliers à un payeur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du payeur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

(1.1) Une personne, physique ou morale, ou une autre entité continue d'être une source de revenu même s'il y a interruption temporaire des versements périodiques dus à un payeur.

3 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Bureau des obligations alimentaires envers l'enfant et la famille.

Status as
income
source

Director of
the Child
and Family
Support
Office

Qualité de
source de
revenu

Directeur du
Bureau des
obligations
alimentaires
envers l'en-
fant et la
famille

4. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director's office.

(2) An order may be filed even if it has been previously withdrawn.

(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the payor.

(4) A custody order may only be filed by a person entitled to custody under it.

(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed.

(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.

(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.

(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the *Family Benefits Act* or assistance under the *General Welfare Assistance Act*, the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.

(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under

4 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.

(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le payeur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.

(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.

(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont versées au directeur, qui les verse à la personne à qui elles sont dues.

(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.

(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.

(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la *Loi sur les prestations familiales* ou une aide en vertu de la *Loi sur l'aide sociale générale*, y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.

(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée *Family Law Reform Act*,

Dépôt des ordonnances

Idem

Personnes pouvant déposer une ordonnance

Idem

Exécution des ordonnances alimentaires par le directeur

Dépôt rapide

Dépôt des ordonnances rendues dans d'autres compétences

Dépôt par le ministre

Dépôts d'ordonnances antérieures

Filing of orders

Idem

Who may file

Idem

Director to enforce support orders

Prompt filing

Filing orders of other jurisdictions

Filing by Minister

Filing of past orders

section 27 of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.

(Formerly section 3a)

Support deduction orders

3.1 —(1) An Ontario court that makes a support order, which provides for payment of support on a periodic basis at regular intervals, shall also make a support deduction order for the payment of the periodic support ordered.

Exception

(2) A support deduction order shall not be made in respect of a provisional order.

Required information

(3) Before making a support deduction order, the court shall make such inquiries as it considers necessary to determine the names and addresses of each income source of the payor and the amounts paid to the payor by each income source.

Consent proceedings, etc.

(4) If the support order is sought on consent or by way of motion for judgment or if the making of the support order is uncontested, the persons prescribed by the regulations shall give the court the particulars described in subsection (3) and such other information as may be prescribed.

Order mandatory

(5) A support deduction order shall be made even though the court cannot identify an income source in respect of the payor at the time the support order is made.

(Formerly section 3b)

Form of support deduction order

3.2 —(1) A support deduction order shall be in the form prescribed by the regulations.

Completion of form, etc.

(2) The support deduction order shall be completed and signed by the court at the time the support order is made and shall be entered in the court records immediately after it is signed, even though the support order may not have been settled or signed at that time.

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

(Formerly section 3c)

Persons bound

3.3 —(1) A support deduction order binds every income source who is served by the Director's office with a notice of the

qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.

(Anciennement l'article 3a)

3.1 (1) Le tribunal de l'Ontario qui rend une ordonnance alimentaire, laquelle prévoit le versement périodique d'aliments, à intervalles réguliers, rend également une ordonnance de retenue des aliments pour le versement périodique des aliments qui a été ordonné.

Ordonnances de retenue des aliments

(2) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle.

Exception

(3) Avant de rendre une ordonnance de retenue des aliments, le tribunal fait les recherches qu'il estime nécessaires afin de déterminer les nom et adresse de chaque source de revenu du payeur et les sommes versées à celui-ci par chaque source de revenu.

Renseignements exigés

(4) Si l'ordonnance alimentaire est demandée par consentement ou par voie de motion en vue d'obtenir un jugement, ou si l'ordonnance alimentaire est rendue sans faire l'objet d'une contestation, les personnes prescrites par les règlements donnent au tribunal les renseignements visés au paragraphe (3) et tout autre renseignement qui peut être prescrit.

Procédure relative au consentement

(5) Une ordonnance de retenue des aliments est rendue même si le tribunal ne peut identifier une source de revenu du payeur au moment où est rendue l'ordonnance alimentaire.

Ordonnance obligatoire

(Anciennement l'article 3b)

3.2 (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.

Formule de l'ordonnance de retenue des aliments

(2) L'ordonnance de retenue des aliments est remplie et signée par le tribunal au moment où est rendue l'ordonnance alimentaire et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée, même si l'ordonnance alimentaire peut ne pas avoir été réglée ou signée à ce moment-là.

Rédaction de la formule

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

(Anciennement l'article 3c)

3.3 (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'or-

Personnes liées

order whether or not the income source is named in the order.

Enforcement
by Director

(2) The Director shall enforce a support deduction order in the manner, if any, that appears practical to the Director and shall pay the amounts collected under the order to the person to whom they are owed.

Idem

(3) No person other than the Director shall enforce a support deduction order.

When
enforcement
ends

(4) The Director shall enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and there are no arrears owing and despite the fact that the support order to which it relates has been withdrawn from the Director's office.

Idem

(5) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

Idem

(6) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Notice to
payor

(7) The Director shall send a copy of the notice to the payor by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

First
payment

(8) An income source shall begin making payments to the Director's office not later than the day the first payment is to be paid to the payor that falls at least fourteen days after the day on which the income source is served with the notice.

Payor's duty
to pay

(9) Until an income source begins deducting support payments in respect of a support deduction order or if payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the support order to the Director or, if the support order has been withdrawn, to the person entitled to receive support.

Arrears

(10) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under a support order.

donnance, qu'elles soient nommées ou non dans l'ordonnance.

(2) Le directeur exécute une ordonnance de retenue des aliments de la façon, s'il en est, qui lui semble pratique et il verse les sommes perçues en vertu de l'ordonnance à la personne à qui elles sont dues.

(3) Seul le directeur exécute une ordonnance de retenue des aliments.

(4) Le directeur exécute une ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait été révoquée l'ordonnance alimentaire à laquelle elle se rapporte, qu'il n'y ait plus d'arriéré à payer et en dépit du fait que l'ordonnance alimentaire à laquelle elle se rapporte a été retirée du bureau du directeur.

(5) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

(6) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

(7) Le directeur envoie au payeur une copie de l'avis par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

(8) Une source de revenu commence à faire des versements au bureau du directeur au plus tard le jour où le premier versement doit être fait au payeur et qui tombe au moins quatorze jours après le jour où la source de revenu a reçu signification de l'avis.

(9) Tant qu'une source de revenu n'a pas commencé à retenir les versements d'aliments aux termes d'une ordonnance de retenue des aliments ou si les versements d'une source de revenu sont interrompus ou prennent fin, le payeur verse les sommes dues aux termes de l'ordonnance alimentaire au directeur ou, si l'ordonnance alimentaire a été retirée, à la personne qui a droit aux aliments.

(10) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représen-

Exécution par
le directeur

Idem

Fin de
l'exécution

Idem

Idem

Avis au
payeur

Premier
versement

Obligation de
payer du
payeur

Arriéré

Maximum deductions

(11) Subject to subsection (13), the total amount deducted in respect of a support order shall not exceed 50 per cent of the net amount owed by the income source to the payor.

tant un arriéré aux termes d'une ordonnance alimentaire.

(11) Sous réserve du paragraphe (13), la somme totale retenue aux termes d'une ordonnance alimentaire ne doit pas dépasser 50 pour cent de la somme nette que doit la source de revenu au payeur.

Retenue maximale

Definition

(12) For the purposes of this section, "net amount" means the total amount owed by the income source to the payor at the time payment is to be made to the Director's office, less the total of the following deductions:

(12) Pour l'application du présent article, l'expression «somme nette» s'entend de la somme totale que doit la source de revenu au payeur au moment où le versement doit être fait au bureau du directeur, moins le total des retenues suivantes :

Définition

- 1. Income Tax.
- 2. Canada Pension Plan.
- 3. Unemployment Insurance.
- 4. Union dues.
- 5. Such other deductions as may be prescribed by the regulations.

- 1. Celle de l'impôt sur le revenu.
- 2. Celle du Régime de pensions du Canada.
- 3. Celle de l'assurance-chômage.
- 4. Celle des cotisations syndicales.
- 5. Les autres retenues pouvant être prescrites par les règlements.

Higher maximum payment

(13) Subject to subsection (15), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources pay an amount that is higher than the amount described in subsection (11) and such an income source shall pay to the Director's office the amount set out in the order.

(13) Sous réserve du paragraphe (15), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou sur présentation d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu paient une somme plus élevée que la somme prévue au paragraphe (11) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Versement maximal plus élevé

Idem

(14) An order shall not be made under subsection (13) unless the payor receives income from at least two sources (whether or not the sources are "income sources" as defined in section 1).

(14) Une ordonnance ne doit pas être rendue aux termes du paragraphe (13) à moins que le payeur ne reçoive un revenu d'au moins deux sources (peu importe que ces sources soient ou non des «sources de revenu» telles qu'elles sont définies à l'article 1).

Idem

Idem

(15) An income source is not required to pay to the Director's office more than the net amount that the income source owes to the payor at the time of the payment.

(15) Une source de revenu n'est pas tenue de verser au bureau du directeur une somme plus élevée que la somme nette qu'elle doit au payeur au moment du versement.

Idem

Medical insurance, etc.

(16) Despite any other provision of this Act, no deduction shall be made under a support deduction order in respect of amounts owing to a payor as reimbursement for expenses covered by a medical, health, dental or hospital insurance contract or plan.

(16) Malgré toute autre disposition de la présente loi, aucune retenue ne doit être faite aux termes d'une ordonnance de retenue des aliments relativement aux sommes dues au payeur à titre de remboursement de dépenses couvertes par un régime ou un contrat d'assurance médicale, santé, dentaire ou pour services hospitaliers.

Assurances médicales

Person not income source

(17) If an individual, corporation or other entity served with notice is not an income source of the payor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

(17) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du payeur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Personne qui n'est pas une source de revenu

Dispute

(18) The Director or the income source, individual, corporation or other entity, as the case may be, may, on notice to the other,

(18) Le directeur ou la source de revenu, la personne, physique ou morale, ou une autre entité selon le cas, peut, sur avis à l'au-

Conflit

bring a motion to the court that made a support deduction order or to the appropriate court under subsection 3.8 (9) to determine,

- (a) whether the income source has failed to comply with the order;
- (b) whether the amount the income source is deducting and paying to the Director's office under the order is correct; or
- (c) whether the individual, corporation or other entity is an income source.

Idem

(19) In a motion under subsection (18), the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Idem

(20) A motion shall not be brought by an income source under clause (18) (a) or (b) unless the income source has given written particulars of the proposed motion to the Director at least fourteen days before serving the Director with notice of the motion.

Idem

(21) A motion shall not be brought under clause (18) (c) by an individual, corporation or other entity, until at least fourteen days after the date that notice was given under subsection (17).

Idem

(22) Subsection (21) does not apply to the Director.

Liability

(23) An income source is liable to pay to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and, in a motion under subsection (18), the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

Other enforcement

(24) In addition to any other method available to enforce an order in a civil proceeding, any order made under subsection (18) or (23) may be enforced under this Act in the same manner and with the same remedies as a support order. ▲

Duty to inform

(25) Within ten days following the termination or beginning of an interruption of payments by an income source to a payor, both the income source and the payor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

tre, présenter une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié aux termes du paragraphe 3.8 (9) pour déterminer, selon le cas :

- a) si la source de revenu n'a pas observé l'ordonnance;
- b) si la somme que la source de revenu retient et verse au bureau du directeur aux termes de l'ordonnance est correcte;
- c) si la personne, physique ou morale, ou une autre entité est une source de revenu.

Idem

(19) Dans le cadre d'une motion prévue au paragraphe (18), le tribunal procède de façon sommaire afin de régler la question et rend l'ordonnance qu'il estime opportune dans les circonstances.

Idem

(20) La source de revenu ne peut présenter de motion aux termes de l'alinéa (18) a) ou b) sans avoir donné par écrit au directeur des détails sur la motion en question au moins quatorze jours avant la signification de l'avis de motion au directeur.

Idem

(21) Une personne, physique ou morale, ou une autre entité ne peut présenter de motion aux termes de l'alinéa (18) c) avant l'expiration d'un délai d'au moins quatorze jours après la date à laquelle l'avis a été donné aux termes du paragraphe (17).

Idem

(22) Le paragraphe (21) ne s'applique pas au directeur.

Responsabilité

(23) La source de revenu est responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur une motion prévue au paragraphe (18), le tribunal peut ordonner à la source de revenu de verser la somme qu'elle aurait dû retenir et verser au bureau du directeur.

Autres moyens d'exécution

(24) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, les ordonnances rendues aux termes du paragraphe (18) ou (23) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire. ▲

Obligation d'informer

(25) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au payeur, la source de revenu et le payeur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Idem

(26) If notice has been or should have been given under subsection (25),

- (a) the payor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;
- (b) the payor, within ten days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director's office of the new employment or the entitlement and of the name and address of the income source.

(26) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (25) :

- a) le payeur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;
- b) le payeur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Idem

Information confidential

(27) Information about a payor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

(27) Les renseignements sur le payeur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Renseignements confidentiels

Priority

(28) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

(28) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'a l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Priorité

Idem

(29) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order and the garnishment shall be of no effect until the income source has received notice from the Director that the support deduction order is suspended or terminated.

(29) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrêt relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments et la saisie-arrêt n'a aucun effet tant que la source de revenu n'a pas été avisée par le directeur de la suspension ou de la révocation de l'ordonnance de retenue des aliments.

Idem

Conflict with other Acts

(30) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other process for the enforcement of a judgment debt any periodic payment owed by an income source to a payor.

(30) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou d'un autre acte de procédure visant l'exécution d'une créance constatée par jugement tout versement périodique que doit la source de revenu au payeur.

Incompatibilité avec d'autres lois

Welfare benefits

(31) A support deduction order shall not be used to make deductions from any amount payable to a payor as a benefit under the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

(31) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un payeur à titre de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

Prestations d'aide sociale

(Formerly section 3d)

3.4 —(1) A court that makes a support deduction order may immediately make an order to suspend its operation or the court may, on motion, subsequently suspend its operation.

(2) The court may suspend a support deduction order under subsection (1) or subsection 3.8 (6) only if,

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the payor to make support payments through a support deduction order; or
- (b) the parties to the support order agree that they do not want support payments collected through a support deduction order and the court requires the payor to post such security as it considers adequate and in accordance with the regulations.

(3) The following shall not be considered by a court in determining whether it would be unconscionable to require a payor to make support payments through a support deduction order:

1. The fact that the payor has demonstrated a good payment history in respect of his or her debts, including support obligations.
2. The fact that the payor has had no opportunity to demonstrate voluntary compliance in respect of support obligations.
3. The fact that the parties have agreed to the suspension of the support deduction order.
4. The fact that there are grounds upon which a court might find that the amount payable under the support order should be varied.

(4) For the purposes of clause (2) (b), security shall be in a minimum amount equal to the support payable for four months and the security shall be in money or in such other form as may be provided for in the regulations.

(5) The parties to a motion brought to suspend the operation of a support deduction order are those persons who are parties to the support order.

(6) If the payor brings a motion under subsection 3.8 (6), the Director must also be

(Anciennement l'article 3d)

3.4 (1) Le tribunal qui rend une ordonnance de retenue des aliments peut immédiatement rendre une ordonnance qui suspend l'application de l'ordonnance de retenue des aliments ou il peut en suspendre l'application par la suite, sur présentation d'une motion.

(2) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou 3.8 (6) que si l'une des conditions suivantes est remplie :

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments et le tribunal exige que le payeur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

(3) Le tribunal ne doit pas tenir compte des éléments suivants lorsqu'il décide s'il serait déraisonnable d'obliger un payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments :

1. Le fait que les antécédents du payeur quant au paiement de ses dettes, y compris ses obligations alimentaires, sont bons.
2. Le fait que le payeur n'a pas eu l'occasion de démontrer son respect volontaire à l'égard des obligations alimentaires.
3. Le fait que les parties ont convenu de la suspension de l'ordonnance de retenue des aliments.
4. Le fait qu'il existe des motifs qui pourraient permettre à un tribunal de conclure que la somme à payer aux termes de l'ordonnance alimentaire devrait être modifiée.

(4) Pour l'application de l'alinéa (2) b), le montant minimal de la sûreté est égal à la somme des aliments payables pour quatre mois. La sûreté est versée en argent ou sous toute autre forme qui peut être prévue par les règlements.

(5) Les parties à une motion présentée en vue de faire suspendre l'application d'une ordonnance de retenue des aliments sont les personnes qui sont parties à l'ordonnance alimentaire.

(6) Si le payeur introduit une motion en vertu du paragraphe 3.8 (6), le directeur doit

Suspension de l'ordonnance de retenue des aliments

Conditions

Détermination de ce qui est déraisonnable

Sûreté

Parties

Idem

served with notice of the motion and may appear.

Completion of form, etc.

(7) A suspension order shall be completed and signed by the court at the time it is made and shall be entered in the court records immediately after it is signed. ▲

Prompt filing

(8) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

Form and effective date

(9) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

Termination of suspension order

(10) A suspension order is automatically terminated if the payor fails to post security of the type or within the time period set out in the suspension order or if the payor fails to comply with the support order.

Effect of termination

(11) When a suspension order is terminated under subsection (10), the support deduction order is reinstated and the Director may immediately realize on any security that was posted. ▼

Support order not affected

(12) An order suspending the operation of a support deduction order does not affect the payor's obligations under the support order nor does it affect any other means of enforcing the support order. ▲

(Formerly section 3i)

Disputes, etc., by payor

3.5 —(1) A payor, on motion in the court that made the support deduction order, or in the appropriate court on a motion under subsection 3.8 (6),

- (a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act;
- (b) may dispute whether he or she has defaulted in paying support after a suspension order has been made under section 3.4;
- (c) may seek relief regarding the amount which is being deducted under a support deduction order for arrears under a support order.

également recevoir signification de l'avis de motion et il peut comparaître.

(7) L'ordonnance de suspension est remplie et signée par le tribunal au moment où elle est rendue et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée. ▲

(8) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

(9) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

(10) L'ordonnance de suspension est automatiquement révoquée si le payeur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le payeur ne se conforme pas à l'ordonnance alimentaire.

(11) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (10), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie. ▼

(12) L'ordonnance qui suspend l'application d'une ordonnance de retenue des aliments n'a pas d'effet sur les obligations qu'a le payeur aux termes de l'ordonnance alimentaire ni sur les autres moyens d'exécution de l'ordonnance alimentaire. ▲

(Anciennement l'article 3i)

3.5 (1) Le payeur, qui présente une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié dans le cadre d'une motion introduite en vertu du paragraphe 3.8 (6), peut :

- a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue;
- b) contester son défaut de verser des aliments après qu'une ordonnance de suspension a été rendue en vertu de l'article 3.4;
- c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des aliments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

Rédaction de la formule

Dépôt rapide

Formule et entrée en vigueur

Révocation de l'ordonnance de suspension

Effet de la révocation

Absence d'effet sur l'ordonnance alimentaire

Contestation du payeur

dispute over
entitlement

(2) On a motion referred to in subsection (1), the payor shall not dispute the entitlement of a person to support under a support order.

(2) Sur une motion mentionnée au paragraphe (1), le payeur ne peut contester le droit d'une personne aux aliments aux termes d'une ordonnance alimentaire.

Contestation
du droit aux
alimentsnecessary
party

(3) The Director is a necessary party to a motion referred to in subsection (1).

(3) Le directeur est une partie essentielle à une motion mentionnée au paragraphe (1).

Partie
essentiellepower of
court

(4) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(4) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

Pouvoir du
tribunal

idem

(5) On a motion under clause (1) (c), the payor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the payor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

(5) À la présentation d'une motion en vertu de l'alinéa (1) c), le payeur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le payeur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

Idem

(Formerly section 3e)

(Anciennement l'article 3e)

variation of
support
deduction
order

3.6 —(1) Subject to section 3.5, a court shall not vary the amount to be paid under a support deduction order unless the support order to which it relates is varied.

3.6 (1) Sous réserve de l'article 3.5, le tribunal ne doit pas modifier la somme à verser aux termes de l'ordonnance de retenue des aliments, sauf si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée.

Modification
de l'ordon-
nance de
retenue des
aliments

new order

(2) When a support order is varied to provide for or to vary periodic payments at regular intervals, a support deduction order shall be made to reflect the variation.

(2) Lorsqu'une ordonnance alimentaire est modifiée en vue de prévoir ou de modifier des versements périodiques à intervalles réguliers, une ordonnance de retenue des aliments est rendue pour faire état de la modification.

Nouvelle
ordonnance

exception

(3) A support deduction order shall not be made in respect of a provisional order that varies a support order.

(3) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle qui modifie une ordonnance alimentaire.

Exception

(Formerly section 3f)

(Anciennement l'article 3f)

no opting
out

3.7 An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

3.7 L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

Obligation de
se conformer
à l'ordon-
nance de
retenue des
aliments

(Formerly section 3k)

(Anciennement l'article 3k)

Old orders,
domestic
contracts,
paternity
agreements

3.8 —(1) This section applies only to support orders filed with the Director's office that are,

3.8 (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :

Anciennes
ordonnances,
anciens con-
trats fami-
liaux et
accords de
paternité

(a) support orders made by an Ontario court before this section comes into force;

a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;

(b) domestic contracts and paternity agreements that are enforceable under section 35 of the *Family Law Act*, 1986.

b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la *Loi de 1986 sur le droit de la famille*.

Enforcement

(2) The Director may enforce payment under a support order to which this section

(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance

Exécution

applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall enforce payment if the person entitled to receive support under the order requests enforcement under this section and the Director considers it practical to do so. ▲

alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire. Le directeur exécute les versements si la personne qui a droit aux aliments en vertu de l'ordonnance en fait la demande en vertu du présent article et que le directeur estime qu'il est pratique de le faire. ▲

Notice

(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the payor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office. ▼

(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le payeur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. ▲

Avis

Idem

(4) A notice given by mail shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown. ▲

(4) Sauf s'il est démontré le contraire, l'avis envoyé par courrier est réputé avoir été signifié au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés. ▲

Idem

Deemed support deduction order

(5) A support deduction order shall be deemed to have been made by the appropriate court thirty days after the notice is served on the payor. ▼

(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal approprié trente jours après que l'avis est signifié au payeur. ▼

Ordonnance de retenue des aliments réputée rendue

Suspension

(6) The payor may, within thirty days of being served with the notice, commence a motion under section 3.4 in the appropriate court for a suspension of a support deduction order described in subsection (5). ▼

(6) Le payeur peut, dans les trente jours après que l'avis lui est signifié, présenter une motion aux termes de l'article 3.4 devant le tribunal approprié pour obtenir la suspension de l'ordonnance de retenue des aliments visée au paragraphe (5). ▼

Suspension

Delay of enforcement

(7) If a motion has been brought under subsection (6), a support deduction order described in subsection (5) does not come into force until the motion has been determined. ▲

(7) Si une motion est introduite en vertu du paragraphe (6), l'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion n'a pas été prise. ▲

Retard de l'exécution

No form required

(8) Section 3.2 does not apply to an order described in subsection (5). ▼

(8) L'article 3.2 ne s'applique pas à l'ordonnance visée au paragraphe (5). ▼

Aucune forme exigée

Appropriate court

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court. ▼

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille. ▼

Tribunal approprié

(Formerly section 3g)

(Anciennement l'article 3g)

Termination of support obligation

3.9 —(1) Each of the parties to a support order shall give to the Director notice of the termination of a support obligation under the order, in the manner and at such time as may be provided in the regulations, if the support order is filed in the Director's office or if a support deduction order has been made in respect of the support obligation. ▼

3.9 (1) Si l'ordonnance alimentaire est déposée au bureau du directeur ou si une ordonnance de retenue des aliments a été rendue relativement à l'obligation alimentaire, chaque partie à une ordonnance alimentaire avise le directeur de la fin d'une obligation alimentaire découlant de l'ordonnance alimentaire, de la façon et au moment que peuvent prévoir les règlements. ▼

Fin de l'obligation alimentaire

Idem

(2) If the parties to a support order agree, in the manner prescribed by the regulations, or if the support obligation is stated in a support order to terminate on a set calendar

(2) Si les parties à une ordonnance alimentaire s'entendent de la façon prescrite par les règlements ou si le moment auquel l'obligation alimentaire prend fin correspond

Idem

date, the Director shall cease enforcement of a support obligation that has terminated.

(3) If the parties to a support order do not agree, the court that made a support order shall, on the motion of a party to the order, decide if a support obligation has terminated.

(4) A court that finds that a support obligation has terminated may order repayment in whole or in part from a person who received support after the obligation was terminated if the court is of the opinion that the person ought to have notified the Director that the support obligation had terminated.

(5) In determining whether to make an order under subsection (4), the court shall consider the circumstances of each of the parties to the support order.

(6) The Director shall continue to enforce the support obligation in the manner, if any, that appears practical to the Director until he or she receives a copy of the court's decision terminating the support obligation.

(7) Despite the termination of a support obligation, the Director shall continue to enforce the support obligation in respect of any arrears which have accrued, in the manner, if any, that appears practical to the Director.

(8) When the Director's duty to enforce a support obligation which is subject to a support deduction order ceases, the Director shall give written notice to each income source affected by the support deduction order of any change in the amount to be paid.

(9) A notice under subsection (8) may be given by prepaid ordinary mail to the last address of the income source as shown on the records of the Director's office.

(10) The parties to a motion under this section are those persons who are the parties to the support order.

(11) The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order.

(Formerly section 3j)

3.10 —(1) The Director may require a payor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.

à une date fixée dans une ordonnance alimentaire, le directeur cesse d'exécuter une obligation alimentaire qui a pris fin.

(3) Si les parties à une ordonnance alimentaire ne s'entendent pas, le tribunal qui a rendu l'ordonnance alimentaire décide, sur motion présentée par une partie à l'ordonnance, si l'obligation alimentaire a pris fin.

(4) Le tribunal qui conclut qu'une obligation alimentaire a pris fin peut ordonner à une personne qui a reçu des aliments après que l'obligation a pris fin de faire un remboursement complet ou partiel s'il estime que cette personne aurait dû aviser le directeur du fait que l'obligation alimentaire avait pris fin.

(5) Lorsqu'il décide de rendre ou non une ordonnance en vertu du paragraphe (4), le tribunal tient compte de la situation de chacune des parties à l'ordonnance alimentaire.

(6) Le directeur continue d'exécuter l'obligation alimentaire de la façon, s'il en est, qui lui semble pratique et ce, jusqu'à ce qu'il reçoive une copie de la décision du tribunal mettant fin à l'obligation alimentaire.

(7) Malgré la fin d'une obligation alimentaire, le directeur continue d'exécuter l'obligation alimentaire à l'égard des arriérés accumulés, de la manière, s'il en est, qui lui semble pratique.

(8) Lorsque son obligation d'exécuter une obligation alimentaire qui est liée à une ordonnance de retenue des aliments se termine, le directeur donne à chaque source de revenu concernée par l'ordonnance de retenue des aliments un avis écrit de toute modification de la somme à verser.

(9) L'avis visé au paragraphe (8) peut être donné par courrier ordinaire, franc de port, à la dernière adresse de la source de revenu indiquée dans les dossiers du bureau du directeur.

(10) Les parties à une motion prévue au présent article sont les personnes qui sont parties à l'ordonnance alimentaire.

(11) Le directeur n'est pas une partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire.

(Anciennement l'article 3j)

3.10 (1) Le directeur peut exiger que le payeur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur,

Disputes

Order to repay

Idem

Continued enforcement

Idem

Notice to income sources

Idem

Parties

Director not party

Financial statements

Conflits

Ordonnance de rembourser

Idem

L'exécution continue

Idem

Avis aux sources de revenu

Idem

Parties

Le directeur n'est pas une partie

États financiers

Idem (2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the payor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.

accompagné de preuves relatives à son revenu que les règlements peuvent exiger.

(2) Le directeur peut demander que soit rempli l'état financier en envoyant au payeur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.

Idem (3) The request shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

(3) Sauf s'il est démontré le contraire, la demande est réputée avoir été signifiée au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem (4) The payor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.

(4) Le payeur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.

Changes in information (5) If a payor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.

(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le payeur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.

Failure to comply (6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a payor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.

(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au payeur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.

Limitation (7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.

(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.

(New)

(Nouveau)

Payments pending court decisions **3.11** —(1) Despite the commencement of a motion under subsection 3.3 (18) or section 3.4, 3.5, 3.6 or 3.9, the Director shall pay any money he or she receives in respect of a support order or a support deduction order to the person entitled to receive support under the order.

3.11 (1) Malgré l'introduction d'une motion en vertu du paragraphe 3.3 (18) ou de l'article 3.4, 3.5, 3.6 ou 3.9, le directeur verse les sommes qu'il reçoit aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments à la personne qui a droit aux aliments aux termes de l'ordonnance.

Exception (2) If a court orders the Director to hold any of the money received in respect of a support order or a support deduction order pending the disposition of the motion, the Director shall, to the extent the court order requires it, hold any money received after the Director receives a copy of the court's decision.

(2) Si un tribunal ordonne au directeur de retenir les sommes reçues aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments jusqu'à ce qu'une décision concernant la motion soit prise, le directeur doit retenir, dans la mesure où l'ordonnance du tribunal l'exige, les sommes reçues après qu'il a reçu une copie de la décision du tribunal.

Idem

Idem

Idem

Changements relatifs aux renseignements

Défaut de se conformer

Restriction

Versements en attendant une décision du tribunal

Exception

(Formerly section 3L)

(Anciennement l'article 3L)

3.12 If a payor changes address, he or she shall advise the Director's office of the new address within ten days of the change.

3.12 Si le payeur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.

Changement d'adresse

5. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

5 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) Despite subsection (1), a support order filed by the Minister of Community and Social Services may not be withdrawn except by the Minister or except with the Minister's consent if the support order is under assignment to the Ministry of Community and Social Services or there are arrears owing to that Ministry from a past assignment.

(2) Malgré le paragraphe (1), l'ordonnance alimentaire déposée par le ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement si l'ordonnance alimentaire est cédée au ministère des Services sociaux et communautaires ou qu'un arriéré provenant d'une cession antérieure est dû à ce ministère.

Retrait non autorisé

6. The Act is amended by renumbering subsection 4 (4) as section 4.1.

6 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4.1.

7.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

7 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

Accès aux renseignements

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

(2) Le paragraphe 6 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

(3) Le paragraphe 6 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8. Subsection 7 (2) of the Act is repealed and the following substituted:

8 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act (Canada)* for the enforcement of a support or custody order, except,

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales (Canada)* en vue de l'exécution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

Renseignements obtenus du gouvernement fédéral

(a) to the extent necessary for the enforcement of the order; or

a) dans la mesure nécessaire à l'exécution de l'ordonnance;

(b) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

9. The Act is further amended by adding the following section:

9 La Loi est modifiée de nouveau par adjonction de l'article suivant :

uty to
lvised on
address
changeWithdrawal
not
permittedAccess to
informationInformation
obtained
from federal
government

Notice to sheriff of amount owing

10.1 —(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

10.1 (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

Avis au shérif concernant la somme due

Effect of statutory declaration

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

Effet de la déclaration solennelle

Notice from sheriff of opportunity to give statutory declaration

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

Avis du shérif concernant la déclaration solennelle

Idem

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall promptly give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise promptement la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu de paragraphe (1).

Idem

Manner of giving notice

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

Façon de donner l'avis

Removal of writ from sheriff's file

(6) A sheriff shall not remove a writ of seizure and sale in respect of a support order from his or her file unless,

(6) Le shérif ne doit pas enlever de son dossier un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, à moins que l'une des conditions suivantes ne soit remplie :

Enlèvement d'un bref du dossier du shérif

- (a) the writ has expired and has not been renewed;
- (b) the sheriff receives written notice from the person who filed the writ to the effect that the writ should be withdrawn;
- (c) notice is given under subsection (3) or (4), a statutory declaration is subsequently filed under subsection (1) and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or
- (d) notice is given under subsection (3) or (4), ten days have elapsed since the notice was given, no statutory declaration has been filed under subsection

- a) le bref a pris fin et n'a pas été renouvelé;
- b) le shérif reçoit, de la personne qui a déposé le bref, un avis écrit selon lequel le bref devrait être retiré;
- c) un avis est donné aux termes du paragraphe (3) ou (4), une déclaration solennelle est déposée par la suite en vertu du paragraphe (1) et il a été complètement satisfait au bref, tel qu'il est réputé modifié aux termes du paragraphe (2);
- d) un avis est donné aux termes du paragraphe (3) ou (4), dix jours se sont écoulés depuis que l'avis a été donné, aucune déclaration solennelle n'a été

(1) since the giving of the notice and the writ has been fully satisfied.

déposée en vertu du paragraphe (1) depuis que l'avis a été donné et il a été complètement satisfait au bref.

Filing by fax

(7) A statutory declaration may be filed under subsection (1) by telephone transmission of a facsimile of the statutory declaration to the sheriff along with a cover page that contains the following information:

1. The sender's name and address.
2. The date and time of the transmission.
3. The total number of pages transmitted, including the cover page.
4. The telephone number from which the statutory declaration is transmitted.
5. The telephone number of a person to contact in the event of transmission problems.

(7) Une déclaration solennelle peut être déposée en vertu du paragraphe (1) en transmettant un fac-similé par téléphone au shérif avec une page de couverture qui comprend les renseignements suivants :

1. Le nom et l'adresse de l'expéditeur.
2. La date et l'heure de la transmission.
3. Le nombre total de pages transmises, y compris la page de couverture.
4. Le numéro de téléphone de l'appareil duquel a lieu la transmission de la déclaration solennelle.
5. Le numéro de téléphone d'une personne à qui le destinataire pourra s'adresser en cas de difficultés de transmission.

Dépôt par télécopie

Delivery of statutory declaration to land registrar

(8) If a copy of a writ of seizure and sale has been delivered by the sheriff to a land registrar under section 137 of the *Land Titles Act* and a statutory declaration is filed under subsection (1) in respect of the writ, the sheriff shall promptly deliver a copy of the statutory declaration to the land registrar and the amendment deemed to be made to the writ under subsection (2) does not bind land registered under the *Land Titles Act* until a copy of the statutory declaration has been received and recorded by the land registrar.

(8) Si une copie d'un bref de saisie-exécution a été remise par le shérif à un registraire aux termes de l'article 137 de la *Loi sur l'enregistrement des droits immobiliers* et qu'une déclaration solennelle est déposée en vertu du paragraphe (1) à l'égard du bref, le shérif remet rapidement une copie de la déclaration solennelle au registraire et la modification réputée apportée au bref aux termes du paragraphe (2) ne grève un bien-fonds enregistré aux termes de la *Loi sur l'enregistrement des droits immobiliers* qu'une fois qu'une copie de la déclaration solennelle a été reçue et consignée par le registraire.

Remise d'une déclaration solennelle à un registraire

10.—(1) Subsection 11 (1) of the Act is repealed and the following substituted:

(1) When a support order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and appear before the court to explain the default. ▲

10 (1) Le paragraphe 11 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Lorsqu'une ordonnance alimentaire qui est déposée auprès du bureau du directeur est en défaut, le directeur peut préparer un état de l'arriéré et il peut, au moyen d'un avis signifié au payeur avec l'état de l'arriéré, enjoindre au payeur de déposer auprès du bureau du directeur un état financier rédigé selon la formule prescrite par les règles de pratique et de comparaître devant le tribunal pour expliquer le défaut. ▲

Dépôt d'un état financier auprès du directeur

(2) Subsection 11 (6) of the Act is amended by striking out "that there are no arrears or" in the first and second lines.

(2) Le paragraphe 11 (6) de la Loi est modifié par suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

(a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) Section 11 of the Act is amended by adding the following subsection:

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

Interim orders

(6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payeur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

Ordonnances provisoires

11. Section 12 of the Act is repealed and the following substituted:

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

Restraining order

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance de ne pas faire

Contempt

12.1 —(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

Conditions of imprisonment

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonnement

Offences

12.2 A person who knowingly contravenes subsection 3.3 (9), (17), (25), (26) or (27), section 3.8 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (9), (17), (25), (26) ou (27), à l'article 3.8 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12. The Act is further amended by adding the following sections:

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

Enforcement alternatives

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres moyens employés pour l'exécution

Regulations

13.2 The Lieutenant Governor in Council may make regulations,

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- (a) prescribing forms and providing for their use;
- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;
- (c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);

- a) prescrire des formules et prévoir les modalités de leur emploi;
- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;
- c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);

▼
(d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);

(e) prescribing deductions for the purposes of subsection 3.3 (12); ▲

(f) prescribing information that shall be supplied under subsection 3.3 (25);

▼
(g) governing the form and posting of security by a payor under section 3.4 and the realization thereon; ▲

(h) respecting proof of income for the purposes of section 3.10.

▼
13. Section 18 of the Act is repealed and the following substituted:

Short title **18.** The short title of this Act is the *Family Support Plan Act, 1985*. ▲

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

▼
d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);

e) prescrire les retenues aux fins du paragraphe 3.3 (12); ▲

f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);

▼
g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté; ▲

h) traiter des preuves relatives au revenu aux fins de l'article 3.10.

▼
13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

Titre abrégé **18** Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. ▲

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss an employee;

(b) discipline or suspend an employee;

(c) impose any penalty on an employee; or

(d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to pay to a third party any amount owing by the employer to the employee.

Employment standards officer may make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employ-

ment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

16. Section 39m of the Act, as enacted by section 15 of this Act, is repealed and the following substituted:

16 L'article 39m de la Loi, tel qu'adopté par l'article 15 de la présente Loi, est abrogé et remplacé par ce qui suit :

Employment standards officer may make order

39m. Where an employer contravenes section 39L, an employment standards officer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

17 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

18. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

18 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PART III

PARTIE III

Commencement, Short Title

Entrée en vigueur et titre abrégé

Commencement

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

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Short title

20. The short title of this Act is the Family Support Plan Amendment Act, 1991.

20 Le titre abrégé de la présente loi est Loi de 1991 modifiant la Loi sur le Régime des obligations alimentaires envers la famille.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

The Hon. H. Hampton
Attorney General

Projet de loi 17

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**

L'honorable H. Hampton
Procureur général

1st Reading December 5th, 1990
2nd Reading December 18th, 1990
3rd Reading
Royal Assent

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

1^{re} lecture 5 décembre 1990
2^e lecture 18 décembre 1990
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le
Comité plénier de l'Assemblée législative)*

EXPLANATORY NOTES

The Bill amends the *Support and Custody Orders Enforcement Act, 1985*, which under section 13 of the Bill will be renamed the *Family Support Plan Act, 1985*. It also amends the *Employment Standards Act*.

PART I

Support and Custody Orders Enforcement Act, 1985

The principal purpose of the amendments to the *Support and Custody Orders Enforcement Act, 1985* is to provide for automatic deduction of support payments from the income of people required to pay support and to provide for the payment to the Director of the Family Support Plan of the amount deducted. This will be done through a new court order which is created by the Bill. The principal features of this new method of support order enforcement are as follows:

1. The new order will be known as a "support deduction order".
2. A support deduction order will be made by an Ontario court at the time it makes a support order. (Proposed section 3.1 of the Act, as set out in section 4 of the Bill). Special provision is made for existing support orders made by Ontario courts and for domestic contracts and paternity agreements that have been filed in the Director's office. (Proposed section 3.8 of the Act, as set out in section 4 of the Bill)
3. A person who makes periodic payments (an "income source") to a person who is required to make support payments (a "payor") will be required to deduct up to 50 per cent of each periodic payment owed to the payor and pay the amount deducted to the Director. The Director will pay the amounts collected to the person entitled to payment under the support order to which the support deduction order relates. (Proposed section 3.3 of the Act, as set out in section 4 of the Bill)
4. The Director must enforce a support deduction order unless its operation is suspended by the court. A suspension order may only be made if the conditions set out in the Act are met. In particular, suspension is available only if enforcement of the order would be unconscionable or if the parties agree and the payor posts security. (Proposed sections 3.3 and 3.4 of the Act, as set out in section 4 of the Bill)
5. The Director will be required to enforce support orders until they are terminated or withdrawn from the Director's office. A support deduction order, unless suspended, must be enforced until the support order to which it relates is terminated. If the parties do not agree that termination has occurred, enforcement will continue until the dispute is resolved. Special provision is made for cases where support order has been assigned to an agency described in subsection 33 (3) of the Family Law Act, 1986. (Proposed sections 3.3 and 3.9 of the Act, as set out in section 4 of the Bill)

NOTES EXPLICATIVES

Le projet de loi modifie la *Loi de 1985 sur l'exécution des ordonnances alimentaires et de garde d'enfants*, laquelle, aux termes de l'article 13 du projet de loi, reçoit le nouveau titre *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. Il modifie également la *Loi sur les normes d'emploi*.

PARTIE I

Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants

L'objectif principal des modifications apportées à la *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est de prévoir la retenue automatique des versements d'aliments du revenu des personnes qui doivent verser des aliments et prévoir le versement de la somme retenue au directeur du Régime des obligations alimentaires envers la famille. Cette retenue automatique s'effectuera au moyen d'une nouvelle ordonnance du tribunal créée par le projet de loi. Les principales caractéristiques de ce nouveau mode d'exécution des ordonnances alimentaires sont les suivantes :

1. La nouvelle ordonnance s'appellera «ordonnance de retenue des aliments».
2. L'ordonnance de retenue des aliments sera rendue par un tribunal de l'Ontario lorsque celui-ci rend une ordonnance alimentaire. (Article 3.1 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi). Des dispositions spéciales sont prévues pour les ordonnances alimentaires existantes qui ont été rendues par des tribunaux de l'Ontario et pour les contrats familiaux et les accords de paternité qui ont été déposés au bureau du directeur. (Article 3.8 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
3. La personne qui fait des versements périodiques (la «source de revenu») à la personne qui doit verser des aliments (le «payeur») devra retenir jusqu'à 50 pour cent de chaque versement périodique dû au payeur et verser la somme retenue au directeur. Celui-ci versera les sommes perçues à la personne qui a droit au versement aux termes de l'ordonnance alimentaire à laquelle se rapporte l'ordonnance de retenue des aliments. (Article 3.3 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
4. Le directeur doit exécuter une ordonnance de retenue des aliments, sauf si l'application de celle-ci est suspendue par le tribunal. L'ordonnance de suspension ne peut être rendue que si les conditions énoncées par la Loi sont remplies. En particulier, la suspension ne peut être obtenue que si l'exécution de l'ordonnance était déraisonnable ou que les parties s'entendent et que le payeur fournit une sûreté. (Articles 3.3 et 3.4 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
5. Le directeur sera tenu d'exécuter les ordonnances alimentaires jusqu'à leur révocation ou leur retrait du bureau du directeur. À moins qu'elles ne soient suspendues, les ordonnances de retenue des aliments doivent être exécutées, jusqu'à la révocation de l'ordonnance alimentaire à laquelle elles se rapportent. Si les parties ne s'entendent pas sur la question de savoir s'il y a eu un cas de révocation, l'exécution continuera jusqu'à ce que le conflit soit réglé. Des dispositions particulières sont prévues lorsque l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la Loi de 1986 sur le droit de la famille. (Articles 3.3 et 3.9 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)

6. A payor will be able to dispute the amount being deducted under a support deduction order if he or she believes that a mistake has been made and whether or not a suspension order has been properly terminated. The payor may also seek relief with respect to the payment of arrears under a support deduction order. (Proposed section 3.5 of the Act, as set out in section 4 of the Bill)
7. Support deduction orders in respect of on-going support obligations can be varied only by a court and only if the support order to which it relates is varied. The parties cannot opt out of the program unless the court issues a suspension order. (Proposed sections 3.6 and 3.7 of the Act, as set out in section 4 of the Bill)
8. New procedures are provided for obtaining financial statements from payors. (Proposed section 3.10 of the Act, as set out in section 4 of the Bill)

The Bill also amends the Act:

9. To clarify the definitions of "custody order" and "support order" and to change the title of the Director to "Director of the Family Support Plan". (Subsections 2 (1) and (2) and section 3 of the Bill)
10. To add definitions of "payor", "income source", "provisional order", "regulations" and "support deduction order". (Subsection 2 (3) of the Bill)
11. To clarify the provisions regarding the filing of support and custody orders. (Proposed section 3 of the Act, as set out in section 4 of the Bill)
12. To clarify that the Director is not a party to any proceeding to determine entitlement under a support order. (Proposed subsection 3.9 (11) of the Act, as set out in section 4 of the Bill)
13. To improve enforcement of support orders by requiring payors to advise the Director's office of address changes. (Proposed section 3.12 of the Act, as set out in section 4 of the Bill)
14. To require a person entitled to receive support who has not filed a support order with the Director to file certain information with the Director if a support deduction order has been made. (Proposed section 3.13 of the Act, as set out in section 4 of the Bill)
15. To clarify the circumstances under which a support order assigned to the Minister of Community and Social Services may be withdrawn. (Section 5 of the Bill)
16. To establish the notice provision related to the filing and withdrawal of support and custody orders as a separate section. (Section 6 of the Bill)
17. To permit information sharing with officials in other jurisdictions who are responsible for the enforcement of support and custody orders. (Subsection 7 (1) of the Bill)
18. To permit information to be released only in compliance with the *Freedom of Information and Protection of Privacy Act, 1987*. (Subsections 7 (2) and (3) and section 8 of the Bill)
19. To permit the effective use of writs of seizure and sale to enforce support orders. (Proposed section 10.1 of the Act, as set out in section 9 of the Bill)

6. Le payeur pourra contester la somme retenue aux termes d'une ordonnance de retenue des aliments s'il croit qu'une erreur a été commise et il pourra contester le fait qu'une ordonnance de suspension a été révoquée de façon appropriée ou non. Le payeur peut également demander un redressement à l'égard du paiement d'un arriéré exigible aux termes d'une ordonnance de retenue des aliments. (Article 3.5 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
7. L'ordonnance de retenue des aliments à l'égard des obligations alimentaires existantes et à venir ne peut être modifiée que par un tribunal et que si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée. Les parties sont obligées de se conformer au programme, sauf si le tribunal rend une ordonnance de suspension. (Articles 3.6 et 3.7 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
8. De nouvelles procédures sont prévues afin d'obtenir des états financiers des payeurs. (Article 3.10 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

Le projet de loi modifie également la Loi aux fins suivantes :

9. Clarifier la définition des expressions «ordonnance de garde d'enfants» et «ordonnance alimentaire» et remplacer le titre du directeur par «directeur du Régime des obligations alimentaires envers la famille». (Paragraphe 2 (1) et (2) et l'article 3 du projet de loi)
10. Ajouter la définition de «payeur», «ordonnance conditionnelle», «ordonnance de retenue des aliments», «règlements» et «source de revenu». (Paragraphe 2 (3) du projet de loi)
11. Clarifier les dispositions relatives au dépôt des ordonnances alimentaires et de garde d'enfants. (Article 3 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
12. Préciser que le directeur n'est pas une partie aux instances visant à déterminer un droit aux termes d'une ordonnance alimentaire. (Paragraphe 3.9 (11) proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
13. Améliorer l'exécution des ordonnances alimentaires en exigeant des payeurs qu'ils avisent le bureau du directeur des changements d'adresse. (Article 3.12 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
14. Exiger d'une personne ayant droit aux aliments qui n'a pas déposé une ordonnance alimentaire auprès du directeur, si une ordonnance de retenue des aliments a été rendue, qu'elle dépose auprès du directeur certains renseignements. (Article 3.13 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
15. Clarifier les circonstances dans lesquelles une ordonnance alimentaire cédée au ministre des Services sociaux et communautaires peut être retirée. (Article 5 du projet de loi)
16. Créer la disposition sur les avis relative au dépôt et au retrait des ordonnances alimentaires et de garde d'enfants en tant qu'article distinct. (Article 6 du projet de loi)
17. Permettre l'échange de renseignements avec les fonctionnaires d'autres compétences qui sont chargés de l'exécution des ordonnances alimentaires et de garde d'enfants. (Paragraphe 7 (1) du projet de loi)
18. Ne permettre la divulgation de renseignements que conformément à la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*. (Paragraphe 7 (2) et (3) et article 8 du projet de loi)
19. Permettre l'emploi efficace des brefs de saisie-exécution pour l'exécution des ordonnances alimentaires. (Article

- 20. To strengthen the default hearing procedure. (Section 10 of the Bill)
- 21. To provide penalties for certain contraventions of the Act and to provide for enforcement where there is contempt of any court process, rule or order and to give the Ontario Court (Provincial Division) the power to restrain the disposition or wasting of assets and to make contempt orders. (Proposed sections 12, 12.1 and 12.2 of the Act, as set out in section 11 of the Bill)
- 22. To clarify that the use of one method of enforcing a support order, custody order or support deduction order does not preclude the use of other methods. (Proposed section 13.1 of the Act, as set out in section 12 of the Bill)
- 23. To permit the Lieutenant Governor in Council to make regulations for the purposes of the Act. (Proposed section 13.2 of the Act, as set out in section 12 of the Bill)
- 24. To rename the Act as the *Family Support Plan Act, 1985*. (Section 13 of the Bill)

PART II

Employment Standards Act

Part II of the Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French language version of this Act.

The amendments ensure that an employer does not penalize an employee because a court has ordered the employer to make payments to a third party on the employee's behalf. At present, employees are only protected against penalties related to garnishment proceedings.

They also permit an employment standards officer to order the reinstatement of the employee, where appropriate.

10.1 proposé de la Loi, tel qu'il est énoncé à l'article 9 du projet de loi)

- 20. Consolider la procédure d'audience sur le défaut. (Article 10 du projet de loi)
- 21. Prévoir des peines pour certaines infractions à la Loi, prévoir des mécanismes d'application en cas de désobéissance à un acte de procédure, à une règle ou à une ordonnance d'un tribunal et donner à la Cour de l'Ontario (Division provinciale) le pouvoir d'interdire l'aliénation ou la dilapidation de biens et de rendre des ordonnances pour outrage. (Articles 12, 12.1 et 12.2 proposés de la Loi, tels qu'ils sont énoncés à l'article 11 du projet de loi)
- 22. Préciser que l'emploi d'un moyen pour l'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments n'empêche pas l'emploi d'autres moyens. (Article 13.1 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
- 23. Permettre au lieutenant-gouverneur en conseil de prendre des règlements pour l'application de la Loi. (Article 13.2 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
- 24. Remplacer le titre de la Loi par *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. (Article 13 du projet de loi)

PARTIE II

Loi sur les normes d'emploi

La partie II du projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

Les modifications font en sorte qu'un employeur ne pénalise pas un employé parce qu'un tribunal a ordonné à cet employeur de faire des versements à un tiers pour le compte de l'employé. Actuellement, les employés ne sont protégés que contre les sanctions relatives à une saisie-arrêt.

Elles permettent également à un agent des normes d'emploi d'ordonner la réintégration de l'employé, dans les cas appropriés.

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

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

PART I

*Support and Custody Orders Enforcement Act,
1985*

1. The *Support and Custody Orders Enforcement Act, 1985* is amended by striking out “debtor” and “debtor’s” wherever those words appear and replacing them in each case with “payor” or “payor’s” as is appropriate.

2.—(1) The definitions of “custody order” and “Director” in subsection 1 (1) of the Act are repealed and the following substituted:

“custody order” means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children’s Law Reform Act*; (“ordonnance de garde d’enfants”)

“Director” means the Director of the Family Support Plan. (“directeur”)

(2) The definition of “support order” in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting “and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*”.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“income source” means an individual, a corporation or other entity that owes periodic payment at regular intervals to a payor of,

**Loi portant modification
des lois relatives à l’exécution
d’ordonnances alimentaires et de
garde d’enfants**

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l’exécution d’ordonnances
alimentaires et de garde d’enfants*

1 La *Loi de 1985 sur l’exécution d’ordonnances alimentaires et de garde d’enfants* est modifiée par substitution du terme «payeur» au terme «débiteur», partout où apparaît celui-ci.

2 (1) La définition du terme «directeur» et de l’expression «ordonnance de garde d’enfants» au paragraphe 1 (1) de la *Loi* est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Régime des obligations alimentaires envers la famille. («Director»)

«ordonnance de garde d’enfants» Disposition contenue dans une ordonnance émanant d’un tribunal de l’Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d’un enfant, mais non au droit de visite relatif à l’enfant. S’entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l’enfance*. («custody order»)

(2) La définition de l’expression «ordonnance alimentaire» au paragraphe 1 (1) de la *Loi* est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S’entend en outre d’une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l’article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la *Loi* est modifié par adjonction des définitions suivantes :

«ordonnance conditionnelle» Ordonnance qui n’a aucun effet tant qu’elle n’est pas homologuée par un autre tribunal. S’entend en

- (a) wages or salary,
- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; ("source de revenu")

"payor" means a person who is required to pay support under a support order; ("payeur")

"provisional order" means an order that has no effect until it is confirmed by another court and includes orders made under subsection 18 (2) of the *Divorce Act, 1985* (Canada), sections 3 and 7 of the *Reciprocal Enforcement of Maintenance Orders Act, 1982* and section 44 of the *Family Law Act, 1986*; ("ordonnance conditionnelle")

"regulations" means the regulations made under this Act; ("règlements")

"support deduction order" means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the payor named in the order out of money owed by the income source to the payor. ("ordonnance de retenue des aliments")

(4) Section 1 of the Act is amended by adding the following subsection:

(1.1) An individual, a corporation or other entity continues to be an income source despite temporary interruptions in the periodic payments owed to a payor.

3. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Family Support Plan who shall be appointed by the Lieutenant Governor in Council.

4. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director's office.

autre des ordonnances rendues en vertu du paragraphe 18 (2) de la *Loi de 1985 sur le divorce* (Canada), des articles 3 et 7 de la *Loi de 1982 sur l'exécution réciproque d'ordonnances alimentaires* et de l'article 44 de la *Loi de 1986 sur le droit de la famille*. («provisional order»)

«ordonnance de retenue des aliments» Ordonnance enjoignant à une source de revenu qui reçoit un avis de l'ordonnance de faire des versements au directeur, prélevés sur l'argent qu'elle doit au payeur, à l'égard du payeur nommé dans l'ordonnance. («support deduction order»)

«payeur» Personne qui est tenue de verser des aliments aux termes d'une ordonnance alimentaire. («payor»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou une autre entité qui doit faire des versements périodiques, à intervalles réguliers à un payeur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du payeur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

(1.1) Une personne, physique ou morale, ou une autre entité continue d'être une source de revenu même s'il y a interruption temporaire des versements périodiques dus à un payeur.

3 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Régime des obligations alimentaires envers la famille.

4 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

Status as
income
source

Director of
the Family
Support Plan

Filing of
orders

Qualité de
source de
revenu

Directeur du
Régime des
obligations
alimentaires
envers la
famille

Dépôt des
ordonnances

Idem	(2) An order may be filed even if it has been previously withdrawn.	(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.	Idem
Who may file	(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the payor.	(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le payeur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.	Personnes pouvant déposer une ordonnance
Idem	(4) A custody order may only be filed by a person entitled to custody under it.	(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.	Idem
Director to enforce support orders	(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed.	(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont versées au directeur, qui les verse à la personne à qui elles sont dues.	Exécution des ordonnances alimentaires par le directeur
Prompt filing	(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.	(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt rapide
Filing orders of other jurisdictions	(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.	(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt des ordonnances rendues dans d'autres compétences
Filing by Minister	(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the <i>Family Benefits Act</i> or assistance under the <i>General Welfare Assistance Act</i> , the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.	(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la <i>Loi sur les prestations familiales</i> ou une aide en vertu de la <i>Loi sur l'aide sociale générale</i> , y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.	Dépôt par le ministre
Filing of past orders	(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under section 27 of the <i>Family Law Reform Act</i> , being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.	(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée <i>Family Law Reform Act</i> , qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.	Dépôts d'ordonnances antérieures

Support deduction orders

3.1—(1) An Ontario court that makes a support order, which provides for payment of support on a periodic basis at regular intervals, shall also make a support deduction order for the payment of the periodic support ordered.

3.1 (1) Le tribunal de l'Ontario qui rend une ordonnance alimentaire, laquelle prévoit le versement périodique d'aliments, à intervalles réguliers, rend également une ordonnance de retenue des aliments pour le versement périodique des aliments qui a été ordonné.

Ordonnances de retenue des aliments

Exception

(2) A support deduction order shall not be made in respect of a provisional order.

(2) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle.

Exception

Required information

(3) Before making a support deduction order, the court shall make such inquiries as it considers necessary to determine the names and addresses of each income source of the payor and the amounts paid to the payor by each income source.

(3) Avant de rendre une ordonnance de retenue des aliments, le tribunal fait les recherches qu'il estime nécessaires afin de déterminer les nom et adresse de chaque source de revenu du payeur et les sommes versées à celui-ci par chaque source de revenu.

Renseignements exigés

Consent proceedings, etc.

(4) If the support order is sought on consent or by way of motion for judgment or if the making of the support order is uncontested, the persons prescribed by the regulations shall give the court the particulars described in subsection (3) and such other information as may be prescribed.

(4) Si l'ordonnance alimentaire est demandée par consentement ou par voie de motion en vue d'obtenir un jugement, ou si l'ordonnance alimentaire est rendue sans faire l'objet d'une contestation, les personnes prescrites par les règlements donnent au tribunal les renseignements visés au paragraphe (3) et tout autre renseignement qui peut être prescrit.

Procédure relative au consentement

Order mandatory

(5) A support deduction order shall be made even though the court cannot identify an income source in respect of the payor at the time the support order is made.

(5) Une ordonnance de retenue des aliments est rendue même si le tribunal ne peut identifier une source de revenu du payeur au moment où est rendue l'ordonnance alimentaire.

Ordonnance obligatoire

Form of support deduction order

3.2—(1) A support deduction order shall be in the form prescribed by the regulations.

3.2 (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.

Formule de l'ordonnance de retenue des aliments

Completion of form, etc.

(2) The support deduction order shall be completed and signed by the court at the time the support order is made and shall be entered in the court records immediately after it is signed, even though the support order may not have been settled or signed at that time.

(2) L'ordonnance de retenue des aliments est remplie et signée par le tribunal au moment où est rendue l'ordonnance alimentaire et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée, même si l'ordonnance alimentaire peut ne pas avoir été réglée ou signée à ce moment-là.

Rédaction de la formule

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

Persons bound

3.3—(1) A support deduction order binds every income source who is served by the Director's office with a notice of the order whether or not the income source is named in the order.

3.3 (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'ordonnance, qu'elles soient nommées ou non dans l'ordonnance.

Personnes liées

Enforcement by Director

(2) The Director shall enforce a support deduction order in the manner, if any, that appears practical to the Director and shall pay the amounts collected under the order to the person to whom they are owed.

(2) Le directeur exécute une ordonnance de retenue des aliments de la façon, s'il en est, qui lui semble pratique et il verse les sommes perçues en vertu de l'ordonnance à la personne à qui elles sont dues.

Exécution par le directeur

Idem

(3) No person other than the Director shall enforce a support deduction order.

(3) Seul le directeur exécute une ordonnance de retenue des aliments.

Idem

When enforcement ends

▼
(4) The Director shall enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and there are no arrears owing and despite the fact that the support order to which it relates has not been filed in or has been withdrawn from the Director's office. ▲

▼
(4) Le directeur exécute une ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait été révoquée l'ordonnance alimentaire à laquelle elle se rapporte, qu'il n'y ait plus d'arriéré à payer et en dépit du fait que l'ordonnance alimentaire à laquelle elle se rapporte n'a pas été déposée au bureau du directeur ou en a été retirée. ▲

Fin de l'exécution

Idem

(5) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

▲
(5) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

Idem

Idem

(6) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

(6) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem

Notice to payor

(7) The Director shall send a copy of the notice to the payor by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

(7) Le directeur envoie au payeur une copie de l'avis par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Avis au payeur

First payment

(8) An income source shall begin making payments to the Director's office not later than the day the first payment is to be paid to the payor that falls at least fourteen days after the day on which the income source is served with the notice.

(8) Une source de revenu commence à faire des versements au bureau du directeur au plus tard le jour où le premier versement doit être fait au payeur et qui tombe au moins quatorze jours après le jour où la source de revenu a reçu signification de l'avis.

Premier versement

Payor's duty to pay

(9) Until an income source begins deducting support payments in respect of a support deduction order or if payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the support order to the Director or, if the support order has been withdrawn, to the person entitled to receive support.

(9) Tant qu'une source de revenu n'a pas commencé à retenir les versements d'aliments aux termes d'une ordonnance de retenue des aliments ou si les versements d'une source de revenu sont interrompus ou prennent fin, le payeur verse les sommes dues aux termes de l'ordonnance alimentaire au directeur ou, si l'ordonnance alimentaire a été retirée, à la personne qui a droit aux aliments.

Obligation de payer du payeur

Arrears

(10) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under a support order.

(10) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représentant un arriéré aux termes d'une ordonnance alimentaire.

Arriéré

Maximum deductions

(11) Subject to subsection (13), the total amount deducted in respect of a support order shall not exceed 50 per cent of the net amount owed by the income source to the payor.

(11) Sous réserve du paragraphe (13), la somme totale retenue aux termes d'une ordonnance alimentaire ne doit pas dépasser 50 pour cent de la somme nette que doit la source de revenu au payeur.

Retenue maximale

Definition

(12) For the purposes of this section, "net amount" means the total amount owed by the income source to the payor at the time

(12) Pour l'application du présent article, l'expression «somme nette» s'entend de la somme totale que doit la source de revenu au

Définition

payment is to be made to the Director's office, less the total of the following deductions:

1. Income Tax.
2. Canada Pension Plan.
3. Unemployment Insurance.
4. Union dues.
5. Such other deductions as may be prescribed by the regulations.

payeur au moment où le versement doit être fait au bureau du directeur, moins le total des retenues suivantes :

1. Celle de l'impôt sur le revenu.
2. Celle du Régime de pensions du Canada.
3. Celle de l'assurance-chômage.
4. Celle des cotisations syndicales.
5. Les autres retenues pouvant être prescrites par les règlements.

Higher maximum payment

(13) Subject to subsection (15), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources pay an amount that is higher than the amount described in subsection (11) and such an income source shall pay to the Director's office the amount set out in the order.

(13) Sous réserve du paragraphe (15), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou sur présentation d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu paient une somme plus élevée que la somme prévue au paragraphe (11) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Versement maximal plus élevé

Idem

(14) An order shall not be made under subsection (13) unless the payor receives income from at least two sources (whether or not the sources are "income sources" as defined in section 1).

(14) Une ordonnance ne doit pas être rendue aux termes du paragraphe (13) à moins que le payeur ne reçoive un revenu d'au moins deux sources (peu importe que ces sources soient ou non des «sources de revenu» telles qu'elles sont définies à l'article 1).

Idem

Idem

(15) An income source is not required to pay to the Director's office more than the net amount that the income source owes to the payor at the time of the payment.

(15) Une source de revenu n'est pas tenue de verser au bureau du directeur une somme plus élevée que la somme nette qu'elle doit au payeur au moment du versement.

Idem

Medical insurance, etc.

(16) Despite any other provision of this Act, no deduction shall be made under a support deduction order in respect of amounts owing to a payor as reimbursement for expenses covered by a medical, health, dental or hospital insurance contract or plan.

(16) Malgré toute autre disposition de la présente loi, aucune retenue ne doit être faite aux termes d'une ordonnance de retenue des aliments relativement aux sommes dues au payeur à titre de remboursement de dépenses couvertes par un régime ou un contrat d'assurance médicale, santé, dentaire ou pour services hospitaliers.

Assurances médicales

Person not income source

(17) If an individual, corporation or other entity served with notice is not an income source of the payor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

(17) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du payeur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Personne qui n'est pas une source de revenu

Dispute

(18) The Director or the income source, individual, corporation or other entity, as the case may be, may, on notice to the other, bring a motion to the court that made a support deduction order or to the appropriate court under subsection 3.8 (9) to determine,

(18) Le directeur ou la source de revenu, la personne, physique ou morale, ou une autre entité selon le cas, peut, sur avis à l'autre, présenter une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié aux termes du paragraphe 3.8 (9) pour déterminer, selon le cas :

Conflit

- (a) whether the income source has failed to comply with the order;
- (b) whether the amount the income source is deducting and paying to the Direc-

- a) si la source de revenu n'a pas observé l'ordonnance;
- b) si la somme que la source de revenu retient et verse au bureau du directeur

tor's office under the order is correct;
or

- (c) whether the individual, corporation or other entity is an income source.

aux termes de l'ordonnance est correcte;

- c) si la personne, physique ou morale, ou une autre entité est une source de revenu.

(19) In a motion under subsection (18), the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(19) Dans le cadre d'une motion prévue au paragraphe (18), le tribunal procède de façon sommaire afin de régler la question et rend l'ordonnance qu'il estime opportune dans les circonstances.

(20) A motion shall not be brought by an income source under clause (18) (a) or (b) unless the income source has given written particulars of the proposed motion to the Director at least fourteen days before serving the Director with notice of the motion.

(20) La source de revenu ne peut présenter de motion aux termes de l'alinéa (18) a) ou b) sans avoir donné par écrit au directeur des détails sur la motion en question au moins quatorze jours avant la signification de l'avis de motion au directeur.

(21) A motion shall not be brought under clause (18) (c) by an individual, corporation or other entity, until at least fourteen days after the date that notice was given under subsection (17).

(21) Une personne, physique ou morale, ou une autre entité ne peut présenter de motion aux termes de l'alinéa (18) c) avant l'expiration d'un délai d'au moins quatorze jours après la date à laquelle l'avis a été donné aux termes du paragraphe (17).

(22) Subsection (21) does not apply to the Director.

(22) Le paragraphe (21) ne s'applique pas au directeur.

(23) An income source is liable to pay to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and, in a motion under subsection (18), the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

(23) La source de revenu est responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur une motion prévue au paragraphe (18), le tribunal peut ordonner à la source de revenu de verser la somme qu'elle aurait dû retenir et verser au bureau du directeur.

(24) In addition to any other method available to enforce an order in a civil proceeding, any order made under subsection (19) or (23) may be enforced under this Act in the same manner and with the same remedies as a support order.

(24) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, les ordonnances rendues aux termes du paragraphe (19) ou (23) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire.

(25) Within ten days following the termination or beginning of an interruption of payments by an income source to a payor, both the income source and the payor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

(25) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au payeur, la source de revenu et le payeur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

(26) If notice has been or should have been given under subsection (25),

(26) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (25) :

- (a) the payor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;

- a) le payeur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;

- (b) the payor, within ten days of beginning employment with another income source or of becoming entitled to pay-

- b) le payeur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après

ments from another income source, shall give written notice to the Director's office of the new employment or the entitlement and of the name and address of the income source.

qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Information
confidential

(27) Information about a payor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

(27) Les renseignements sur le payeur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Renseignements
confidentiels

Priority

(28) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

(28) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'à l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Priorité

Idem

(29) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order and the garnishment shall be of no effect until the income source has received notice from the Director that the support deduction order is suspended or terminated.

(29) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrêt relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments et la saisie-arrêt n'a aucun effet tant que la source de revenu n'a pas été avisée par le directeur de la suspension ou de la révocation de l'ordonnance de retenue des aliments.

Idem

Conflict with
other Acts

(30) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other process for the enforcement of a judgment debt any periodic payment owed by an income source to a payor.

(30) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou d'un autre acte de procédure visant l'exécution d'une créance constatée par jugement tout versement périodique que doit la source de revenu au payeur.

Incompatibilité
avec
d'autres lois

Limitation

(31) A support deduction order is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of the support deduction order to the payor named in the notice.

(31) L'ordonnance de retenue des aliments n'a d'effet contre la Couronne qu'à l'égard des sommes payables pour le compte du service administratif qui a reçu signification de l'avis de l'ordonnance de retenue des aliments au payeur désigné dans l'avis.

Restriction

Definition

(32) In subsection (31), "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

(32) Au paragraphe (31), «service administratif» s'entend d'un ministère du gouvernement de l'Ontario, d'un organisme de la Couronne au sens de la *Loi sur les organismes de la Couronne* ou du Bureau de l'Assemblée, au sens de la *Loi sur l'Assemblée législative*.

Définition

Welfare
benefits

(33) A support deduction order shall not be used to make deductions from any amount payable to a payor as a benefit under

(33) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un payeur à titre

Prestations
d'aide sociale

the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

3.4—(1) A court that makes a support deduction order may immediately make an order to suspend its operation or the court may, on motion, subsequently suspend its operation.

(2) The court may suspend a support deduction order under subsection (1) or subsection 3.8 (6) only if,

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the payor to make support payments through a support deduction order; or
- (b) the parties to the support order agree that they do not want support payments collected through a support deduction order and the court requires the payor to post such security as it considers adequate and in accordance with the regulations.

(3) If the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986* or if there are arrears owing to the agency from a past assignment, the court shall not suspend the support deduction order in the circumstances described in clause (2) (b) without the agency's consent.

(4) The following shall not be considered by a court in determining whether it would be unconscionable to require a payor to make support payments through a support deduction order:

1. The fact that the payor has demonstrated a good payment history in respect of his or her debts, including support obligations.
2. The fact that the payor has had no opportunity to demonstrate voluntary compliance in respect of support obligations.
3. The fact that the parties have agreed to the suspension of the support deduction order.
4. The fact that there are grounds upon which a court might find that the amount payable under the support order should be varied.

(5) For the purposes of clause (2) (b), security shall be in a minimum amount equal to the support payable for four months and

de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

3.4 (1) Le tribunal qui rend une ordonnance de retenue des aliments peut immédiatement rendre une ordonnance qui suspend l'application de l'ordonnance de retenue des aliments ou il peut en suspendre l'application par la suite, sur présentation d'une motion.

(2) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou 3.8 (6) que si l'une des conditions suivantes est remplie :

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments et le tribunal exige que le payeur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

(3) Si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille* ou si un arriéré provenant d'une cession antérieure est dû à l'organisme, le tribunal ne doit pas suspendre l'ordonnance de retenue des aliments dans les circonstances prévues à l'alinéa (2) b) sans le consentement de l'organisme.

(4) Le tribunal ne doit pas tenir compte des éléments suivants lorsqu'il décide s'il serait déraisonnable d'obliger un payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments :

1. Le fait que les antécédents du payeur quant au paiement de ses dettes, y compris ses obligations alimentaires, sont bons.
2. Le fait que le payeur n'a pas eu l'occasion de démontrer son respect volontaire à l'égard des obligations alimentaires.
3. Le fait que les parties ont convenu de la suspension de l'ordonnance de retenue des aliments.
4. Le fait qu'il existe des motifs qui pourraient permettre à un tribunal de conclure que la somme à payer aux termes de l'ordonnance alimentaire devrait être modifiée.

(5) Pour l'application de l'alinéa (2) b), le montant minimal de la sûreté est égal à la somme des aliments payables pour quatre

Suspension of support deduction order

Conditions

Agency's consent required

Unconscionable, determination

Security

Suspension de l'ordonnance de retenue des aliments

Conditions

Consentement de l'organisme exigé

Détermination de ce qui est déraisonnable

Sûreté

the security shall be in money or in such other form as may be provided for in the regulations.

mois. La sûreté est versée en argent ou sous toute autre forme qui peut être prévue par les règlements.

When Director a party

(6) The Director is not a party to a motion brought to suspend the operation of a support deduction order; however, if the payor brings a motion under subsection 3.8 (6), the Director must also be served with notice of the motion and may be added as a party.

(6) Le directeur n'est pas partie à une motion présentée en vue de faire suspendre l'application d'une ordonnance de retenue des aliments. Toutefois, si le payeur présente une motion en vertu du paragraphe 3.8 (6), le directeur doit également recevoir signification de l'avis de motion et il peut être ajouté comme partie.

Le directeur est partie à une motion

Completion of form, etc.

(7) A suspension order shall be completed and signed by the court at the time it is made and shall be entered in the court records immediately after it is signed.

(7) L'ordonnance de suspension est remplie et signée par le tribunal au moment où elle est rendue et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée.

Rédaction de la formule

Prompt filing

(8) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

(8) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

Dépôt rapide

Form and effective date

(9) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

(9) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

Formule et entrée en vigueur

Termination of suspension order

(10) A suspension order is automatically terminated if the payor fails to post security of the type or within the time period set out in the suspension order or if the payor fails to comply with the support order.

(10) L'ordonnance de suspension est automatiquement révoquée si le payeur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le payeur ne se conforme pas à l'ordonnance alimentaire.

Révocation de l'ordonnance de suspension

Effect of termination

(11) When a suspension order is terminated under subsection (10), the support deduction order is reinstated and the Director may immediately realize on any security that was posted.

(11) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (10), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie.

Effet de la révocation

Support order not affected

(12) An order suspending the operation of a support deduction order does not affect the payor's obligations under the support order nor does it affect any other means of enforcing the support order.

(12) L'ordonnance qui suspend l'application d'une ordonnance de retenue des aliments n'a pas d'effet sur les obligations qu'a le payeur aux termes de l'ordonnance alimentaire ni sur les autres moyens d'exécution de l'ordonnance alimentaire.

Absence d'effet sur l'ordonnance alimentaire

Disputes, etc., by payor

3.5—(1) A payor, on motion in the court that made the support deduction order, or in the appropriate court on a motion under subsection 3.8 (6),

3.5 (1) Le payeur, qui présente une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié dans le cadre d'une motion introduite en vertu du paragraphe 3.8 (6), peut :

Contestations du payeur

(a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act;

a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue;

(b) may dispute whether he or she has defaulted in paying support after a sus-

b) contester son défaut de verser des aliments après qu'une ordonnance de

pension order has been made under section 3.4;

- (c) may seek relief regarding the amount which is being deducted under a support deduction order for arrears under a support order.

suspension a été rendue en vertu de l'article 3.4;

- c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des aliments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

Dispute over entitlement

(2) On a motion referred to in subsection (1), the payor shall not dispute the entitlement of a person to support under a support order.

(2) Sur une motion mentionnée au paragraphe (1), le payeur ne peut contester le droit d'une personne aux aliments aux termes d'une ordonnance alimentaire.

Contestation du droit aux aliments

Necessary party

(3) The Director is a necessary party to a motion referred to in subsection (1).

(3) Le directeur est une partie essentielle à une motion mentionnée au paragraphe (1).

Partie essentielle

Power of court

(4) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(4) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

Pouvoir du tribunal

Idem

(5) On a motion under clause (1) (c), the payor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the payor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

(5) À la présentation d'une motion en vertu de l'alinéa (1) c), le payeur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le payeur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

Idem

Variation of support deduction order

3.6—(1) Subject to section 3.5, a court shall not vary the amount to be paid under a support deduction order unless the support order to which it relates is varied.

3.6 (1) Sous réserve de l'article 3.5, le tribunal ne doit pas modifier la somme à verser aux termes de l'ordonnance de retenue des aliments, sauf si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée.

Modification de l'ordonnance de retenue des aliments

New order

(2) When a support order is varied to provide for or to vary periodic payments at regular intervals, a support deduction order shall be made to reflect the variation.

(2) Lorsqu'une ordonnance alimentaire est modifiée en vue de prévoir ou de modifier des versements périodiques à intervalles réguliers, une ordonnance de retenue des aliments est rendue pour faire état de la modification.

Nouvelle ordonnance

Exception

(3) A support deduction order shall not be made in respect of a provisional order that varies a support order.

(3) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle qui modifie une ordonnance alimentaire.

Exception

No opting out

3.7 An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

3.7 L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

Obligation de se conformer à l'ordonnance de retenue des aliments

Old orders, domestic contracts, paternity agreements

3.8—(1) This section applies only to support orders filed with the Director's office that are,

3.8 (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :

Anciennes ordonnances, anciens contrats familiaux et accords de paternité

- (a) support orders made by an Ontario court before this section comes into force;

- a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;

- (b) domestic contracts and paternity agreements that are enforceable under section 35 of the *Family Law Act, 1986*.

- b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la *Loi de 1986 sur le droit de la famille*.

Enforcement

(2) The Director may enforce payment under a support order to which this section applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall enforce payment if the person entitled to receive support under the order requests enforcement under this section and the Director considers it practical to do so.

(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire. Le directeur exécute les versements si la personne qui a droit aux aliments en vertu de l'ordonnance en fait la demande en vertu du présent article et que le directeur estime qu'il est pratique de le faire.

Exécution

Notice

(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the payor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le payeur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Avis

Idem

(4) A notice given by mail shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

(4) Sauf s'il est démontré le contraire, l'avis envoyé par courrier est réputé avoir été signifié au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem

Deemed support deduction order

(5) A support deduction order shall be deemed to have been made by the appropriate court thirty days after the notice is served on the payor.

(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal approprié trente jours après que l'avis est signifié au payeur.

Ordonnance de retenue des aliments réputée rendue

Suspension

(6) The payor may, within thirty days of being served with the notice, commence a motion under section 3.4 in the appropriate court for a suspension of a support deduction order described in subsection (5).

(6) Le payeur peut, dans les trente jours après que l'avis lui est signifié, présenter une motion aux termes de l'article 3.4 devant le tribunal approprié pour obtenir la suspension de l'ordonnance de retenue des aliments visée au paragraphe (5).

Suspension

Delay of enforcement

(7) If a motion has been brought under subsection (6), a support deduction order described in subsection (5) does not come into force until the motion has been determined.

(7) Si une motion est introduite en vertu du paragraphe (6), l'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion n'a pas été prise.

Retard de l'exécution

No form required

(8) Section 3.2 does not apply to an order described in subsection (5).

(8) L'article 3.2 ne s'applique pas à l'ordonnance visée au paragraphe (5).

Aucune formule exigée

Appropriate court

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

Tribunal approprié

Termination of support obligation

3.9—(1) Each of the parties to a support order shall give to the Director notice of the termination of a support obligation under the order, in the manner and at such time as may be provided in the regulations, if the support order is filed in the Director's office or if a support deduction order has been made in respect of the support obligation.

3.9 (1) Si l'ordonnance alimentaire est déposée au bureau du directeur ou si une ordonnance de retenue des aliments a été rendue relativement à l'obligation alimentaire, chaque partie à une ordonnance alimentaire avise le directeur de la fin d'une obligation alimentaire découlant de l'ordonnance alimentaire, de la façon et au moment que peuvent prévoir les règlements.

Fin de l'obligation alimentaire

Idem

(2) If the parties to a support order agree in the manner prescribed by the regulations or if the support obligation is stated in a support order to terminate on a set calendar date, the Director shall cease enforcement of a support obligation that has terminated;

(2) Si les parties à une ordonnance alimentaire s'entendent de la manière prescrite par les règlements ou si le moment auquel l'obligation alimentaire prend fin correspond à une date fixée dans une ordonnance alimentaire, le directeur cesse d'exécuter l'obli-

Idem

however, if the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986*, the Director shall not cease enforcement of the support obligation without the agency's consent.

gation alimentaire qui a pris fin. Toutefois, si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille*, le directeur ne doit pas cesser d'exécuter l'obligation alimentaire sans le consentement de l'organisme.

(3) If the parties to the support order do not agree or if the agency does not consent, the court that made the support order shall, on the motion of a party to the order or of the agency, decide if the support obligation has terminated. ▲

(3) Si les parties à une ordonnance alimentaire ne s'entendent pas ou si l'organisme ne donne pas son consentement, le tribunal qui a rendu l'ordonnance alimentaire décide, sur motion présentée par une partie à l'ordonnance ou par l'organisme, si l'obligation alimentaire a pris fin. ▲

(4) A court that finds that a support obligation has terminated may order repayment in whole or in part from a person who received support after the obligation was terminated if the court is of the opinion that the person ought to have notified the Director that the support obligation had terminated.

(4) Le tribunal qui conclut qu'une obligation alimentaire a pris fin peut ordonner à une personne qui a reçu des aliments après que l'obligation a pris fin de faire un remboursement complet ou partiel s'il estime que cette personne aurait dû aviser le directeur du fait que l'obligation alimentaire avait pris fin.

(5) In determining whether to make an order under subsection (4), the court shall consider the circumstances of each of the parties to the support order.

(5) Lorsqu'il décide de rendre ou non une ordonnance en vertu du paragraphe (4), le tribunal tient compte de la situation de chacune des parties à l'ordonnance alimentaire.

(6) The Director shall continue to enforce the support obligation in the manner, if any, that appears practical to the Director until he or she receives a copy of the court's decision terminating the support obligation.

(6) Le directeur continue d'exécuter l'obligation alimentaire de la façon, s'il en est, qui lui semble pratique et ce, jusqu'à ce qu'il reçoive une copie de la décision du tribunal mettant fin à l'obligation alimentaire.

(7) Despite the termination of a support obligation, the Director shall continue to enforce the support obligation in respect of any arrears which have accrued, in the manner, if any, that appears practical to the Director.

(7) Malgré la fin d'une obligation alimentaire, le directeur continue d'exécuter l'obligation alimentaire à l'égard des arriérés accumulés, de la manière, s'il en est, qui lui semble pratique.

(8) When the Director's duty to enforce a support obligation which is subject to a support deduction order ceases, the Director shall give written notice to each income source affected by the support deduction order of any change in the amount to be paid.

(8) Lorsque son obligation d'exécuter une obligation alimentaire qui est liée à une ordonnance de retenue des aliments se termine, le directeur donne à chaque source de revenu concernée par l'ordonnance de retenue des aliments un avis écrit de toute modification de la somme à verser.

(9) A notice under subsection (8) may be given by prepaid ordinary mail to the last address of the income source as shown on the records of the Director's office.

(9) L'avis visé au paragraphe (8) peut être donné par courrier ordinaire, franc de port, à la dernière adresse de la source de revenu indiquée dans les dossiers du bureau du directeur.

(10) The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order or to a motion to decide whether a support obligation has terminated. ▲

(10) Le directeur n'est pas partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire ni à une motion visant à établir si une obligation alimentaire a pris fin. ▲

3.10—(1) The Director may require a payor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial

3.10 (1) Le directeur peut exiger que le payeur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la

Disputes

Order to repay

Idem

Continued enforcement

Idem

Notice to income sources

Idem

Director not party

Financial statements

Conflits

Ordonnance de rembourser

Idem

L'exécution continue

Idem

Avis aux sources de revenu

Idem

Le directeur n'est pas partie à une instance

États financiers

statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.

formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur, accompagné de preuves relatives à son revenu que les règlements peuvent exiger.

Idem (2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the payor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.

Idem (2) Le directeur peut demander que soit rempli l'état financier en envoyant au payeur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.

Idem (3) The request shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Idem (3) Sauf s'il est démontré le contraire, la demande est réputée avoir été signifiée au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem (4) The payor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.

Idem (4) Le payeur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.

Changes in information (5) If a payor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.

Changements relatifs aux renseignements (5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le payeur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.

Failure to comply (6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a payor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.

Défaut de se conformer (6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au payeur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.

Limitation (7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.

Restriction (7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.

Payments pending court decisions **3.11**—(1) Despite the commencement of a motion under subsection 3.3 (18) or section 3.4, 3.5, 3.6 or 3.9, the Director shall pay any money he or she receives in respect of a support order or a support deduction order to the person entitled to receive support under the order.

Versements en attendant une décision du tribunal **3.11** (1) Malgré l'introduction d'une motion en vertu du paragraphe 3.3 (18) ou de l'article 3.4, 3.5, 3.6 ou 3.9, le directeur verse les sommes qu'il reçoit aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments à la personne qui a droit aux aliments aux termes de l'ordonnance.

Exception (2) If a court orders the Director to hold any of the money received in respect of a support order or a support deduction order pending the disposition of the motion, the Director shall, to the extent the court order requires it, hold any money received after the Director receives a copy of the court's decision.

Exception (2) Si un tribunal ordonne au directeur de retenir les sommes reçues aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments jusqu'à ce qu'une décision concernant la motion soit prise, le directeur doit retenir, dans la mesure où l'ordonnance du tribunal l'exige, les sommes reçues après qu'il a reçu une copie de la décision du tribunal.

Duty to advise on address change

3.12 If a payor changes address, he or she shall advise the Director's office of the new address within ten days of the change.

3.12 Si le payeur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.

Changement d'adresse

Duty re: unfiled or withdrawn support orders

3.13 Where a support deduction order has been made in respect of a support order that has not been filed in or that has been withdrawn from the Director's office, the person entitled to receive support shall inform the Director in writing of,

3.13 Si une ordonnance de retenue des aliments a été rendue relativement à une ordonnance alimentaire qui n'a pas été déposée au bureau du directeur ou qui en a été retirée, la personne ayant droit aux aliments avise par écrit le directeur :

Obligations concernant les ordonnances alimentaires non déposées ou retirées

(a) the amount of money received on account of the support order other than through the support deduction order; and

a) des sommes d'argent reçues en raison de l'ordonnance alimentaire autrement qu'au moyen de l'ordonnance de retenue des aliments;

(b) any changes in the amount to be paid under the support order. ▲

b) de tout changement apporté à la somme devant être versée aux termes de l'ordonnance alimentaire. ▲

5. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

5 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) A support order that has been assigned to the Minister of Community and Social Services may not be withdrawn except by the Minister or with the Minister's consent so long as the order is under assignment or if there are arrears owing to the Ministry of Community and Social Services from a past assignment. ▲

(2) L'ordonnance alimentaire qui a été cédée au ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement tant que l'ordonnance est cédée ou si un arriéré provenant d'une cession antérieure est dû au ministère des Services sociaux et communautaires. ▲

Consentement exigé

6. The Act is amended by renumbering subsection 4 (4) as section 4.1.

6 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4.1.

7.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

7 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

Accès aux renseignements

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

(2) Le paragraphe 6 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987.*

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

(3) Le paragraphe 6 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987.*

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8. Subsection 7 (2) of the Act is repealed and the following substituted:

8 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act*

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales (Canada)* en vue de l'exé-

Renseignements obtenus du gouvernement fédéral

Consent required

Access to information

Information obtained from federal government

(Canada) for the enforcement of a support or custody order, except,

- (a) to the extent necessary for the enforcement of the order; or
- (b) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

9. The Act is further amended by adding the following section:

10.1—(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall promptly give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

(6) A sheriff shall not remove a writ of seizure and sale in respect of a support order from his or her file unless,

- (a) the writ has expired and has not been renewed;
- (b) the sheriff receives written notice from the person who filed the writ to the effect that the writ should be withdrawn;

cution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

- a) dans la mesure nécessaire à l'exécution de l'ordonnance;
- b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

9 La Loi est modifiée de nouveau par adjonction de l'article suivant :

10.1 (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise promptement la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu de paragraphe (1).

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

(6) Le shérif ne doit pas enlever de son dossier un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, à moins que l'une des conditions suivantes ne soit remplie :

- a) le bref a pris fin et n'a pas été renouvelé;
- b) le shérif reçoit, de la personne qui a déposé le bref, un avis écrit selon lequel le bref devrait être retiré;

Notice to sheriff of amount owing

Effect of statutory declaration

Notice from sheriff of opportunity to give statutory declaration

Idem

Manner of giving notice

Removal of writ from sheriff's file

Avis au shérif concernant la somme due

Effet de la déclaration solennelle

Avis du shérif concernant la déclaration solennelle

Idem

Façon de donner l'avis

Enlèvement d'un bref du dossier du shérif

- (c) notice is given under subsection (3) or (4), a statutory declaration is subsequently filed under subsection (1) and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or
- (d) notice is given under subsection (3) or (4), ten days have elapsed since the notice was given, no statutory declaration has been filed under subsection (1) since the giving of the notice and the writ has been fully satisfied.

- c) un avis est donné aux termes du paragraphe (3) ou (4), une déclaration solennelle est déposée par la suite en vertu du paragraphe (1) et il a été complètement satisfait au bref, tel qu'il est réputé modifié aux termes du paragraphe (2);
- d) un avis est donné aux termes du paragraphe (3) ou (4), dix jours se sont écoulés depuis que l'avis a été donné, aucune déclaration solennelle n'a été déposée en vertu du paragraphe (1) depuis que l'avis a été donné et il a été complètement satisfait au bref.

Filing by fax

(7) A statutory declaration may be filed under subsection (1) by telephone transmission of a facsimile of the statutory declaration to the sheriff along with a cover page that contains the following information:

1. The sender's name and address.
2. The date and time of the transmission.
3. The total number of pages transmitted, including the cover page.
4. The telephone number from which the statutory declaration is transmitted.
5. The telephone number of a person to contact in the event of transmission problems.

(8) If a copy of a writ of seizure and sale has been delivered by the sheriff to a land registrar under section 137 of the *Land Titles Act* and a statutory declaration is filed under subsection (1) in respect of the writ, the sheriff shall promptly deliver a copy of the statutory declaration to the land registrar and the amendment deemed to be made to the writ under subsection (2) does not bind land registered under the *Land Titles Act* until a copy of the statutory declaration has been received and recorded by the land registrar.

10.—(1) Subsection 11 (1) of the Act is repealed and the following substituted:

(1) When a support order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and appear before the court to explain the default.

(2) Subsection 11 (6) of the Act is amended by striking out "that there are no arrears or" in the first and second lines.

Dépôt par télécopie

(7) Une déclaration solennelle peut être déposée en vertu du paragraphe (1) en transmettant un fac-similé par téléphone au shérif avec une page de couverture qui comprend les renseignements suivants :

1. Le nom et l'adresse de l'expéditeur.
2. La date et l'heure de la transmission.
3. Le nombre total de pages transmises, y compris la page de couverture.
4. Le numéro de téléphone de l'appareil duquel a lieu la transmission de la déclaration solennelle.
5. Le numéro de téléphone d'une personne à qui le destinataire pourra s'adresser en cas de difficultés de transmission.

(8) Si une copie d'un bref de saisie-exécution a été remise par le shérif à un registraire aux termes de l'article 137 de la *Loi sur l'enregistrement des droits immobiliers* et qu'une déclaration solennelle est déposée en vertu du paragraphe (1) à l'égard du bref, le shérif remet rapidement une copie de la déclaration solennelle au registraire et la modification réputée apportée au bref aux termes du paragraphe (2) ne grève un bien-fonds enregistré aux termes de la *Loi sur l'enregistrement des droits immobiliers* qu'une fois qu'une copie de la déclaration solennelle a été reçue et consignée par le registraire.

Remise d'une déclaration solennelle à un registraire

10 (1) Le paragraphe 11 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Lorsqu'une ordonnance alimentaire qui est déposée auprès du bureau du directeur est en défaut, le directeur peut préparer un état de l'arriéré et il peut, au moyen d'un avis signifié au payeur avec l'état de l'arriéré, enjoindre au payeur de déposer auprès du bureau du directeur un état financier rédigé selon la formule prescrite par les règles de pratique et de comparaître devant le tribunal pour expliquer le défaut.

Dépôt d'un état financier auprès du directeur

(2) Le paragraphe 11 (6) de la Loi est modifié par suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

Delivery of statutory declaration to land registrar

Filing of financial statement with Director

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

(a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

(4) Section 11 of the Act is amended by adding the following subsection:

(6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

Interim orders

11. Section 12 of the Act is repealed and the following substituted:

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

Restraining order

12.1—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

Contempt

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Conditions of imprisonment

12.2 A person who knowingly contravenes subsection 3.3 (8), (17), (25), (26) or (27), section 3.12 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offences

12. The Act is further amended by adding the following sections:

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

Enforcement alternatives

13.2 The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing forms and providing for their use;

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payeur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

Ordonnances provisoires

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance de ne pas faire

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonnement

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (8), (17), (25), (26) ou (27), à l'article 3.12 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres moyens employés pour l'exécution

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

a) prescrire des formules et prévoir les modalités de leur emploi;

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| <p>(b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;</p> <p>(c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);</p> <p>(d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);</p> <p>(e) prescribing deductions for the purposes of subsection 3.3 (12);</p> <p>(f) prescribing information that shall be supplied under subsection 3.3 (25);</p> <p>(g) governing the form and posting of security by a payor under section 3.4 and the realization thereon;</p> <p>(h) respecting proof of income for the purposes of section 3.10;</p> <p>(i) prescribing the method of service on the Crown of notices of support deduction orders in place of the method prescribed in subsection 3.3 (5);</p> <p>(j) providing that a support deduction order is not effective against the Crown unless a statement of particulars in the prescribed form is served with the notice of the order;</p> <p>(k) providing that a notice of a support deduction order served on the Crown shall be deemed to have been served, not on the day described in subsection 3.3 (6), but on the day that is the number of days specified in the regulation after the actual date of service, but the regulation shall not specify more than thirty days as the number of days. ▲</p> | <p>b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;</p> <p>c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);</p> <p>d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);</p> <p>e) prescrire les retenues aux fins du paragraphe 3.3 (12);</p> <p>f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);</p> <p>g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté;</p> <p>h) traiter des preuves relatives au revenu aux fins de l'article 3.10;</p> <p>i) prescrire le mode de signification à la Couronne des avis des ordonnances de retenue des aliments en remplacement du mode prescrit au paragraphe 3.3 (5);</p> <p>j) prévoir qu'une ordonnance de retenue des aliments n'a d'effet contre la Couronne que si un état détaillé dressé selon la formule prescrite est signifié avec l'avis de l'ordonnance;</p> <p>k) prévoir que l'avis d'une ordonnance de retenue des aliments signifié à la Couronne est réputé ne pas être signifié le jour prévu au paragraphe 3.3 (6), mais le jour qui est postérieur, du nombre de jours précisé dans le règlement, à la date effective de signification; le règlement ne doit toutefois pas préciser un nombre de jours supérieur à trente. ▲</p> |
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13. Section 18 of the Act is repealed and the following substituted:

18. The short title of this Act is the *Family Support Plan Act, 1985*.

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*.

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

(a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

(4) Section 11 of the Act is amended by adding the following subsection:

(6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

Interim orders

11. Section 12 of the Act is repealed and the following substituted:

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

Restraining order

12.1—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

Contempt

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Conditions of imprisonment

12.2 A person who knowingly contravenes subsection 3.3 (8), (17), (25), (26) or (27), section 3.12 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offences

12. The Act is further amended by adding the following sections:

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

Enforcement alternatives

13.2 The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing forms and providing for their use;

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payeur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

Ordonnances provisoires

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance de ne pas faire

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonnement

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (8), (17), (25), (26) ou (27), à l'article 3.12 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres moyens employés pour l'exécution

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

a) prescrire des formules et prévoir les modalités de leur emploi;

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| <p>(b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;</p> <p>(c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);</p> <p>(d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);</p> <p>(e) prescribing deductions for the purposes of subsection 3.3 (12);</p> <p>(f) prescribing information that shall be supplied under subsection 3.3 (25);</p> <p>(g) governing the form and posting of security by a payor under section 3.4 and the realization thereon;</p> <p>(h) respecting proof of income for the purposes of section 3.10;</p> <p>▼ (i) prescribing the method of service on the Crown of notices of support deduction orders in place of the method prescribed in subsection 3.3 (5);</p> <p>(j) providing that a support deduction order is not effective against the Crown unless a statement of particulars in the prescribed form is served with the notice of the order;</p> <p>(k) providing that a notice of a support deduction order served on the Crown shall be deemed to have been served, not on the day described in subsection 3.3 (6), but on the day that is the number of days specified in the regulation after the actual date of service, but the regulation shall not specify more than thirty days as the number of days. ▲</p> | <p>b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;</p> <p>c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);</p> <p>d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);</p> <p>e) prescrire les retenues aux fins du paragraphe 3.3 (12);</p> <p>f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);</p> <p>g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté;</p> <p>h) traiter des preuves relatives au revenu aux fins de l'article 3.10;</p> <p>▼ i) prescrire le mode de signification à la Couronne des avis des ordonnances de retenue des aliments en remplacement du mode prescrit au paragraphe 3.3 (5);</p> <p>j) prévoir qu'une ordonnance de retenue des aliments n'a d'effet contre la Couronne que si un état détaillé dressé selon la formule prescrite est signifié avec l'avis de l'ordonnance;</p> <p>k) prévoir que l'avis d'une ordonnance de retenue des aliments signifié à la Couronne est réputé ne pas être signifié le jour prévu au paragraphe 3.3 (6), mais le jour qui est postérieur, du nombre de jours précisé dans le règlement, à la date effective de signification; le règlement ne doit toutefois pas préciser un nombre de jours supérieur à trente. ▲</p> |
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13. Section 18 of the Act is repealed and the following substituted:

18. The short title of this Act is the *Family Support Plan Act, 1985*.

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*.

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition **39L.** No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to pay to a third party any amount owing by the employer to the employee.

Employment standards officer may make order **39m.** Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

16. Section 39m of the Act, as enacted by section 15 of this Act, is repealed and the following substituted:

16 L'article 39m de la Loi, tel qu'adopté par l'article 15 de la présente Loi, est abrogé et remplacé par ce qui suit :

Employment standards officer may make order **39m.** Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

17 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

18. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

18 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PART III

PARTIE III

Commencement, Short Title

Entrée en vigueur et titre abrégé

Commencement

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

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Short title

20. The short title of this Act is the *Family Support Plan Amendment Act, 1991*.

20 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur le Régime des obligations alimentaires envers la famille*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

*(Chapter 5
Statutes of Ontario, 1991)*

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

The Hon. H. Hampton
Attorney General

Projet de loi 17

*(Chapitre 5
Lois de l'Ontario de 1991)*

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**

L'honorable H. Hampton
Procureur général

1st Reading December 5th, 1990
2nd Reading December 18th, 1990
3rd Reading June 12th, 1991
Royal Assent June 13th, 1991

1^{re} lecture 5 décembre 1990
2^e lecture 18 décembre 1990
3^e lecture 12 juin 1991
sanction royale 13 juin 1991



**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires et de
garde d'enfants**

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

PART I

*Support and Custody Orders Enforcement Act,
1985*

1. The *Support and Custody Orders Enforcement Act, 1985* is amended by striking out "debtor" and "debtor's" wherever those words appear and replacing them in each case with "payor" or "payor's" as is appropriate.

2.—(1) The definitions of "custody order" and "Director" in subsection 1 (1) of the Act are repealed and the following substituted:

"custody order" means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children's Law Reform Act*; ("ordonnance de garde d'enfants")

"Director" means the Director of the Family Support Plan. ("directeur")

(2) The definition of "support order" in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting "and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*".

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

"income source" means an individual, a corporation or other entity that owes periodic payment at regular intervals to a payor of,

(a) wages or salary,

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l'exécution d'ordonnances
alimentaires et de garde d'enfants*

1 La *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est modifiée par substitution du terme «payeur» au terme «débiteur», partout où apparaît celui-ci.

2 (1) La définition du terme «directeur» et de l'expression «ordonnance de garde d'enfants» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Régime des obligations alimentaires envers la famille.
(«Director»)

«ordonnance de garde d'enfants» Disposition contenue dans une ordonnance émanant d'un tribunal de l'Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d'un enfant, mais non au droit de visite relatif à l'enfant. S'entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l'enfance*. («custody order»)

(2) La définition de l'expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S'entend en outre d'une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l'article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«ordonnance conditionnelle» Ordonnance qui n'a aucun effet tant qu'elle n'est pas homologuée par un autre tribunal. S'entend en outre des ordonnances rendues en vertu du

- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; ("source de revenu")

"payor" means a person who is required to pay support under a support order; ("payeur")

"provisional order" means an order that has no effect until it is confirmed by another court and includes orders made under subsection 18 (2) of the *Divorce Act, 1985* (Canada), sections 3 and 7 of the *Reciprocal Enforcement of Maintenance Orders Act, 1982* and section 44 of the *Family Law Act, 1986*; ("ordonnance conditionnelle")

"regulations" means the regulations made under this Act; ("règlements")

"support deduction order" means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the payor named in the order out of money owed by the income source to the payor. ("ordonnance de retenue des aliments")

(4) Section 1 of the Act is amended by adding the following subsection:

(1.1) An individual, a corporation or other entity continues to be an income source despite temporary interruptions in the periodic payments owed to a payor.

3. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Family Support Plan who shall be appointed by the Lieutenant Governor in Council.

4. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director's office.

paragraphe 18 (2) de la *Loi de 1985 sur le divorce* (Canada), des articles 3 et 7 de la *Loi de 1982 sur l'exécution réciproque d'ordonnances alimentaires* et de l'article 44 de la *Loi de 1986 sur le droit de la famille*. («provisional order»)

«ordonnance de retenue des aliments»

Ordonnance enjoignant à une source de revenu qui reçoit un avis de l'ordonnance de faire des versements au directeur, prélevés sur l'argent qu'elle doit au payeur, à l'égard du payeur nommé dans l'ordonnance. («support deduction order»)

«payeur» Personne qui est tenue de verser des aliments aux termes d'une ordonnance alimentaire. («payor»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou une autre entité qui doit faire des versements périodiques, à intervalles réguliers à un payeur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du payeur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

(1.1) Une personne, physique ou morale, ou une autre entité continue d'être une source de revenu même s'il y a interruption temporaire des versements périodiques dus à un payeur.

3 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Régime des obligations alimentaires envers la famille.

4 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

Status as
income
source

Director of
the Family
Support Plan

Filing of
orders

Qualité de
source de
revenu

Directeur du
Régime des
obligations
alimentaires
envers la
famille

Dépôt des
ordonnances

Idem	(2) An order may be filed even if it has been previously withdrawn.	(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.	Idem
Who may file	(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the payor.	(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le payeur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.	Personnes pouvant déposer une ordonnance
Idem	(4) A custody order may only be filed by a person entitled to custody under it.	(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.	Idem
Director to enforce support orders	(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed.	(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont versées au directeur, qui les verse à la personne à qui elles sont dues.	Exécution des ordonnances alimentaires par le directeur
Prompt filing	(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.	(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt rapide
Filing orders of other jurisdictions	(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.	(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt des ordonnances rendues dans d'autres compétences
Filing by Minister	(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the <i>Family Benefits Act</i> or assistance under the <i>General Welfare Assistance Act</i> , the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.	(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la <i>Loi sur les prestations familiales</i> ou une aide en vertu de la <i>Loi sur l'aide sociale générale</i> , y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.	Dépôt par le ministre
Filing of past orders	(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under section 27 of the <i>Family Law Reform Act</i> , being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.	(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée <i>Family Law Reform Act</i> , qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.	Dépôts d'ordonnances antérieures

Support deduction orders

3.1—(1) An Ontario court that makes a support order, which provides for payment of support on a periodic basis at regular intervals, shall also make a support deduction order for the payment of the periodic support ordered.

3.1 (1) Le tribunal de l'Ontario qui rend une ordonnance alimentaire, laquelle prévoit le versement périodique d'aliments, à intervalles réguliers, rend également une ordonnance de retenue des aliments pour le versement périodique des aliments qui a été ordonné.

Ordonnances de retenue des aliments

Exception

(2) A support deduction order shall not be made in respect of a provisional order.

(2) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle.

Exception

Required information

(3) Before making a support deduction order, the court shall make such inquiries as it considers necessary to determine the names and addresses of each income source of the payor and the amounts paid to the payor by each income source.

(3) Avant de rendre une ordonnance de retenue des aliments, le tribunal fait les recherches qu'il estime nécessaires afin de déterminer les nom et adresse de chaque source de revenu du payeur et les sommes versées à celui-ci par chaque source de revenu.

Renseignements exigés

Consent proceedings, etc.

(4) If the support order is sought on consent or by way of motion for judgment or if the making of the support order is uncontested, the persons prescribed by the regulations shall give the court the particulars described in subsection (3) and such other information as may be prescribed.

(4) Si l'ordonnance alimentaire est demandée par consentement ou par voie de motion en vue d'obtenir un jugement, ou si l'ordonnance alimentaire est rendue sans faire l'objet d'une contestation, les personnes prescrites par les règlements donnent au tribunal les renseignements visés au paragraphe (3) et tout autre renseignement qui peut être prescrit.

Procédure relative au consentement

Order mandatory

(5) A support deduction order shall be made even though the court cannot identify an income source in respect of the payor at the time the support order is made.

(5) Une ordonnance de retenue des aliments est rendue même si le tribunal ne peut identifier une source de revenu du payeur au moment où est rendue l'ordonnance alimentaire.

Ordonnance obligatoire

Form of support deduction order

3.2—(1) A support deduction order shall be in the form prescribed by the regulations.

3.2 (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.

Formule de l'ordonnance de retenue des aliments

Completion of form, etc.

(2) The support deduction order shall be completed and signed by the court at the time the support order is made and shall be entered in the court records immediately after it is signed, even though the support order may not have been settled or signed at that time.

(2) L'ordonnance de retenue des aliments est remplie et signée par le tribunal au moment où est rendue l'ordonnance alimentaire et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée, même si l'ordonnance alimentaire peut ne pas avoir été réglée ou signée à ce moment-là.

Rédaction de la formule

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

Persons bound

3.3—(1) A support deduction order binds every income source who is served by the Director's office with a notice of the order whether or not the income source is named in the order.

3.3 (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'ordonnance, qu'elles soient nommées ou non dans l'ordonnance.

Personnes liées

Enforcement by Director

(2) The Director shall enforce a support deduction order in the manner, if any, that appears practical to the Director and shall pay the amounts collected under the order to the person to whom they are owed.

(2) Le directeur exécute une ordonnance de retenue des aliments de la façon, s'il en est, qui lui semble pratique et il verse les sommes perçues en vertu de l'ordonnance à la personne à qui elles sont dues.

Exécution par le directeur

Idem

(3) No person other than the Director shall enforce a support deduction order.

(3) Seul le directeur exécute une ordonnance de retenue des aliments.

Idem

When enforcement ends	(4) The Director shall enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and there are no arrears owing and despite the fact that the support order to which it relates has not been filed in or has been withdrawn from the Director's office.	(4) Le directeur exécute une ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait été révoquée l'ordonnance alimentaire à laquelle elle se rapporte, qu'il n'y ait plus d'arriéré à payer et en dépit du fait que l'ordonnance alimentaire à laquelle elle se rapporte n'a pas été déposée au bureau du directeur ou en a été retirée.	Fin de l'exécution
Idem	(5) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.	(5) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.	Idem
Idem	(6) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.	(6) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.	Idem
Notice to payor	(7) The Director shall send a copy of the notice to the payor by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.	(7) Le directeur envoie au payeur une copie de l'avis par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.	Avis au payeur
First payment	(8) An income source shall begin making payments to the Director's office not later than the day the first payment is to be paid to the payor that falls at least fourteen days after the day on which the income source is served with the notice.	(8) Une source de revenu commence à faire des versements au bureau du directeur au plus tard le jour où le premier versement doit être fait au payeur et qui tombe au moins quatorze jours après le jour où la source de revenu a reçu signification de l'avis.	Premier versement
Payor's duty to pay	(9) Until an income source begins deducting support payments in respect of a support deduction order or if payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the support order to the Director or, if the support order has been withdrawn, to the person entitled to receive support.	(9) Tant qu'une source de revenu n'a pas commencé à retenir les versements d'aliments aux termes d'une ordonnance de retenue des aliments ou si les versements d'une source de revenu sont interrompus ou prennent fin, le payeur verse les sommes dues aux termes de l'ordonnance alimentaire au directeur ou, si l'ordonnance alimentaire a été retirée, à la personne qui a droit aux aliments.	Obligation de payer du payeur
Arrears	(10) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under a support order.	(10) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représentant un arriéré aux termes d'une ordonnance alimentaire.	Arriéré
Maximum deductions	(11) Subject to subsection (13), the total amount deducted in respect of a support order shall not exceed 50 per cent of the net amount owed by the income source to the payor.	(11) Sous réserve du paragraphe (13), la somme totale retenue aux termes d'une ordonnance alimentaire ne doit pas dépasser 50 pour cent de la somme nette que doit la source de revenu au payeur.	Retenue maximale
Definition	(12) For the purposes of this section, "net amount" means the total amount owed by the income source to the payor at the time payment is to be made to the Director's	(12) Pour l'application du présent article, l'expression «somme nette» s'entend de la somme totale que doit la source de revenu au payeur au moment où le versement doit être	Définition

office, less the total of the following deductions:

1. Income Tax.
2. Canada Pension Plan.
3. Unemployment Insurance.
4. Union dues.
5. Such other deductions as may be prescribed by the regulations.

Higher maximum payment

(13) Subject to subsection (15), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources pay an amount that is higher than the amount described in subsection (11) and such an income source shall pay to the Director's office the amount set out in the order.

Idem

(14) An order shall not be made under subsection (13) unless the payor receives income from at least two sources (whether or not the sources are "income sources" as defined in section 1).

Idem

(15) An income source is not required to pay to the Director's office more than the net amount that the income source owes to the payor at the time of the payment.

Medical insurance, etc.

(16) Despite any other provision of this Act, no deduction shall be made under a support deduction order in respect of amounts owing to a payor as reimbursement for expenses covered by a medical, health, dental or hospital insurance contract or plan.

Person not income source

(17) If an individual, corporation or other entity served with notice is not an income source of the payor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

Dispute

(18) The Director or the income source, individual, corporation or other entity, as the case may be, may, on notice to the other, bring a motion to the court that made a support deduction order or to the appropriate court under subsection 3.8 (9) to determine,

- (a) whether the income source has failed to comply with the order;
- (b) whether the amount the income source is deducting and paying to the Director's office under the order is correct; or

fait au bureau du directeur, moins le total des retenues suivantes :

1. Celle de l'impôt sur le revenu.
2. Celle du Régime de pensions du Canada.
3. Celle de l'assurance-chômage.
4. Celle des cotisations syndicales.
5. Les autres retenues pouvant être prescrites par les règlements.

Versement maximal plus élevé

(13) Sous réserve du paragraphe (15), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou sur présentation d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu paient une somme plus élevée que la somme prévue au paragraphe (11) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Idem

(14) Une ordonnance ne doit pas être rendue aux termes du paragraphe (13) à moins que le payeur ne reçoive un revenu d'au moins deux sources (peu importe que ces sources soient ou non des «sources de revenu» telles qu'elles sont définies à l'article 1).

Idem

(15) Une source de revenu n'est pas tenue de verser au bureau du directeur une somme plus élevée que la somme nette qu'elle doit au payeur au moment du versement.

Assurances médicales

(16) Malgré toute autre disposition de la présente loi, aucune retenue ne doit être faite aux termes d'une ordonnance de retenue des aliments relativement aux sommes dues au payeur à titre de remboursement de dépenses couvertes par un régime ou un contrat d'assurance médicale, santé, dentaire ou pour services hospitaliers.

Personne qui n'est pas une source de revenu

(17) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du payeur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Conflit

(18) Le directeur ou la source de revenu, la personne, physique ou morale, ou une autre entité selon le cas, peut, sur avis à l'autre, présenter une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié aux termes du paragraphe 3.8 (9) pour déterminer, selon le cas :

- a) si la source de revenu n'a pas observé l'ordonnance;
- b) si la somme que la source de revenu retient et verse au bureau du directeur aux termes de l'ordonnance est correcte;

(c) whether the individual, corporation or other entity is an income source.

c) si la personne, physique ou morale, ou une autre entité est une source de revenu.

Idem (19) In a motion under subsection (18), the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Idem (19) Dans le cadre d'une motion prévue au paragraphe (18), le tribunal procède de façon sommaire afin de régler la question et rend l'ordonnance qu'il estime opportune dans les circonstances.

Idem (20) A motion shall not be brought by an income source under clause (18) (a) or (b) unless the income source has given written particulars of the proposed motion to the Director at least fourteen days before serving the Director with notice of the motion.

Idem (20) La source de revenu ne peut présenter de motion aux termes de l'alinéa (18) a) ou b) sans avoir donné par écrit au directeur des détails sur la motion en question au moins quatorze jours avant la signification de l'avis de motion au directeur.

Idem (21) A motion shall not be brought under clause (18) (c) by an individual, corporation or other entity, until at least fourteen days after the date that notice was given under subsection (17).

Idem (21) Une personne, physique ou morale, ou une autre entité ne peut présenter de motion aux termes de l'alinéa (18) c) avant l'expiration d'un délai d'au moins quatorze jours après la date à laquelle l'avis a été donné aux termes du paragraphe (17).

Idem (22) Subsection (21) does not apply to the Director.

Idem (22) Le paragraphe (21) ne s'applique pas au directeur.

Liability (23) An income source is liable to pay to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and, in a motion under subsection (18), the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

Responsabilité (23) La source de revenu est responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur une motion prévue au paragraphe (18), le tribunal peut ordonner à la source de revenu de verser la somme qu'elle aurait dû retenir et verser au bureau du directeur.

Other enforcement (24) In addition to any other method available to enforce an order in a civil proceeding, any order made under subsection (19) or (23) may be enforced under this Act in the same manner and with the same remedies as a support order.

Autres moyens d'exécution (24) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, les ordonnances rendues aux termes du paragraphe (19) ou (23) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire.

Duty to inform (25) Within ten days following the termination or beginning of an interruption of payments by an income source to a payor, both the income source and the payor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

Obligation d'informer (25) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au payeur, la source de revenu et le payeur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Idem (26) If notice has been or should have been given under subsection (25),

Idem (26) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (25) :

(a) the payor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;

a) le payeur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;

(b) the payor, within ten days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director's office of the new employment or

b) le payeur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de

the entitlement and of the name and address of the income source.

son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Information
confidential

(27) Information about a payor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

(27) Les renseignements sur le payeur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Renseignements
confidentiels

Priority

(28) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

(28) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'a l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Priorité

Idem

(29) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order and the garnishment shall be of no effect until the income source has received notice from the Director that the support deduction order is suspended or terminated.

(29) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrêt relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments et la saisie-arrêt n'a aucun effet tant que la source de revenu n'a pas été avisée par le directeur de la suspension ou de la révocation de l'ordonnance de retenue des aliments.

Idem

Conflict with
other Acts

(30) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other process for the enforcement of a judgment debt any periodic payment owed by an income source to a payor.

(30) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou d'un autre acte de procédure visant l'exécution d'une créance constatée par jugement tout versement périodique que doit la source de revenu au payeur.

Incompatibilité
avec
d'autres lois

Limitation

(31) A support deduction order is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of the support deduction order to the payor named in the notice.

(31) L'ordonnance de retenue des aliments n'a d'effet contre la Couronne qu'à l'égard des sommes payables pour le compte du service administratif qui a reçu signification de l'avis de l'ordonnance de retenue des aliments au payeur désigné dans l'avis.

Restriction

Definition

(32) In subsection (31), "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

(32) Au paragraphe (31), «service administratif» s'entend d'un ministère du gouvernement de l'Ontario, d'un organisme de la Couronne au sens de la *Loi sur les organismes de la Couronne* ou du Bureau de l'Assemblée, au sens de la *Loi sur l'Assemblée législative*.

Définition

Welfare
benefits

(33) A support deduction order shall not be used to make deductions from any amount payable to a payor as a benefit under the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

(33) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un payeur à titre de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

Prestations
d'aide sociale

Suspension
of support
deduction
order

3.4—(1) A court that makes a support deduction order may immediately make an order to suspend its operation or the court may, on motion, subsequently suspend its operation.

3.4 (1) Le tribunal qui rend une ordonnance de retenue des aliments peut immédiatement rendre une ordonnance qui suspend l'application de l'ordonnance de retenue des aliments ou il peut en suspendre l'application par la suite, sur présentation d'une motion.

Suspension de
l'ordonnance
de retenue
des aliments

Conditions

(2) The court may suspend a support deduction order under subsection (1) or subsection 3.8 (6) only if,

(2) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou 3.8 (6) que si l'une des conditions suivantes est remplie :

Conditions

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the payor to make support payments through a support deduction order; or
- (b) the parties to the support order agree that they do not want support payments collected through a support deduction order and the court requires the payor to post such security as it considers adequate and in accordance with the regulations.

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments et le tribunal exige que le payeur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

Agency's
consent
required

(3) If the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986* or if there are arrears owing to the agency from a past assignment, the court shall not suspend the support deduction order in the circumstances described in clause (2) (b) without the agency's consent.

(3) Si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille* ou si un arriéré provenant d'une cession antérieure est dû à l'organisme, le tribunal ne doit pas suspendre l'ordonnance de retenue des aliments dans les circonstances prévues à l'alinéa (2) b) sans le consentement de l'organisme.

Consentement
de l'orga-
nisme exigé

Unconscion-
able, deter-
mination

(4) The following shall not be considered by a court in determining whether it would be unconscionable to require a payor to make support payments through a support deduction order:

(4) Le tribunal ne doit pas tenir compte des éléments suivants lorsqu'il décide s'il serait déraisonnable d'obliger un payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments :

Détermina-
tion de ce qui
est déraison-
nable

1. The fact that the payor has demonstrated a good payment history in respect of his or her debts, including support obligations.
2. The fact that the payor has had no opportunity to demonstrate voluntary compliance in respect of support obligations.
3. The fact that the parties have agreed to the suspension of the support deduction order.
4. The fact that there are grounds upon which a court might find that the amount payable under the support order should be varied.

1. Le fait que les antécédents du payeur quant au paiement de ses dettes, y compris ses obligations alimentaires, sont bons.
2. Le fait que le payeur n'a pas eu l'occasion de démontrer son respect volontaire à l'égard des obligations alimentaires.
3. Le fait que les parties ont convenu de la suspension de l'ordonnance de retenue des aliments.
4. Le fait qu'il existe des motifs qui pourraient permettre à un tribunal de conclure que la somme à payer aux termes de l'ordonnance alimentaire devrait être modifiée.

Security

(5) For the purposes of clause (2) (b), security shall be in a minimum amount equal to the support payable for four months and the security shall be in money or in such other form as may be provided for in the regulations.

(5) Pour l'application de l'alinéa (2) b), le montant minimal de la sûreté est égal à la somme des aliments payables pour quatre mois. La sûreté est versée en argent ou sous toute autre forme qui peut être prévue par les règlements.

Sûreté

When Director a party

(6) The Director is not a party to a motion brought to suspend the operation of a support deduction order; however, if the payor brings a motion under subsection 3.8 (6), the Director must also be served with notice of the motion and may be added as a party.

(6) Le directeur n'est pas partie à une motion présentée en vue de faire suspendre l'application d'une ordonnance de retenue des aliments. Toutefois, si le payeur présente une motion en vertu du paragraphe 3.8 (6), le directeur doit également recevoir notification de l'avis de motion et il peut être ajouté comme partie.

Le directeur est partie à une motion

Completion of form, etc.

(7) A suspension order shall be completed and signed by the court at the time it is made and shall be entered in the court records immediately after it is signed.

(7) L'ordonnance de suspension est remplie et signée par le tribunal au moment où elle est rendue et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée.

Rédaction de la formule

Prompt filing

(8) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

(8) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

Dépôt rapide

Form and effective date

(9) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

(9) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

Formule et entrée en vigueur

Termination of suspension order

(10) A suspension order is automatically terminated if the payor fails to post security of the type or within the time period set out in the suspension order or if the payor fails to comply with the support order.

(10) L'ordonnance de suspension est automatiquement révoquée si le payeur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le payeur ne se conforme pas à l'ordonnance alimentaire.

Révocation de l'ordonnance de suspension

Effect of termination

(11) When a suspension order is terminated under subsection (10), the support deduction order is reinstated and the Director may immediately realize on any security that was posted.

(11) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (10), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie.

Effet de la révocation

Support order not affected

(12) An order suspending the operation of a support deduction order does not affect the payor's obligations under the support order nor does it affect any other means of enforcing the support order.

(12) L'ordonnance qui suspend l'application d'une ordonnance de retenue des aliments n'a pas d'effet sur les obligations qu'a le payeur aux termes de l'ordonnance alimentaire ni sur les autres moyens d'exécution de l'ordonnance alimentaire.

Absence d'effet sur l'ordonnance alimentaire

Disputes, etc., by payor

3.5—(1) A payor, on motion in the court that made the support deduction order, or in the appropriate court on a motion under subsection 3.8 (6),

3.5 (1) Le payeur, qui présente une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié dans le cadre d'une motion introduite en vertu du paragraphe 3.8 (6), peut :

Contestations du payeur

- (a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act;
- (b) may dispute whether he or she has defaulted in paying support after a suspension order has been made under section 3.4;
- (c) may seek relief regarding the amount which is being deducted under a sup-

- a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue;
- b) contester son défaut de verser des aliments après qu'une ordonnance de suspension a été rendue en vertu de l'article 3.4;
- c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des ali-

port deduction order for arrears under a support order.

ments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

Dispute over entitlement

(2) On a motion referred to in subsection (1), the payor shall not dispute the entitlement of a person to support under a support order.

(2) Sur une motion mentionnée au paragraphe (1), le payeur ne peut contester le droit d'une personne aux aliments aux termes d'une ordonnance alimentaire.

Contestation du droit aux aliments

Necessary party

(3) The Director is a necessary party to a motion referred to in subsection (1).

(3) Le directeur est une partie essentielle à une motion mentionnée au paragraphe (1).

Partie essentielle

Power of court

(4) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(4) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

Pouvoir du tribunal

Idem

(5) On a motion under clause (1) (c), the payor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the payor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

(5) À la présentation d'une motion en vertu de l'alinéa (1) c), le payeur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le payeur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

Idem

Variation of support deduction order

3.6—(1) Subject to section 3.5, a court shall not vary the amount to be paid under a support deduction order unless the support order to which it relates is varied.

3.6 (1) Sous réserve de l'article 3.5, le tribunal ne doit pas modifier la somme à verser aux termes de l'ordonnance de retenue des aliments, sauf si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée.

Modification de l'ordonnance de retenue des aliments

New order

(2) When a support order is varied to provide for or to vary periodic payments at regular intervals, a support deduction order shall be made to reflect the variation.

(2) Lorsqu'une ordonnance alimentaire est modifiée en vue de prévoir ou de modifier des versements périodiques à intervalles réguliers, une ordonnance de retenue des aliments est rendue pour faire état de la modification.

Nouvelle ordonnance

Exception

(3) A support deduction order shall not be made in respect of a provisional order that varies a support order.

(3) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle qui modifie une ordonnance alimentaire.

Exception

No opting out

3.7 An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

3.7 L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

Obligation de se conformer à l'ordonnance de retenue des aliments

Old orders, domestic contracts, paternity agreements

3.8—(1) This section applies only to support orders filed with the Director's office that are,

3.8 (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :

Anciennes ordonnances, anciens contrats familiaux et accords de paternité

(a) support orders made by an Ontario court before this section comes into force;

a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;

(b) domestic contracts and paternity agreements that are enforceable under section 35 of the *Family Law Act, 1986*.

b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la *Loi de 1986 sur le droit de la famille*.

Enforcement

(2) The Director may enforce payment under a support order to which this section applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall enforce payment if the person entitled to receive sup-

(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire. Le directeur exécute

Exécution

port under the order requests enforcement under this section and the Director considers it practical to do so.

Notice (3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the payor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

Idem (4) A notice given by mail shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Deemed support deduction order (5) A support deduction order shall be deemed to have been made by the appropriate court thirty days after the notice is served on the payor.

Suspension (6) The payor may, within thirty days of being served with the notice, commence a motion under section 3.4 in the appropriate court for a suspension of a support deduction order described in subsection (5).

Delay of enforcement (7) If a motion has been brought under subsection (6), a support deduction order described in subsection (5) does not come into force until the motion has been determined.

No form required (8) Section 3.2 does not apply to an order described in subsection (5).

Appropriate court (9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

Termination of support obligation **3.9**—(1) Each of the parties to a support order shall give to the Director notice of the termination of a support obligation under the order, in the manner and at such time as may be provided in the regulations, if the support order is filed in the Director's office or if a support deduction order has been made in respect of the support obligation.

Idem (2) If the parties to a support order agree in the manner prescribed by the regulations or if the support obligation is stated in a support order to terminate on a set calendar date, the Director shall cease enforcement of a support obligation that has terminated; however, if the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986*, the Director shall not cease enforcement of the support obligation without the agency's consent.

les versements si la personne qui a droit aux aliments en vertu de l'ordonnance en fait la demande en vertu du présent article et que le directeur estime qu'il est pratique de le faire.

(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le payeur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

(4) Sauf s'il est démontré le contraire, l'avis envoyé par courrier est réputé avoir été signifié au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal approprié trente jours après que l'avis est signifié au payeur.

(6) Le payeur peut, dans les trente jours après que l'avis lui est signifié, présenter une motion aux termes de l'article 3.4 devant le tribunal approprié pour obtenir la suspension de l'ordonnance de retenue des aliments visée au paragraphe (5).

(7) Si une motion est introduite en vertu du paragraphe (6), l'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion n'a pas été prise.

(8) L'article 3.2 ne s'applique pas à l'ordonnance visée au paragraphe (5).

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

3.9 (1) Si l'ordonnance alimentaire est déposée au bureau du directeur ou si une ordonnance de retenue des aliments a été rendue relativement à l'obligation alimentaire, chaque partie à une ordonnance alimentaire avise le directeur de la fin d'une obligation alimentaire découlant de l'ordonnance alimentaire, de la façon et au moment que peuvent prévoir les règlements.

(2) Si les parties à une ordonnance alimentaire s'entendent de la manière prescrite par les règlements ou si le moment auquel l'obligation alimentaire prend fin correspond à une date fixée dans une ordonnance alimentaire, le directeur cesse d'exécuter l'obligation alimentaire qui a pris fin. Toutefois, si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille*, le directeur ne doit pas cesser d'exécuter l'obligation

Disputes	(3) If the parties to the support order do not agree or if the agency does not consent, the court that made the support order shall, on the motion of a party to the order or of the agency, decide if the support obligation has terminated.	alimentaire sans le consentement de l'organisme.	Conflits
Order to repay	(4) A court that finds that a support obligation has terminated may order repayment in whole or in part from a person who received support after the obligation was terminated if the court is of the opinion that the person ought to have notified the Director that the support obligation had terminated.	(4) Le tribunal qui conclut qu'une obligation alimentaire a pris fin peut ordonner à une personne qui a reçu des aliments après que l'obligation a pris fin de faire un remboursement complet ou partiel s'il estime que cette personne aurait dû aviser le directeur du fait que l'obligation alimentaire avait pris fin.	Ordonnance de remboursement
Idem	(5) In determining whether to make an order under subsection (4), the court shall consider the circumstances of each of the parties to the support order.	(5) Lorsqu'il décide de rendre ou non une ordonnance en vertu du paragraphe (4), le tribunal tient compte de la situation de chacune des parties à l'ordonnance alimentaire.	Idem
Continued enforcement	(6) The Director shall continue to enforce the support obligation in the manner, if any, that appears practical to the Director until he or she receives a copy of the court's decision terminating the support obligation.	(6) Le directeur continue d'exécuter l'obligation alimentaire de la façon, s'il en est, qui lui semble pratique et ce, jusqu'à ce qu'il reçoive une copie de la décision du tribunal mettant fin à l'obligation alimentaire.	L'exécution continue
Idem	(7) Despite the termination of a support obligation, the Director shall continue to enforce the support obligation in respect of any arrears which have accrued, in the manner, if any, that appears practical to the Director.	(7) Malgré la fin d'une obligation alimentaire, le directeur continue d'exécuter l'obligation alimentaire à l'égard des arriérés accumulés, de la manière, s'il en est, qui lui semble pratique.	Idem
Notice to income sources	(8) When the Director's duty to enforce a support obligation which is subject to a support deduction order ceases, the Director shall give written notice to each income source affected by the support deduction order of any change in the amount to be paid.	(8) Lorsque son obligation d'exécuter une obligation alimentaire qui est liée à une ordonnance de retenue des aliments se termine, le directeur donne à chaque source de revenu concernée par l'ordonnance de retenue des aliments un avis écrit de toute modification de la somme à verser.	Avis aux sources de revenu
Idem	(9) A notice under subsection (8) may be given by prepaid ordinary mail to the last address of the income source as shown on the records of the Director's office.	(9) L'avis visé au paragraphe (8) peut être donné par courrier ordinaire, franc de port, à la dernière adresse de la source de revenu indiquée dans les dossiers du bureau du directeur.	Idem
Director not party	(10) The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order or to a motion to decide whether a support obligation has terminated.	(10) Le directeur n'est pas partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire ni à une motion visant à établir si une obligation alimentaire a pris fin.	Le directeur n'est pas partie à une instance
Financial statements	3.10 —(1) The Director may require a payor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.	3.10 (1) Le directeur peut exiger que le payeur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur, accompagné de preuves relatives à son revenu que les règlements peuvent exiger.	États financiers

Idem	(2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the payor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.	(2) Le directeur peut demander que soit rempli l'état financier en envoyant au payeur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.	Idem
Idem	(3) The request shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.	(3) Sauf s'il est démontré le contraire, la demande est réputée avoir été signifiée au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.	Idem
Idem	(4) The payor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.	(4) Le payeur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.	Idem
Changes in information	(5) If a payor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.	(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le payeur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.	Changements relatifs aux renseignements
Failure to comply	(6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a payor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.	(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au payeur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.	Défaut de se conformer
Limitation	(7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.	(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.	Restriction
Payments pending court decisions	3.11 —(1) Despite the commencement of a motion under subsection 3.3 (18) or section 3.4, 3.5, 3.6 or 3.9, the Director shall pay any money he or she receives in respect of a support order or a support deduction order to the person entitled to receive support under the order.	3.11 (1) Malgré l'introduction d'une motion en vertu du paragraphe 3.3 (18) ou de l'article 3.4, 3.5, 3.6 ou 3.9, le directeur verse les sommes qu'il reçoit aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments à la personne qui a droit aux aliments aux termes de l'ordonnance.	Versements en attendant une décision du tribunal
Exception	(2) If a court orders the Director to hold any of the money received in respect of a support order or a support deduction order pending the disposition of the motion, the Director shall, to the extent the court order requires it, hold any money received after the Director receives a copy of the court's decision.	(2) Si un tribunal ordonne au directeur de retenir les sommes reçues aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments jusqu'à ce qu'une décision concernant la motion soit prise, le directeur doit retenir, dans la mesure où l'ordonnance du tribunal l'exige, les sommes reçues après qu'il a reçu une copie de la décision du tribunal.	Exception
Duty to advise on address change	3.12 If a payor changes address, he or she shall advise the Director's office of the new address within ten days of the change.	3.12 Si le payeur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.	Changement d'adresse

Duty re:
unfiled or
withdrawn
support
orders

3.13 Where a support deduction order has been made in respect of a support order that has not been filed in or that has been withdrawn from the Director's office, the person entitled to receive support shall inform the Director in writing of,

- (a) the amount of money received on account of the support order other than through the support deduction order; and
- (b) any changes in the amount to be paid under the support order.

5. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

(2) A support order that has been assigned to the Minister of Community and Social Services may not be withdrawn except by the Minister or with the Minister's consent so long as the order is under assignment or if there are arrears owing to the Ministry of Community and Social Services from a past assignment.

6. The Act is amended by renumbering subsection 4 (4) as section 4.1.

7.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

- (a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

- (a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

8. Subsection 7 (2) of the Act is repealed and the following substituted:

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act (Canada)* for the enforcement of a support or custody order, except,

- (a) to the extent necessary for the enforcement of the order; or

3.13 Si une ordonnance de retenue des aliments a été rendue relativement à une ordonnance alimentaire qui n'a pas été déposée au bureau du directeur ou qui en a été retirée, la personne ayant droit aux aliments avise par écrit le directeur :

- a) des sommes d'argent reçues en raison de l'ordonnance alimentaire autrement qu'au moyen de l'ordonnance de retenue des aliments;
- b) de tout changement apporté à la somme devant être versée aux termes de l'ordonnance alimentaire.

5 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) L'ordonnance alimentaire qui a été cédée au ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement tant que l'ordonnance est cédée ou si un arriéré provenant d'une cession antérieure est dû au ministère des Services sociaux et communautaires.

6 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4.1.

7 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

(2) Le paragraphe 6 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Le paragraphe 6 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales (Canada)* en vue de l'exécution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

- a) dans la mesure nécessaire à l'exécution de l'ordonnance;

Obligations
concernant
les ordonnances
alimentaires
non
déposées ou
retirées

Consentement
exigé

Accès aux
renseigne-
ments

Renseignements
obtenus du gou-
vernement
fédéral

Consent
required

Access to
information

Information
obtained
from federal
government

(b) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

9. The Act is further amended by adding the following section:

10.1—(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall promptly give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

(6) A sheriff shall not remove a writ of seizure and sale in respect of a support order from his or her file unless,

- (a) the writ has expired and has not been renewed;
- (b) the sheriff receives written notice from the person who filed the writ to the effect that the writ should be withdrawn;
- (c) notice is given under subsection (3) or (4), a statutory declaration is subsequently filed under subsection (1) and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or

b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

9 La Loi est modifiée de nouveau par adjonction de l'article suivant :

10.1 (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise promptement la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu de paragraphe (1).

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

(6) Le shérif ne doit pas enlever de son dossier un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, à moins que l'une des conditions suivantes ne soit remplie :

- a) le bref a pris fin et n'a pas été renouvelé;
- b) le shérif reçoit, de la personne qui a déposé le bref, un avis écrit selon lequel le bref devrait être retiré;
- c) un avis est donné aux termes du paragraphe (3) ou (4), une déclaration solennelle est déposée par la suite en vertu du paragraphe (1) et il a été complètement satisfait au bref, tel qu'il est réputé modifié aux termes du paragraphe (2);

Notice to sheriff of amount owing

Effect of statutory declaration

Notice from sheriff of opportunity to give statutory declaration

Idem

Manner of giving notice

Removal of writ from sheriff's file

Avis au shérif concernant la somme due

Effet de la déclaration solennelle

Avis du shérif concernant la déclaration solennelle

Idem

Façon de donner l'avis

Enlèvement d'un bref du dossier du shérif

(d) notice is given under subsection (3) or (4), ten days have elapsed since the notice was given, no statutory declaration has been filed under subsection (1) since the giving of the notice and the writ has been fully satisfied.

d) un avis est donné aux termes du paragraphe (3) ou (4), dix jours se sont écoulés depuis que l'avis a été donné, aucune déclaration solennelle n'a été déposée en vertu du paragraphe (1) depuis que l'avis a été donné et il a été complètement satisfait au bref.

Filing by fax

(7) A statutory declaration may be filed under subsection (1) by telephone transmission of a facsimile of the statutory declaration to the sheriff along with a cover page that contains the following information:

1. The sender's name and address.
2. The date and time of the transmission.
3. The total number of pages transmitted, including the cover page.
4. The telephone number from which the statutory declaration is transmitted.
5. The telephone number of a person to contact in the event of transmission problems.

(7) Une déclaration solennelle peut être déposée en vertu du paragraphe (1) en transmettant un fac-similé par téléphone au shérif avec une page de couverture qui comprend les renseignements suivants :

1. Le nom et l'adresse de l'expéditeur.
2. La date et l'heure de la transmission.
3. Le nombre total de pages transmises, y compris la page de couverture.
4. Le numéro de téléphone de l'appareil duquel a lieu la transmission de la déclaration solennelle.
5. Le numéro de téléphone d'une personne à qui le destinataire pourra s'adresser en cas de difficultés de transmission.

Dépôt par télécopie

Delivery of statutory declaration to land registrar

(8) If a copy of a writ of seizure and sale has been delivered by the sheriff to a land registrar under section 137 of the *Land Titles Act* and a statutory declaration is filed under subsection (1) in respect of the writ, the sheriff shall promptly deliver a copy of the statutory declaration to the land registrar and the amendment deemed to be made to the writ under subsection (2) does not bind land registered under the *Land Titles Act* until a copy of the statutory declaration has been received and recorded by the land registrar.

(8) Si une copie d'un bref de saisie-exécution a été remise par le shérif à un registraire aux termes de l'article 137 de la *Loi sur l'enregistrement des droits immobiliers* et qu'une déclaration solennelle est déposée en vertu du paragraphe (1) à l'égard du bref, le shérif remet rapidement une copie de la déclaration solennelle au registraire et la modification réputée apportée au bref aux termes du paragraphe (2) ne grève un bien-fonds enregistré aux termes de la *Loi sur l'enregistrement des droits immobiliers* qu'une fois qu'une copie de la déclaration solennelle a été reçue et consignée par le registraire.

Remise d'une déclaration solennelle à un registraire

10.—(1) Subsection 11 (1) of the Act is repealed and the following substituted:

(1) When a support order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and appear before the court to explain the default.

10 (1) Le paragraphe 11 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Lorsqu'une ordonnance alimentaire qui est déposée auprès du bureau du directeur est en défaut, le directeur peut préparer un état de l'arriéré et il peut, au moyen d'un avis signifié au payeur avec l'état de l'arriéré, enjoindre au payeur de déposer auprès du bureau du directeur un état financier rédigé selon la formule prescrite par les règles de pratique et de comparaître devant le tribunal pour expliquer le défaut.

Dépôt d'un état financier auprès du directeur

(2) Subsection 11 (6) of the Act is amended by striking out "that there are no arrears or" in the first and second lines.

(2) Le paragraphe 11 (6) de la Loi est modifié par suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

(a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une

Filing of financial statement with Director

(4) Section 11 of the Act is amended by adding the following subsection:

Interim orders

(6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

11. Section 12 of the Act is repealed and the following substituted:

Restraining order

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

Contempt

12.1—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

Conditions of imprisonment

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Offences

12.2 A person who knowingly contravenes subsection 3.3 (8), (17), (25), (26) or (27), section 3.12 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

12. The Act is further amended by adding the following sections:

Enforcement alternatives

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

Regulations

13.2 The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;

ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

Ordonnances provisoires

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payeur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

Ordonnance de ne pas faire

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Désobéissance

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonnement

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (8), (17), (25), (26) ou (27), à l'article 3.12 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

Autres moyens employés pour l'exécution

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des formules et prévoir les modalités de leur emploi;
- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;

- | | |
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| <p>(c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);</p> <p>(d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);</p> <p>(e) prescribing deductions for the purposes of subsection 3.3 (12);</p> <p>(f) prescribing information that shall be supplied under subsection 3.3 (25);</p> <p>(g) governing the form and posting of security by a payor under section 3.4 and the realization thereon;</p> <p>(h) respecting proof of income for the purposes of section 3.10;</p> <p>(i) prescribing the method of service on the Crown of notices of support deduction orders in place of the method prescribed in subsection 3.3 (5);</p> <p>(j) providing that a support deduction order is not effective against the Crown unless a statement of particulars in the prescribed form is served with the notice of the order;</p> <p>(k) providing that a notice of a support deduction order served on the Crown shall be deemed to have been served, not on the day described in subsection 3.3 (6), but on the day that is the number of days specified in the regulation after the actual date of service, but the regulation shall not specify more than thirty days as the number of days.</p> | <p>c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);</p> <p>d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);</p> <p>e) prescrire les retenues aux fins du paragraphe 3.3 (12);</p> <p>f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);</p> <p>g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté;</p> <p>h) traiter des preuves relatives au revenu aux fins de l'article 3.10;</p> <p>i) prescrire le mode de signification à la Couronne des avis des ordonnances de retenue des aliments en remplacement du mode prescrit au paragraphe 3.3 (5);</p> <p>j) prévoir qu'une ordonnance de retenue des aliments n'a d'effet contre la Couronne que si un état détaillé dressé selon la formule prescrite est signifié avec l'avis de l'ordonnance;</p> <p>k) prévoir que l'avis d'une ordonnance de retenue des aliments signifié à la Couronne est réputé ne pas être signifié le jour prévu au paragraphe 3.3 (6), mais le jour qui est postérieur, du nombre de jours précisé dans le règlement, à la date effective de signification; le règlement ne doit toutefois pas préciser un nombre de jours supérieur à trente.</p> |
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13. Section 18 of the Act is repealed and the following substituted:

18. The short title of this Act is the *Family Support Plan Act, 1985*.

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*.

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to pay to a third party any amount owing by the employer to the employee.

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

16. Section 39m of the Act, as enacted by section 15 of this Act, is repealed and the following substituted:

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

18. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

PART III

Commencement, Short Title

Commence-
ment

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

Short title

20. The short title of this Act is the *Family Support Plan Amendment Act, 1991*.

16 L'article 39m de la Loi, tel qu'adopté par l'article 15 de la présente Loi, est abrogé et remplacé par ce qui suit :

17 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

18 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PARTIE III

Entrée en vigueur et titre abrégé

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

20 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur le Régime des obligations alimentaires envers la famille*.

Titre abrégé

Bill 18

An Act respecting the City of London

Mr. Winninger

1st Reading December 6th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The Bill gives power to the council of The Corporation of the City of London to prohibit the demolition or removal of any building or structure that is on a "designated property" or within a "heritage conservation district" as defined by the *Ontario Heritage Act*.

If the council refuses to allow a building or structure to be demolished or removed, the property owner must obtain a building permit to erect a new building on the site before any demolition or removal could be started. The new building must be completed within two years after beginning demolition or removal of the old property. These requirements apply even if demolition or removal work commenced before this Act comes into force.

A person may apply to the council for an extension of the two-year time limit with respect to completing a new building on the site and may appeal the council's decision on that extension to the Ontario Municipal Board.

Individuals, including directors and officers of a corporation, who knowingly furnish false information regarding matters under this Act would be liable to a fine of up to \$10,000 or to imprisonment for up to two years, or to both; corporations would be liable to a fine of up to \$50,000.

Persons who participate in the wrongful demolition or removal of a building or structure would be liable to a fine of up to \$1,000,000 or to imprisonment for up to one year, or to both.

An Act respecting the City of London

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,

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

“council” means the council of The Corporation of the City of London;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

“heritage conservation district” means an area designated as such under section 41 of the *Ontario Heritage Act*;

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may refuse the application and prohibit any work being done to demolish or remove the building or structure.

(2) The council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council,

- (a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and
- (b) publish its decision in a newspaper having general circulation in the municipality,

and where the council fails to notify the owner under clause (a), it shall be deemed to have consented to the application.

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

(6) An owner who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under clause 34 (2) (b) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall, within two years of the commencement of the demolition or removal, substantially complete the new building to be erected on the site.

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure within a

Definitions

Application in respect of designated properties

Notice of decision

Requirements for demolition

Idem, transitional

Subs. (4) applies notwithstanding work commenced

Requirement respecting new building

Application respecting buildings in heritage conservation districts

heritage conservation district, the council may refuse the application and prohibit any work from being done to demolish or remove the building or structure.

two years of the commencement of the demolition or removal substantially complete the new building to be erected on the site.

Notice of decision

(2) Council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council give notice of its decision under subsection (1) to the owner and where council fails to so notify the owner it shall be deemed to have consented to the application.

4.—(1) Where a person who has been refused by the council under subsection 2 (1) or 3 (1) of this Act, or under clause 34 (2) (b) or subsection 43 (2) of the *Ontario Heritage Act*,

Relief from time restriction

Requirements for demolition

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

- (a) considers that it is not possible to complete a new building within the two year period specified in subsection 2 (6) or 3 (6); or
- (b) considers that the construction of a new building has become not feasible on economic or other grounds,

that person may apply to the council for relief from the requirement imposed by subsection 2 (6) or 3 (6) by sending notice of application by registered mail to the clerk of the Corporation not less than forty-five days before the expiry of the two year period within which the new building is to be substantially completed.

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(2) Where the council extends the time under section 5 for completion of the new building and the applicant considers that,

Idem

Idem. transitional

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) it is not possible to complete a new building in the extended time; or
- (b) the construction of a new building has become not feasible on economic or other grounds,

application may be made for relief from the extended completion time by sending notice of application not less than ninety days before the expiry of the extended completion time.

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

5.—(1) The council shall consider an application under section 4 and may,

Council may grant relief

Subs. (4) applies notwithstanding work commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

- (a) extend the time for completion of the new building; or
- (b) relieve the applicant from the requirement of constructing the new building.

(2) If time is extended under clause (1) (a), the applicant shall complete the new building within the extended time.

Where time extended

Requirement respecting new building

(6) A person who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under subsection 43 (2) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall within

- (3) If relief is granted under clause (1) (b), the applicant shall thereafter be deemed not to have contravened the provisions of this Act by failing to substantially complete the new building.

Where relief granted

6.—(1) Any person who has made application under section 4 may appeal to the Ontario Municipal Board,

Appeal to O.M.B.

- (a) from the decision of the council; or
- (b) from the refusal or neglect of council to make a decision thereon within

thirty days after the receipt by the clerk of the application.

(2) An appeal under subsection (1) shall be made within twenty days of the mailing of the notice of decision or after the expiration of the thirty day period set out in clause (1) (b) and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under section 5.

(3) The decision of the Board is final.

(4) Where an appeal has been made to the Board under subsection (1), the two year period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision.

(5) Where the Board dismisses an appeal from a decision of council under subsection (1) the Board may extend the time for completing the new building for such further period as the Board considers reasonable and the decision of the Board is final.

(6) Where the Board has extended the time for completion of the new building under subsection (2) or (5) the applicant shall substantially complete the new building within the extended time.

7.—(1) Any notice required to be given, delivered or served under this Act is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at their last known address.

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that the person, acting in good faith, did not through absence, accident, illness or other cause beyond that person's control receive the notice until a later date.

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks.

8.—(1) Subject to subsection (2), every person who knowingly furnishes false information in any application under this Act or in any statement, report or return furnished under this Act 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 \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

(3) Every person who on designated property or within a heritage conservation district demolishes or removes any building or structure or part thereof or who does any work or causes or permits any work to be done in the demolition or removal of any building or structure or part thereof without that person first obtaining the consent of the council and every director or officer of a corporation who knowingly concurs in such contravention is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(4) Every owner who,

(a) contravenes subsection 2 (3) or (4); or

(b) has an obligation to erect a new building under subsection 2 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

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 \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(5) Every person who,

(a) contravenes subsection 3 (3) or (4); or

(b) has an obligation to erect a new building under subsection 3 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

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 \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

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

10. The short title of this Act is the *City of London Act, 1990*.

Offence, corporations

Offence

Idem

Idem

Commencement

Short title

dem

Board's decision final
Extension of time

Dismissal of appeal

Requirement where time extended

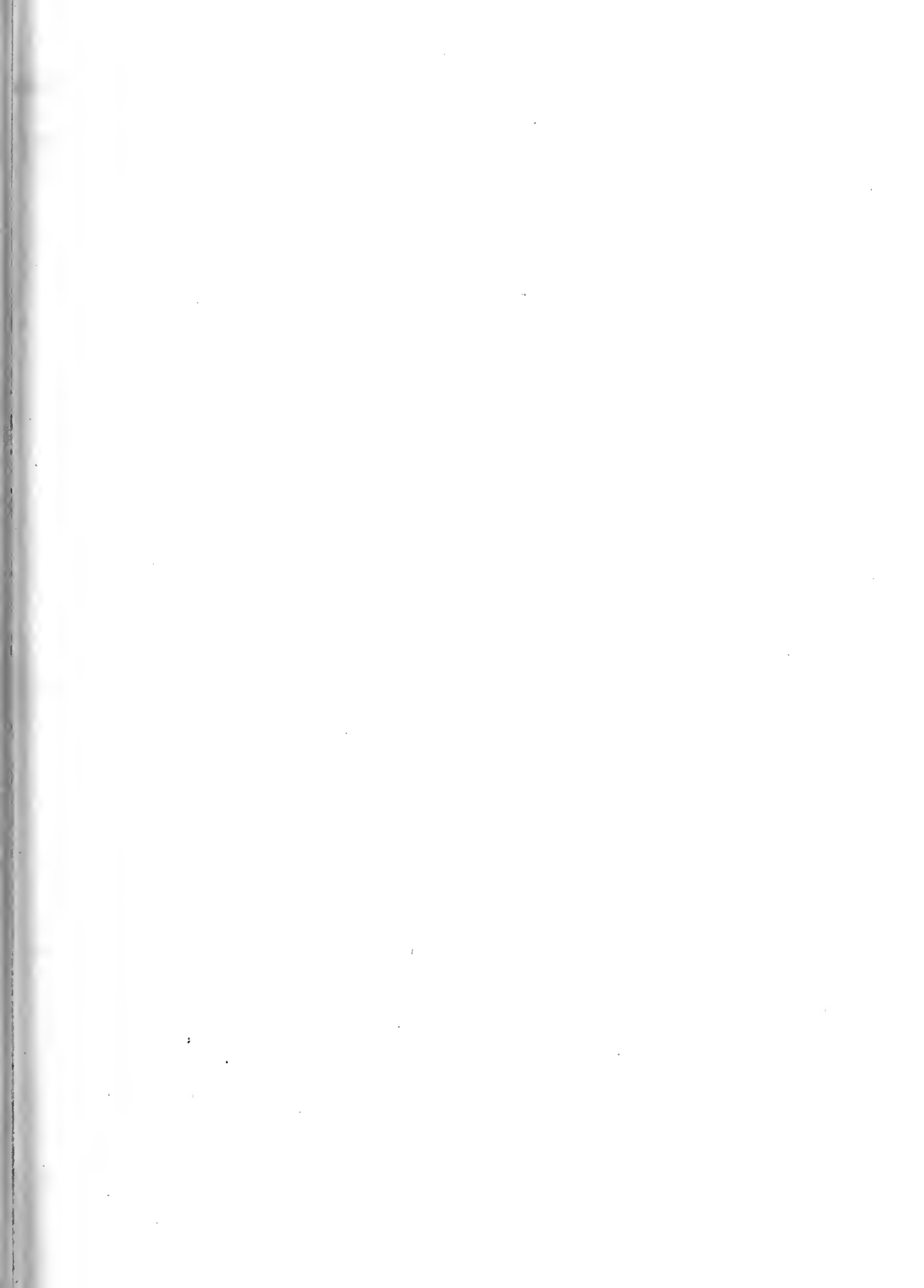
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Bill 18

*(Chapter 29
Statutes of Ontario, 1990)*

An Act respecting the City of London

Mr. Winninger

1st Reading	December 6th, 1990
2nd Reading	December 20th, 1990
3rd Reading	December 20th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format



An Act respecting the City of London

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,

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

“council” means the council of The Corporation of the City of London;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

“heritage conservation district” means an area designated as such under section 41 of the *Ontario Heritage Act*;

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may refuse the application and prohibit any work being done to demolish or remove the building or structure.

(2) The council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council,

(a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and

(b) publish its decision in a newspaper having general circulation in the municipality,

and where the council fails to notify the owner under clause (a), it shall be deemed to have consented to the application.

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

(6) An owner who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under clause 34 (2) (b) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall, within two years of the commencement of the demolition or removal, substantially complete the new building to be erected on the site.

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure within a

Idem,
transitional

Subs. (4)
applies
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commenced

Requirement
respecting
new building

Application
respecting
buildings
in heritage
conservation
districts

Definitions

Application
in respect of
designated
properties

Notice of
decision

Requirements
for
demolition

heritage conservation district, the council may refuse the application and prohibit any work from being done to demolish or remove the building or structure.

Notice of decision

(2) Council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council give notice of its decision under subsection (1) to the owner and where council fails to so notify the owner it shall be deemed to have consented to the application.

Requirements for demolition

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

Idem, transitional

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

Subs. (4) applies notwithstanding work commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement respecting new building

(6) A person who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under subsection 43 (2) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall within

two years of the commencement of the demolition or removal substantially complete the new building to be erected on the site.

4.—(1) Where a person who has been refused by the council under subsection 2 (1) or 3 (1) of this Act, or under clause 34 (2) (b) or subsection 43 (2) of the *Ontario Heritage Act*,

Relief from time restriction

- (a) considers that it is not possible to complete a new building within the two year period specified in subsection 2 (6) or 3 (6); or
- (b) considers that the construction of a new building has become not feasible on economic or other grounds,

that person may apply to the council for relief from the requirement imposed by subsection 2 (6) or 3 (6) by sending notice of application by registered mail to the clerk of the Corporation not less than forty-five days before the expiry of the two year period within which the new building is to be substantially completed.

(2) Where the council extends the time under section 5 for completion of the new building and the applicant considers that,

Idem

- (a) it is not possible to complete a new building in the extended time; or
- (b) the construction of a new building has become not feasible on economic or other grounds,

application may be made for relief from the extended completion time by sending notice of application not less than ninety days before the expiry of the extended completion time.

5.—(1) The council shall consider an application under section 4 and may,

Council may grant relief

- (a) extend the time for completion of the new building; or
- (b) relieve the applicant from the requirement of constructing the new building.

(2) If time is extended under clause (1) (a), the applicant shall complete the new building within the extended time.

Where time extended

(3) If relief is granted under clause (1) (b), the applicant shall thereafter be deemed not to have contravened the provisions of this Act by failing to substantially complete the new building.

Where relief granted

6.—(1) Any person who has made application under section 4 may appeal to the Ontario Municipal Board,

Appeal to O.M.B.

- (a) from the decision of the council; or
- (b) from the refusal or neglect of council to make a decision thereon within

thirty days after the receipt by the clerk of the application.

(2) An appeal under subsection (1) shall be made within twenty days of the mailing of the notice of decision or after the expiration of the thirty day period set out in clause (1) (b) and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under section 5.

(3) The decision of the Board is final.

(4) Where an appeal has been made to the Board under subsection (1), the two year period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision.

(5) Where the Board dismisses an appeal from a decision of council under subsection (1) the Board may extend the time for completing the new building for such further period as the Board considers reasonable and the decision of the Board is final.

(6) Where the Board has extended the time for completion of the new building under subsection (2) or (5) the applicant shall substantially complete the new building within the extended time.

7.—(1) Any notice required to be given, delivered or served under this Act is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at their last known address.

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that the person, acting in good faith, did not through absence, accident, illness or other cause beyond that person's control receive the notice until a later date.

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks.

8.—(1) Subject to subsection (2), every person who knowingly furnishes false information in any application under this Act or in any statement, report or return furnished under this Act 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 \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

(3) Every person who on designated property or within a heritage conservation district demolishes or removes any building or structure or part thereof or who does any work or causes or permits any work to be done in the demolition or removal of any building or structure or part thereof without that person first obtaining the consent of the council 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 \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(4) Every owner who,

(a) contravenes subsection 2 (3) or (4); or

(b) has an obligation to erect a new building under subsection 2 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

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 \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(5) Every person who,

(a) contravenes subsection 3 (3) or (4); or

(b) has an obligation to erect a new building under subsection 3 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

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 \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

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

10. The short title of this Act is the *City of London Act, 1990*.

Offence,
corporations

Offence

Idem

Idem

Commence-
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Short title

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board's
decision final
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Dismissal of
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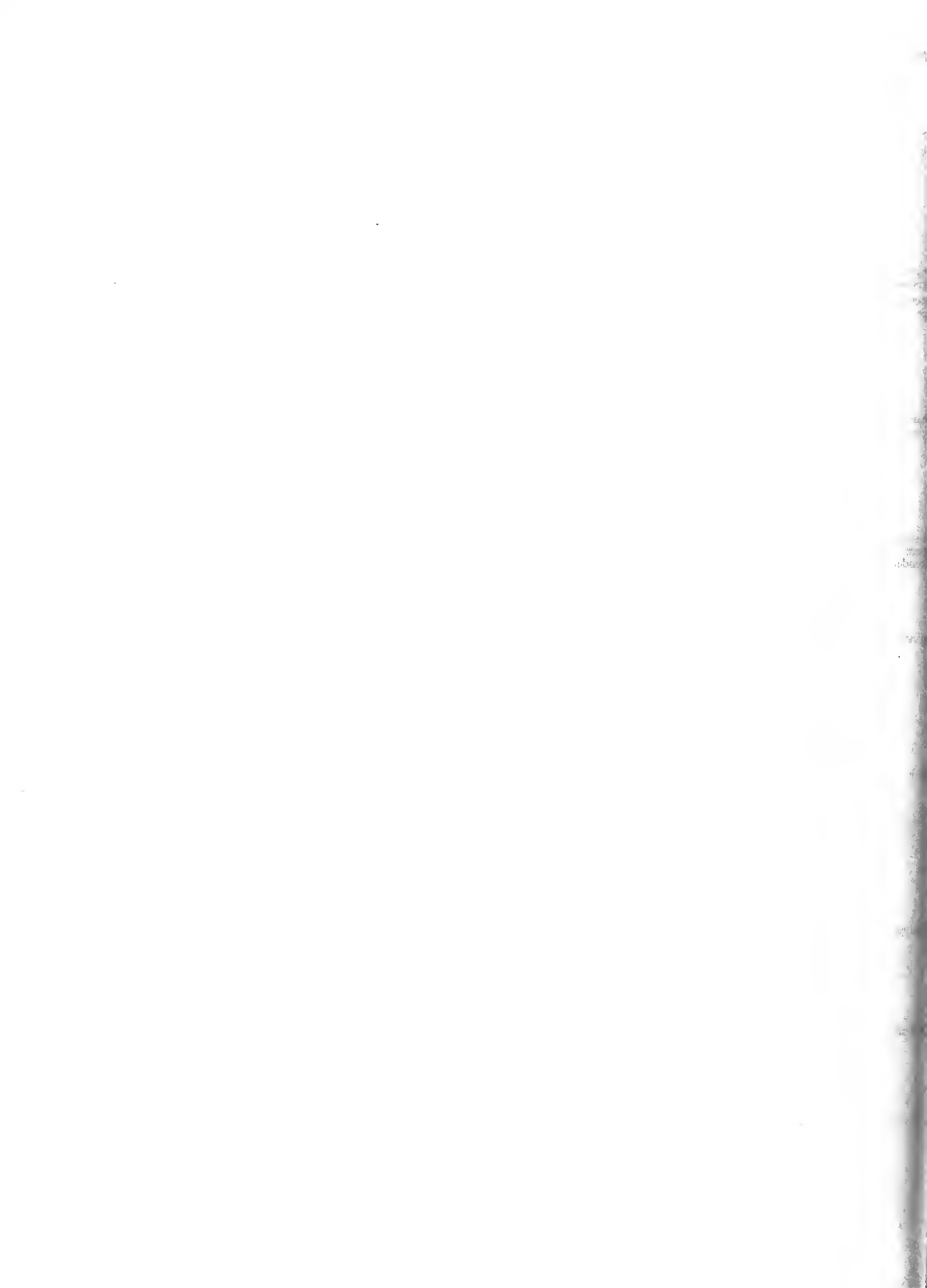
Requirement
where time
extended

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Publication

Offence



Bill 19

An Act to amend the Professional Engineers Act, 1984

Mr. Sterling

1st Reading December 6th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to enable the Registrar of the Association of Professional Engineers of Ontario to refuse to issue a licence to an applicant who has been convicted of sexual assault under the *Criminal Code* or who has engaged in sexual harassment.

An Act to amend the Professional Engineers Act, 1984

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

1. Section 14 of the *Professional Engineers Act, 1984* is amended by adding the following subsection:

(2a) The Registrar may refuse to issue a licence to an applicant if the applicant has been convicted of sexual assault or aggra-

vated sexual assault under the *Criminal Code* or if there are reasonable and probable grounds to believe that the applicant has harassed another person because of the sex of that person.

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

3. The short title of this Act is the *Professional Engineers Amendment Act, 1990*. Short title

Bill 20

An Act to amend the Insurance Act

Mr. Runciman

1st Reading December 6th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to remove the immunity from civil liability in respect of loss or damage from bodily injury arising from the use or operation of an automobile that was accorded by the *Insurance Statute Law Amendment Act, 1990*.

An Act to amend the Insurance Act

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

1. Clauses 98 (1) (bp), (bq) and (br) of the *Insurance Act*, as enacted by the Statutes of Ontario, 1990, chapter 2, section 37, are repealed.

2. Sections 231a and 231b of the Act, as enacted by the Statutes of Ontario, 1990, chapter 2, section 57, are repealed.

3. Section 232 of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 2, section 57, is amended by adding the following subsections:

(9) A payment made by an insurer under a contract of insurance referred to in subsection (1) is to the extent of the payment a release by the insured person or his or her personal representatives of any claim that the insured person or his or her personal representatives or any person claiming through or

under him or her or by virtue of Part V of the *Family Law Act, 1986* may have against the insurer and any other person who may be liable to the insured person or his or her personal representatives if that other person is insured under a contract of the same type as is specified in subsection (1).

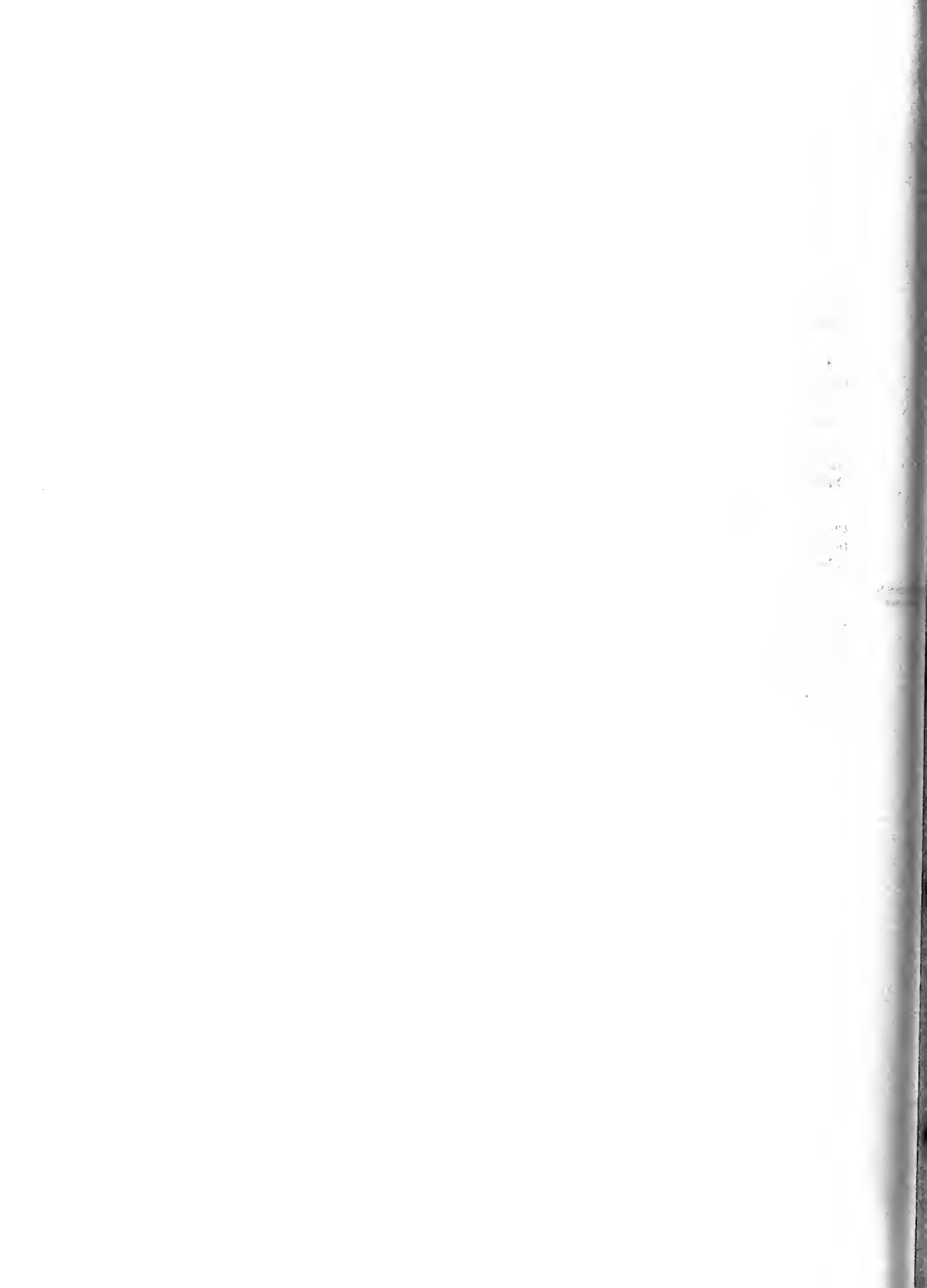
(10) Nothing in subsection (9) precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his or her personal representatives or any other person. Idem

4. Sections 242a, 242b, 242c, 242d, 242e, 242f, 242g, 242h, 242i and 242j of the Act, as enacted by the Statutes of Ontario, 1990, chapter 2, section 65, are repealed.

5. This Act comes into force on the 1st day of February, 1991. Commencement

6. The short title of this Act is the *Insurance Amendment Act, 1990*. Short title

Release by
claimant



Bill 21

An Act to establish a Committee respecting the Direct Election of the Premier

Mr. Henderson

1st Reading December 10th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to establish a committee to develop a plan under which the Premier of Ontario would be elected by direct election by all Ontario electors. The Committee will be composed of members of the Assembly, academics, a government lawyer and the chair of the Ontario Law Reform Commission.

The Committee will be directed to consider constitutional and other legal implications of the change in the method of choosing the Premier. It will also be directed to prepare all necessary draft legislation to implement the plan. It will have eighteen months to complete its work.

An Act to establish a Committee respecting the Direct Election of the Premier

Whereas under the existing laws and system of government in Ontario, electors elect members of the Legislative Assembly for their own electoral districts but do not directly elect the Premier of the Province;

And whereas it is desirable that Ontario electors be enabled to express their preferences not only among candidates for election to the Assembly in their own electoral districts but also among those who seek to serve as Premier;

And whereas it is appropriate that a committee be established to prepare a plan for implementing the election of the Premier by direct popular vote and to report thereon to the Legislative Assembly;

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

1.—(1) A committee to be named the Committee on the Direct Election of the Premier is established.

- (2) The Committee shall be composed of,
 - (a) three members of the Legislative Assembly from the party from which the Government is chosen, appointed by the Chief Government Whip;
 - (b) two members of the Legislative Assembly from the party recognized as the Official Opposition, appointed by the Chief Opposition Whip;
 - (c) one member of the Legislative Assembly from each party, other than a party mentioned in clause (a) or (b), having at least twelve members in the Assembly, appointed by the Chief Party Whip of the party;
 - (d) a professor of constitutional law on the law faculty of a university in Ontario, appointed by the Lieutenant Governor in Council;
 - (e) a professor of political studies or political science on the arts and science faculty of a university in Ontario,

appointed by the Lieutenant Governor in Council;

- (f) a lawyer who is employed in the Ministry of the Attorney General, appointed by the Lieutenant Governor in Council; and
- (g) the chair of the Ontario Law Reform Commission.

(3) The appointments under subsection (2) shall be made not later than three months after the day on which this Act comes into force and, in the event that any appointment is not made within that time, the Committee members who have been appointed shall make the appointment. Appointments

(4) If any member of the Committee becomes unable to continue to serve on the Committee, the remaining members may appoint a substitute in his or her place. Member unable to serve

(5) The Lieutenant Governor in Council shall designate as chair of the Committee one of the members of the Legislative Assembly appointed to the Committee. Chair

(6) If the chair becomes unable to continue to serve as chair, the remaining Committee members may appoint a substitute in his or her place. Idem

2.—(1) The Committee shall prepare a report setting out a plan for implementing the election of the Premier by direct popular vote to be held concurrently with each general election as defined in the *Election Act, 1984*. Duties of Committee

(2) In preparing its report, the Committee shall determine what changes to Ontario's laws and system of government will be necessary or advisable in order to provide for the election of the Premier by direct popular vote and shall consider all relevant matters, including, Matters to be considered

- (a) what changes, if any, to the constitution of Canada and Ontario will be required;
- (b) what changes to the *Election Act, 1984*, the *Election Finances Act, 1986*,

Committee established

Composition

- and other Ontario legislation will be required;
- (c) what method should be used to fill vacancies in the office of the Premier if the office becomes vacant between general elections;
 - (d) what effect the election of the Premier by direct popular vote will have on the offices of the Premier and the Lieutenant Governor;
 - (e) whether changes will be required in the method of selecting the members of the Executive Council, whether persons other than members of the Legislative Assembly who are members of the Premier's party should be eligible for membership in the Council and whether members of the Council should be selected or subject to confirmation by the Assembly;
 - (f) what effect the election of the Premier by direct popular vote will have on the Legislative Assembly; and
 - (g) whether there should be a fixed term of office for the Premier and members of the Legislative Assembly and, if so, what should be the consequences of

the passage of a non-confidence motion in the Assembly before the expiry of the term.

(3) The Committee, in consultation with the Office of Legislative Counsel, shall prepare such draft legislation and resolutions as are necessary to give effect to its plan for implementing the election of the Premier by direct popular vote. Draft legislation

3.—(1) The Committee shall submit its report to the Legislative Assembly within eighteen months of the day on which this Act comes into force. Report to be submitted

(2) The Lieutenant Governor in Council may extend the period referred to in subsection (1) by six months. Idem

(3) The Committee's report shall include its conclusions respecting the matters referred to in subsection 2 (2) and the draft legislation and resolutions referred to in subsection 2 (3). Matters to be included

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

5. The short title of this Act is the *Committee on the Direct Election of the Premier Act, 1990.* Short title

Bill 22

An Act to provide for Certain Rights for Deaf Persons

Mr. Abel

1st Reading December 10th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to insure that deaf persons are not discriminated against by reason that they are accompanied by hearing ear dogs that are used by deaf persons as guide dogs.

The Bill extends to deaf persons with guide dogs the rights now enjoyed by blind persons with guide dogs under the *Blind Persons' Rights Act*.

An Act to provide for Certain Rights for Deaf Persons

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

Definitions

1.—(1) In this Act,

“deaf person” means a person who because of deafness is dependent on a dog guide;

“dog guide” means a dog trained as a guide for a deaf person and having the qualifications prescribed by the regulations;

“Ministry” means the Ministry of the Attorney General.

Application

(2) This Act applies despite any other Act or any regulation, by-law or rule made thereunder.

(3) This Act binds the Crown.

Act binds Crown

Dog guides permitted in places to which public admitted

2.—(1) No person, directly or indirectly, shall,

(a) deny to any person the accommodation, services or facilities available in any place to which the public is customarily admitted; or

(b) discriminate against any person with respect to the accommodation, services or facilities available in any place to which the public is customarily admitted, or the charges for the use thereof,

for the reason that he or she is a deaf person accompanied by a dog guide.

(2) No person, directly or indirectly, shall,

(a) deny to any person occupancy of any self-contained dwelling unit; or

(b) discriminate against any person with respect to any term or condition of occupancy of any self-contained dwelling unit,

Dog guides permitted in self-contained dwelling unit

for the reason that he or she is a deaf person keeping or customarily accompanied by a dog guide.

(3) Nothing in this section shall be construed to entitle a deaf person to require any service, facility or accommodation in respect of a dog guide other than the right to be accompanied by the dog guide.

Other facilities

3.—(1) The Attorney General or an officer of the Ministry designated by the Attorney General in writing may, upon application therefor, issue to a deaf person an identification card identifying the deaf person and his or her dog guide.

Identification cards

(2) An identification card issued under subsection (1) is proof, in the absence of evidence to the contrary, that the deaf person and his or her dog guide identified therein are qualified for the purposes of this Act.

Cards as proof of qualification

(3) Any person to whom an identification card is issued under subsection (1) shall, upon the request of the Attorney General or an officer of the Ministry designated by the Attorney General in writing, surrender his or her identification card for amendment or cancellation.

Surrender of cards

4. The Lieutenant Governor in Council may make regulations prescribing qualifications for dog guides.

Regulations

5.—(1) Every person who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Penalty

(2) Every person who contravenes subsection 3 (3) or who, not being a deaf person, purports to be a deaf person for the purpose of claiming the benefit of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$200.

Idem

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

Commencement

7. The short title of this Act is the *Deaf Persons' Rights Act, 1990*.

Short title



Bill 23

An Act respecting Environmental Rights in Ontario

Mrs. Sullivan

1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force, and for regular review by the Environmental Assessment Board of all regulations affecting the environment. In addition, the Bill prohibits an employer from dismissing an employee who reports to any person an act that contaminates or degrades the environment.

The Bill also amends the *Environmental Protection Act* to expand the scope of the protection provided to employees who refuse to pollute, by adding several statutes to the list set out in subsection 134b (2) of that Act.

An Act respecting Environmental Rights in Ontario

Preamble

Whereas a healthy and sustainable environment is the basis of the health and well-being of the people of Ontario;

And whereas the environment of Ontario is under stress from contamination and degradation;

And whereas the people of Ontario face substantial obstacles to their ability to participate in environmental decision-making and to protect their common interest in a healthy and sustainable environment;

And whereas it is desirable to remove these obstacles and ensure the important role of the people of Ontario and their government in securing a healthy environment for present and future generations;

And whereas it is desirable to conserve and maintain the resources of the Province for the benefit of present and future generations;

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

PART I

INTERPRETATION AND PURPOSE

Definitions

1. In this Act,

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person,
- (e) render any property or plant or animal life unfit for use by people,

(f) cause loss of enjoyment of normal use of property, or

(g) interfere with the normal conduct of business,

and “contaminate” and “contamination” have corresponding meanings;

“Court” means the Supreme Court of Ontario;

“degradation” means any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and “degrade” has a corresponding meaning;

“environment” means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

“Minister” means the Minister of the Environment;

“public trust” means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

“regulation” means a regulation made under an Act listed in the Schedule to this Act.

2. The purpose of this Act is to ensure the health and sustainability of the environment of Ontario and, in particular,

Purpose

- (a) to facilitate the participation of the people of Ontario in decisions affecting the environment and their ability to protect their common interest in a healthy and sustainable environment;
- (b) to recognize the right of the people of Ontario to an environment that is adequate for their health and well-being and sustainable into the future; and
- (c) to recognize the obligations of the Province of Ontario to conserve and maintain the resources of the Province for present and future generations.

Environ-mental rights

3.—(1) The people of Ontario have a right to a healthy and sustainable environment, including clean air and water, to the conservation of the natural, scenic, historic and aesthetic values of the environment, and to the protection of ecosystems and biological diversity.

Idem

(2) The Province of Ontario, as trustee of Ontario's public lands, waters and natural resources, shall conserve and maintain them for the benefit of present and future generations.

Declaration

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

Request for investigation

4.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Written request

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Report

(3) The Minister shall provide a copy of the report of the investigation to the person who requested the investigation within ninety days of the date of the request.

PART II

CAUSE OF ACTION

Right of action

5.—(1) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may commence an action in the Court against any person who is responsible for the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there has been, is or will be an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule. Idem

(3) In an action commenced under this section, if the activity complained of is not governed by a standard established under an Act listed in the Schedule, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to the purposes of this Act, and the Court may order the defendant to comply with such standard as it may determine. Court may determine standard

(4) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may apply for judicial review of the exercise or non-exercise of any power or the fulfilment or non-fulfilment of any duty conferred or imposed by any Act on the Minister of the Environment or any other Minister responsible for regulatory, fiscal or proprietary control of the activity. Judicial review

6.—(1) Any person may commence an action in the Court against any person who appears to be in violation of any Act listed in the Schedule or of any approval, permit, licence, standard, regulation, rule or order established under an Act listed in the Schedule. Citizen suit

(2) No action under subsection (1) shall be commenced if the responsible Ministry is diligently pursuing enforcement action against the potential defendant. Idem

(3) Damages payable under this section shall be paid to the Government of Ontario. Idem

7. Any person may apply for judicial review under subsection 5 (4) or may bring an action to enforce the public's responsibility to protect the environment, including an action in nuisance or an action under section 5. Standing

8. In the trial of an action commenced under this Act, the Court shall not order the posting of security for costs in an amount in excess of \$1,000. Security for costs

9.—(1) If the activity of the defendant that is the subject-matter of an action is not governed by a standard established under an Act listed in the Schedule or under subsection 5 (3) and if the plaintiff has established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the quality of the environment, the onus shall be on the defendant to establish that there is no feasible and prudent alternative to the activity and that such activity is in the Onus

best interests of the public having regard to the purposes of this Act.

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused, or is likely to cause, severe or irreparable contamination or degradation to the environment.

(3) It shall not be a defence to an action commenced under this Act that,

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, if the effect on the environment is of a nature consistent with the contaminant or source of degradation being a cause.

10. In an action commenced under this Act, if it has been established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by the defendant's activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary.

11.—(1) The Court may, on the motion of any party or on its own motion, refer any question, except the final determination of the issue, to the Board and the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending final determination of the issue.

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 10.

12.—(1) In any action under this Act, the Court may appoint an expert, who shall be a disinterested person and qualified as an expert in the relevant field, to give technical and scientific testimony under oath.

(2) The Court may order that the costs of the expert be paid in such manner and by such persons as the Court considers appropriate.

PART III

CLASS ACTIONS

13.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons if, in the opinion of the Court,

- (a) a question arises in the proceeding that is common to each member of the class;
- (b) the material facts giving rise to the claim for relief of the representatives are similar or related to the material facts giving rise to a claim for relief of the members of the class; and
- (c) the representatives are acting in good faith and in the interests of the class.

(2) For the purposes of clause (1) (b), material facts relating to different transactions or events or contracts shall not be taken to be dissimilar or unrelated for that reason alone.

(3) The Court may provide in the judgment of a class action for subsequent determination of the amount and distribution of damages assessed against the defendant.

(4) If damages payable to members of the class remain uncollected for more than 120 days after payment by the defendant into the Court, the amount of the uncollected damages shall be applied in such manner as the Court may order.

PART IV

INSTRUMENTS AND REGULATIONS

14.—(1) In this Part,

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment;

“proper authority” means any authority under an Act listed in the Schedule empowered to issue an instrument.

(2) Despite any other Act, no instrument is effective unless the requirements of this section have been met.

Defence

Prohibited defences

Injunction, etc.

Reference

Order

Expert

Costs

Class actions

Idem

Judgment

Uncollected damages

Definitions

Effect of contravention

Notice of proposed instrument

(3) If a new instrument or a revision to an existing instrument is proposed, the proper authority shall give notice of the proposal by publishing it in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario.

Submissions

(4) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice,

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority, request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Idem

(5) The proper authority shall review any written submissions and shall respond in writing to the issues raised therein within a reasonable period of time.

Idem

(6) If a request for a hearing has been made, the proper authority shall refer the matter to the appropriate board unless, in its opinion, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(7) If the proper authority has declined to refer the matter to the appropriate board under subsection (6), it shall give notice of its decision, together with written reasons therefor.

When instrument may be issued

(8) If there is no request for a hearing under subsection (4), the proper authority may issue the proposed instrument not less than ten days after the time for filing such notice has elapsed.

Idem

(9) If there is a request for a hearing under subsection (4) but the proper authority declines to refer the matter to the relevant board, the proper authority may issue the proposed instrument not less than twenty days after the time for filing such notice has elapsed.

Review of instrument

(10) Any person may apply to the Board for a review of an existing instrument in respect of the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, having particular regard to technological advances that can be applied in the Province of Ontario, and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Notice of hearing

(11) Where the appropriate board holds a hearing under subsection (6) or (10), the appropriate board shall,

(a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;

(b) cause notice to be given of the hearing,

(i) to the proper authority,

(ii) to any person who submitted notice to the proper authority under subsection (4),

(iii) to any person who submitted notice to the Board under subsection (10), and

(iv) to any person that the appropriate board may direct; and

(c) publish notice of the hearing in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario.

(12) Subject to this Act, any hearing initiated under this section shall be conducted according to the rules and procedures that apply to the appropriate board.

(13) The appropriate board may make such order as to costs as it considers just.

(14) Upon the completion of the hearing, the appropriate board may make such recommendation, order or decision in respect of the matter referred to it under this section as the appropriate board is empowered to make under its enabling Act.

(15) The proper authority may, in an emergency situation, issue an instrument under an Act listed in the Schedule without complying with the other provisions of this section, but such an instrument shall cease to be effective sixty days from the date on which it is issued.

15.—(1) In this section, "regulation-making authority" means any authority empowered to make any regulation under an Act listed in the Schedule.

(2) Where a regulation-making authority proposes to make a regulation that may affect the environment, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and shall request briefs or submissions in relation to the proposed regulation.

(3) The regulation-making authority shall review and consider the submissions received within the sixty-day period and shall respond in writing to the issues raised therein within a reasonable period of time.

(4) A regulation filed in contravention of subsection (2) does not come into effect.

Procedure

Costs

Recommendation, etc.

Emergencies

Notice of proposed regulation

Publication

Review of submissions

Effect of contravention

Review of regulations

16.—(1) In 1989 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, having particular regard to technological advances that can be applied in the Province of Ontario.

Public notice

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate.

Report

(3) Upon completion of the review, the Board shall make a report thereon to the Minister, including any recommended changes to the regulations, and the Minister, after receiving the report, shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next session.

PART V

EMPLOYEE RIGHTS

No discipline, dismissal, etc., by employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to any person an act that contaminates or degrades the environment.

Complaint

(2) A person complaining of a contravention of subsection (1) may file the complaint in writing with the Ontario Labour Relations Board.

Application of Environmental Protection Act

(3) Subsections 134b (4) to (15) of the *Environmental Protection Act* apply with necessary modifications to a complaint under subsection (2).

PART VI

MISCELLANEOUS

Other remedies reserved

18. Nothing in this Act affects any other remedies available at law.

19. If there is a conflict between any provision of this Act and any other Act, the provision of this Act prevails. Conflict

20. This Act binds the Crown. Crown

21. Subsection 134b (2) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 52, section 22, is amended by striking out "or" at the end of clause (h) and by adding thereto the following clauses:

- (j) the *Conservation Authorities Act*;
- (k) the *Consolidated Hearings Act, 1981*;
- (l) the *Drainage Act*;
- (m) the *Lakes and Rivers Improvement Act*;
- (n) the *Mining Act*;
- (o) the *Niagara Escarpment Planning and Development Act*;
- (p) the *Ontario Waste Management Corporation Act, 1981*;
- (q) the *Pits and Quarries Control Act*; or
- (r) the *Planning Act, 1983*,

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

23. The short title of this Act is the *Ontario Environmental Rights Act, 1990*. Short title

SCHEDULE

- Conservation Authorities Act*
- Consolidated Hearings Act, 1981*
- Drainage Act*
- Environmental Assessment Act*
- Environmental Protection Act*
- Lakes and Rivers Improvement Act*
- Mining Act*
- Niagara Escarpment Planning and Development Act*
- Ontario Waste Management Corporation Act, 1981*
- Ontario Water Resources Act*
- Pesticides Act*
- Pits and Quarries Control Act*
- Planning Act, 1983*



1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 24

**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

The Hon. E. Gigantes
Minister of Health

Projet de loi 24

**Loi contrôlant l'usage dans le secteur
privé des cartes et des numéros attri-
bués aux assurés en vertu de la Loi sur
l'assurance-santé**

L'honorable E. Gigantes
Ministre de la Santé

1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

1^{re} lecture 13 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTE

The purpose of this Bill is to control the use of health cards and health numbers by the private sector.

NOTE EXPLICATIVE

Le présent projet de loi a pour objet de contrôler l'usage des cartes Santé et des numéros de cartes Santé dans le secteur privé.

**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

**Loi contrôlant l'usage dans le secteur
privé des cartes et des numéros
attribués aux assurés en vertu de la
Loi sur l'assurance-santé**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

Definitions

1. In this Act,

“health card” means a card provided to an insured person within the meaning of the *Health Insurance Act* by the General Manager of the Ontario Health Insurance Plan; (“carte Santé”)

“health number” means a number assigned to an insured person within the meaning of the *Health Insurance Act* by the General Manager of the Ontario Health Insurance Plan; (“numéro de la carte Santé”)

“provincially funded health resource” means a service, thing, subsidy or other benefit funded, in whole or in part, directly or indirectly by the Province that is health related or that is prescribed by the regulations. (“ressource en matière de santé subventionnée par la province”)

2.—(1) No person shall require the production of another person's health card or collect or use another person's health number.

(2) Despite subsection (1), a person may collect or use another person's health number for purposes related to the provision of provincially funded health resources to that other person. In addition, a person who provides a provincially funded health resource to a person who has a health card or health number,

- (a) may require the production of the health card; or
- (b) may collect or use the health number for purposes related to health administration or planning or health research or epidemiological studies.

Privacy re:
health cards,
numbers

Exceptions

1 Les définitions qui suivent s'appliquent à la présente loi.

«carte Santé» Carte fournie, par le directeur général du Régime d'assurance-santé de l'Ontario, à un assuré au sens de la *Loi sur l'assurance-santé*. («health card»)

«numéro de la carte Santé» Numéro attribué, par le directeur général du Régime d'assurance-santé de l'Ontario, à un assuré au sens de la *Loi sur l'assurance-santé*. («health number»)

«ressource en matière de santé subventionnée par la province» Service, chose, subside ou autre avantage qui est subventionné, en tout ou en partie, directement ou indirectement par la province et qui est relatif à la santé ou prescrit par les règlements. («provincially funded health resource»)

2 (1) Nul ne doit demander la production de la carte Santé d'une autre personne ni obtenir ou utiliser le numéro de la carte Santé d'une autre personne.

(2) Malgré le paragraphe (1), une personne peut obtenir ou utiliser le numéro de la carte Santé d'une autre personne à des fins liées à la prestation à cette autre personne d'une ressource en matière de santé subventionnée par la province. En outre, la personne qui fournit une ressource en matière de santé subventionnée par la province à une personne qui a une carte Santé ou un numéro de carte Santé peut, selon le cas :

- a) demander la production de la carte Santé;
- b) obtenir ou utiliser le numéro de la carte Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

Definitions

Secret concer-
nant les car-
tes Santé et
les numéros

Exceptions

Exception,
prescribed
persons

(3) Despite subsection (1), a person prescribed by the regulations may collect or use health numbers for purposes related to health administration or planning or health research or epidemiological studies.

(3) Malgré le paragraphe (1), les personnes prescrites par les règlements peuvent obtenir ou utiliser des numéros de cartes Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

Exception
concernant
les personnes
prescrites

Exception,
professional
governing
bodies

(4) Despite subsection (1), the governing body of a health profession whose members provide provincially funded health resources may collect or use health numbers for purposes related to its duties or powers.

(4) Malgré le paragraphe (1), le corps professionnel dirigeant d'une profession de la santé dont les membres fournissent des ressources en matière de santé subventionnées par la province peut obtenir ou utiliser des numéros de cartes Santé à des fins liées à ses fonctions ou pouvoirs.

Exception
concernant
les corps pro-
fessionnels
dirigeants

Offence

3.—(1) Every person who contravenes subsection 2 (1) is guilty of an offence.

3 (1) Quiconque enfreint le paragraphe 2 (1) est coupable d'une infraction.

Infraction

Penalty,
individuals

(2) An individual who is convicted of an offence 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.

(2) Le particulier qui est reconnu coupable d'une infraction est passible d'une amende d'au plus 5 000 \$ et d'une peine d'emprisonnement d'au plus six mois, ou d'une seule de ces peines.

Peine,
particuliers

Penalty,
corporations

(3) A corporation that is convicted of an offence is liable to a fine of not more than \$25,000.

(3) La personne morale qui est reconnue coupable d'une infraction est passible d'une amende d'au plus 25 000 \$.

Peine, per-
sonnes mora-
les

Regulations

4. The Lieutenant Governor in Council may make regulations,

4 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

(a) prescribing services, things, subsidies or other benefits funded, in whole or in part, directly or indirectly by the Province as provincially funded health resources; and

a) prescrire les services, choses, subsides ou autres avantages subventionnés, en tout ou en partie, directement ou indirectement par la province à titre de ressources en matière de santé subventionnées par la province;

(b) prescribing persons or classes of persons for the purposes of subsection 2 (3).

b) prescrire les personnes ou catégories de personnes pour l'application du paragraphe 2 (3).

Commence-
ment

5. This Act comes into force on the later of,

5 La présente loi entre en vigueur à celle des dates suivantes qui est postérieure à l'autre :

Entrée en
vigueur

(a) the 1st day of January, 1991; or

a) le 1^{er} janvier 1991;

(b) the day it receives Royal Assent.

b) le jour où elle reçoit la sanction royale.

Short title

6. The short title of this Act is the *Health Cards and Numbers Control Act, 1990*.

6 Le titre abrégé de la présente loi est *Loi de 1990 sur le contrôle des cartes Santé et des numéros de cartes Santé*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 24

*(Chapter 1
Statutes of Ontario, 1991)*

**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

The Hon. E. Gigantes
Minister of Health

1st Reading December 13th, 1990
2nd Reading March 20th, 1991
3rd Reading April 3rd, 1991
Royal Assent April 4th, 1991

Projet de loi 24

*(Chapitre 1
Lois de l'Ontario de 1991)*

**Loi contrôlant l'usage dans le secteur
privé des cartes et des numéros
attribués aux assurés en vertu de la Loi
sur l'assurance-santé**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 13 décembre 1990
2^e lecture 20 mars 1991
3^e lecture 3 avril 1991
sanction royale 4 avril 1991



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Privacy re:
health cards,
numbers

2.—(1) No person shall require the production of another person's health card or collect or use another person's health number.

Exceptions

(2) Despite subsection (1), a person may collect or use another person's health number for purposes related to the provision of provincially funded health resources to that other person. In addition, a person who provides a provincially funded health resource to a person who has a health card or health number,

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Secret concer-
nant les car-
tes Santé et
les numéros

(2) Malgré le paragraphe (1), une personne peut obtenir ou utiliser le numéro de la carte Santé d'une autre personne à des fins liées à la prestation à cette autre personne d'une ressource en matière de santé subventionnée par la province. En outre, la personne qui fournit une ressource en matière de santé subventionnée par la province à une personne qui a une carte Santé ou un numéro de carte Santé peut, selon le cas :

Exceptions

- a) demander la production de la carte Santé;
- b) obtenir ou utiliser le numéro de la carte Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

Exception,
prescribed
persons

(3) Despite subsection (1), a person prescribed by the regulations may collect or use health numbers for purposes related to health administration or planning or health research or epidemiological studies.

(3) Malgré le paragraphe (1), les personnes prescrites par les règlements peuvent obtenir ou utiliser des numéros de cartes Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

Exception
concernant
les personnes
prescrites

Exception,
professional
governing
bodies

(4) Despite subsection (1), the governing body of a health profession whose members provide provincially funded health resources may collect or use health numbers for purposes related to its duties or powers.

(4) Malgré le paragraphe (1), le corps professionnel dirigeant d'une profession de la santé dont les membres fournissent des ressources en matière de santé subventionnées par la province peut obtenir ou utiliser des numéros de cartes Santé à des fins liées à ses fonctions ou pouvoirs.

Exception
concernant
les corps pro-
fessionnels
dirigeants

Offence

3.—(1) Every person who contravenes subsection 2 (1) is guilty of an offence.

3 (1) Quiconque enfreint le paragraphe 2 (1) est coupable d'une infraction.

Infraction

Penalty,
individuals

(2) An individual who is convicted of an offence 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.

(2) Le particulier qui est reconnu coupable d'une infraction est passible d'une amende d'au plus 5 000 \$ et d'une peine d'emprisonnement d'au plus six mois, ou d'une seule de ces peines.

Peine,
particuliers

Penalty,
corporations

(3) A corporation that is convicted of an offence is liable to a fine of not more than \$25,000.

(3) La personne morale qui est reconnue coupable d'une infraction est passible d'une amende d'au plus 25 000 \$.

Peine, per-
sonnes mora-
les

Regulations

4. The Lieutenant Governor in Council may make regulations,

4 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

(a) prescribing services, things, subsidies or other benefits funded, in whole or in part, directly or indirectly by the Province as provincially funded health resources; and

a) prescrire les services, choses, subsides ou autres avantages subventionnés, en tout ou en partie, directement ou indirectement par la province à titre de ressources en matière de santé subventionnées par la province;

(b) prescribing persons or classes of persons for the purposes of subsection 2 (3).

b) prescrire les personnes ou catégories de personnes pour l'application du paragraphe 2 (3).

Commence-
ment

5. This Act comes into force on the later of,

5 La présente loi entre en vigueur à celle des dates suivantes qui est postérieure à l'autre :

Entrée en
vigueur

(a) the 1st day of January, 1991; or

a) le 1^{er} janvier 1991;

(b) the day it receives Royal Assent.

b) le jour où elle reçoit la sanction royale.

Short title

6. The short title of this Act is the *Health Cards and Numbers Control Act, 1991*.

6 Le titre abrégé de la présente loi est *Loi de 1991 sur le contrôle des cartes Santé et des numéros de cartes Santé*.

Titre abrégé

Bill 25

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The proposed section 49a would prohibit the subdivision of land by will unless the land could already be conveyed without contravening the subdivision control provisions of the Act.

**An Act to amend the
Planning Act, 1983 and the Land Titles Act**

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* is amended by adding the following section:

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990.

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1990*.

Tenants in common

Commencement

Short title

Division of land by will

Retroactive effect

Bill 25

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 13th, 1990
2nd Reading	June 10th, 1991
3rd Reading	
Royal Assent	

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

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EXPLANATORY NOTE

The proposed section 49a would prohibit the subdivision of land by will unless the land could already be conveyed without contravening the subdivision control provisions of the Act.

An Act to amend the Planning Act, 1983 and the Land Titles Act

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* is amended by adding the following section:

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

(4) Despite subsections (1), (2) and (3), the Minister may by order give effect to all or any part of a provision in a will purporting to subdivide land if the person who made the

will died before the day on which this section comes into force.

(5) No order shall be made by the Minister in respect of land situate in a local municipality unless the council of the local municipality has by by-law requested the Minister to make the order. Consent of local council

(6) A council may, as a condition to passing a by-law under subsection (5), impose conditions in respect of the land to which the by-law relates. Condition

(7) Subsections (4), (5) and (6) are repealed on the 26th day of July, 1992. Repeal

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990. Commencement

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1991*. Short title

Division of land by will

Retroactive effect

Tenants in common

Special case

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Bill 25

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 13th, 1990
2nd Reading	June 10th, 1991
3rd Reading	
Royal Assent	

(Reprinted as further amended by the Committee of the Whole House on June 20th, 1991)

EXPLANATORY NOTE

The proposed section 49a would prohibit the subdivision of land by will unless the land could already be conveyed without contravening the subdivision control provisions of the Act.

An Act to amend the Planning Act, 1983 and the Land Titles Act

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* is amended by adding the following section:

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

(4) Despite subsections (1), (2) and (3), the Minister may by order give effect to all or any part of a provision in a will purporting to subdivide land if the person who made the will died after the 26th day of July, 1990 and

before the *Planning Statute Law Amendment Act, 1991* received Royal Assent.

(5) No order shall be made by the Minister in respect of land situate in a local municipality unless the council of the local municipality has by by-law requested the Minister to make the order.

(6) A council may, as a condition to passing a by-law under subsection (5), impose conditions in respect of the land to which the by-law relates.

(7) Subsections (4), (5) and (6) are repealed on the 26th day of July, 1992.

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990.

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1991*.

Division of
land by will

Retroactive
effect

Tenants in
common

Special case

Consent of
local council

Condition

Repeal

Commence-
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Bill 25

*(Chapter 9
Statutes of Ontario, 1991)*

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 13th, 1990
2nd Reading	June 10th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

An Act to amend the Planning Act, 1983 and the Land Titles Act

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* is amended by adding the following section:

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

(4) Despite subsections (1), (2) and (3), the Minister may by order give effect to all or any part of a provision in a will purporting to subdivide land if the person who made the will died after the 26th day of July, 1990 and

before the *Planning Statute Law Amendment Act, 1991* received Royal Assent.

(5) No order shall be made by the Minister in respect of land situate in a local municipality unless the council of the local municipality has by by-law requested the Minister to make the order.

(6) A council may, as a condition to passing a by-law under subsection (5), impose conditions in respect of the land to which the by-law relates.

(7) Subsections (4), (5) and (6) are repealed on the 26th day of July, 1992.

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990.

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1991*.

Consent of local council

Condition

Repeal

Commencement

Short title

Division of land by will

Retroactive effect

Tenants in common

Special case

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Bill 26

An Act to require the Recycling of Lead Acid Batteries

Mrs. Sullivan

1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to require the recycling of lead acid batteries. Consumers and retailers would be prohibited from disposing of batteries except by delivery to a manufacturer, wholesaler, secondary lead smelter or designated recycling facility, or, in the case of consumers, to a retailer. Disposal by a manufacturer, wholesaler, secondary lead smelter or recycling facility would be prohibited if the disposal was done in such a manner that chemicals from the battery might be emitted into water or air.

Retailers would be required to accept from consumers who purchased batteries equivalent used batteries, and a similar requirement would apply in the case of wholesalers who sold to retailers. Retailers would be required to post notices indicating their obligation to accept used batteries from purchasers.

An Act to require the Recycling of Lead Acid Batteries

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

Definitions

1. In this Act,

“battery” means a device designed to furnish or store electrical current produced through chemical reactions involving acid and lead;

“consumer” means a person in possession of a battery other than a battery manufacturer, a battery wholesaler, a battery retailer, an owner or operator of a secondary lead smelter or an owner or operator of a battery collection facility;

“record” includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the record is on paper or is in electronic, photographic or other form.

Disposal by consumers

2.—(1) No consumer shall dispose of a battery except by delivery to a battery manufacturer, a battery retailer, a battery wholesaler, a secondary lead smelter or a battery collection facility designated by the Director.

Exception

(2) Subsection (1) does not prohibit the transfer of a battery from a consumer to another person that is made with the intention that that other person will use the battery.

Disposal by retailers

(3) No battery retailer shall dispose of a battery except by delivery to a battery manufacturer, a battery wholesaler, a secondary lead smelter or a collection facility designated by the Director.

Disposal by manufacturers and others

(4) No battery manufacturer, battery wholesaler, or owner or operator of a secondary lead smelter or battery collection facility shall dispose of a battery in such a manner that any chemicals from the battery may be emitted into the air or any waters.

Retailers required to post notice

3.—(1) Every battery retailer shall post in a conspicuous place in the retail premises a written notice measuring not less than eight and one-half inches by eleven inches that indicates that,

(a) consumers may not lawfully dispose of batteries except by delivery to a retailer;

(b) consumers should recycle their used batteries; and

(c) the retailer is required by law to accept from a consumer who purchases a battery a used battery of the same type.

(2) A retailer who sells a battery to a consumer shall accept any used battery delivered by the consumer that is of the same type as the battery that is sold, but nothing in this subsection requires the retailer to accept a greater number of batteries than are sold to the consumer.

Retailers required to accept used batteries

4. A battery wholesaler who sells a battery shall accept any used battery delivered by the purchaser that is of the same type as the battery that is sold, but nothing in this subsection requires the wholesaler,

Wholesalers required to accept used batteries

(a) to accept a greater number of batteries than are sold to the purchaser; or

(b) to accept delivery unless the purchaser provides ninety days notice of the delivery.

5.—(1) The Minister shall appoint a Director for the purpose of administering this Act.

Appointment of Director

(2) The Minister may appoint investigators for the purpose of determining whether this Act is being complied with.

Appointment of investigators

(3) The Minister shall issue a certificate of appointment bearing the Minister’s signature or a facsimile of it to every investigator.

Certificate of appointment

(4) An investigator who is exercising any powers or performing any duties under this Act shall produce his or her certificate of appointment upon request.

Production of certificate

6.—(1) An investigator shall carry out the duties assigned to him or her by the Director.

Duties of investigators

(2) An investigator may carry out an investigation under this Act whether or not the investigator has any reason to believe

Investigation may be carried out

that the person being investigated has contravened this Act.

Powers of investigators

(3) For the purpose of carrying out an investigation, an investigator may,

- (a) enter any place at any reasonable time;
- (b) require the production of any records or other things that may be relevant to the investigation; and
- (c) inspect any records or other things referred to in clause (b); or
- (d) inquire into any matters that may be relevant to the investigation.

Power to remove things

(4) Upon giving a receipt for them, an investigator may remove from a place any records or other things relevant to the investigation,

- (a) to make copies of or extracts from them;
- (b) to examine or test them; and
- (c) to hold them as evidence.

Return

(5) An investigator shall promptly return any records or other things removed under subsection (4) unless they are being held as evidence.

Expert assistance

(6) An investigator may call upon any expert he or she considers necessary to assist in carrying out an investigation.

Powers not to be exercised

(7) An investigator shall not, except under the authority of a warrant issued under section 7,

- (a) use force to exercise any of his or her powers under this section;
- (b) enter, or exercise any of his or her other powers under this section in, a place that is being used as a dwelling without the consent of the occupier.

Administrative warrant

7.—(1) With respect to a place that is not being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place and exercise any of his or her other powers under section 6 if satisfied by information upon oath that it is reasonably necessary for the investigator to do so in order to determine whether this Act is being complied with.

Warrant if contravention suspected

(2) With respect to any place, whether or not it is being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place, exercise any of his or her other powers under section 6 and search the place for any records or other things relevant to an investigation if satisfied by information upon oath that there are reasonable grounds to believe that a person in the place has contravened or is about to contravene this Act or that there are in the place

records or other things that will afford evidence of a contravention.

(3) An investigator acting under a warrant shall promptly return any records or other things removed from a place unless they are being held as evidence.

(4) A warrant shall specify the hours and days during which it may be executed and name a date on which it expires, which date shall not be later than thirty days after its issue.

(5) A warrant shall be executed between the hours of 7 a.m. and 9 p.m., unless it provides otherwise.

(6) A warrant authorizes the investigator,

- (a) to use whatever force is necessary to execute the warrant;
- (b) to call on police officers as necessary to assist in executing the warrant;
- (c) to call upon any expert he or she considers necessary to assist in executing the warrant; and
- (d) to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.

(7) A justice of the peace may extend the date on which a warrant expires for a period of no more than thirty days before or after the warrant expires upon motion by the person named in it.

8.—(1) Despite subsection 6 (7), an investigator may enter a place, whether or not it is being used as a dwelling, exercise any of his or her other powers under section 6 and search the place for any records or other things relevant to an investigation if the investigator believes on reasonable and probable grounds that there is sufficient evidence for the issue of a warrant but that evidence of a contravention of this Act could be destroyed, lost or removed before a warrant is obtained.

(2) Subsections 7 (3) and (6) apply with necessary modifications to an investigator acting under this section.

(3) An investigator who enters a place under this section and removes any records or other things shall appear before a justice of the peace as soon as practicable and shall produce all records removed and, if requested by the justice, any other things removed.

(4) A justice before whom an investigator appears under subsection (3) may by order detain any records or other things removed or direct them to be returned.

9. A copy of or extract from a record made as a result of an investigation is admis-

Return of things removed

Execution and expiry

Time of execution

Investigator authorized by warrant

Extension of time

Search without warrant if evidence could be lost

Idem

Appearance before justice

Idem

Admissibility of copies

sible in evidence as proof, in the absence of evidence to the contrary, of the original if it is certified as being a true copy of or extract from the original by the person who made it.

Obstruction

10.—(1) No person shall,

- (a) obstruct an investigator who is exercising a power or performing a duty under this Act;
- (b) withhold or refuse permission for an investigator to enter any place that is not being used as a dwelling;
- (c) withhold or refuse to provide any information required by an investigator for the purposes of an investigation; or
- (d) withhold, refuse to produce or destroy any record or other thing required by an investigator for the purposes of an investigation.

(2) A person who is required to produce a record for an investigator shall, on request, provide whatever assistance is reasonably necessary, including using any data storage,

Person to assist with records

processing or retrieval device or system to produce a record in readable form.

11. The Director may designate battery collection facilities for the purposes of section 2.

Director may authorize collection facilities

12. The Director may arrange for the printing and distribution to retailers of written notices that comply with the requirements of subsection 3 (1).

Director may print, distribute notices

13.—(1) Every person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500.

Offence

(2) If a person disposes of more than one battery in contravention of this Act, the disposal of each battery shall be considered a separate offence.

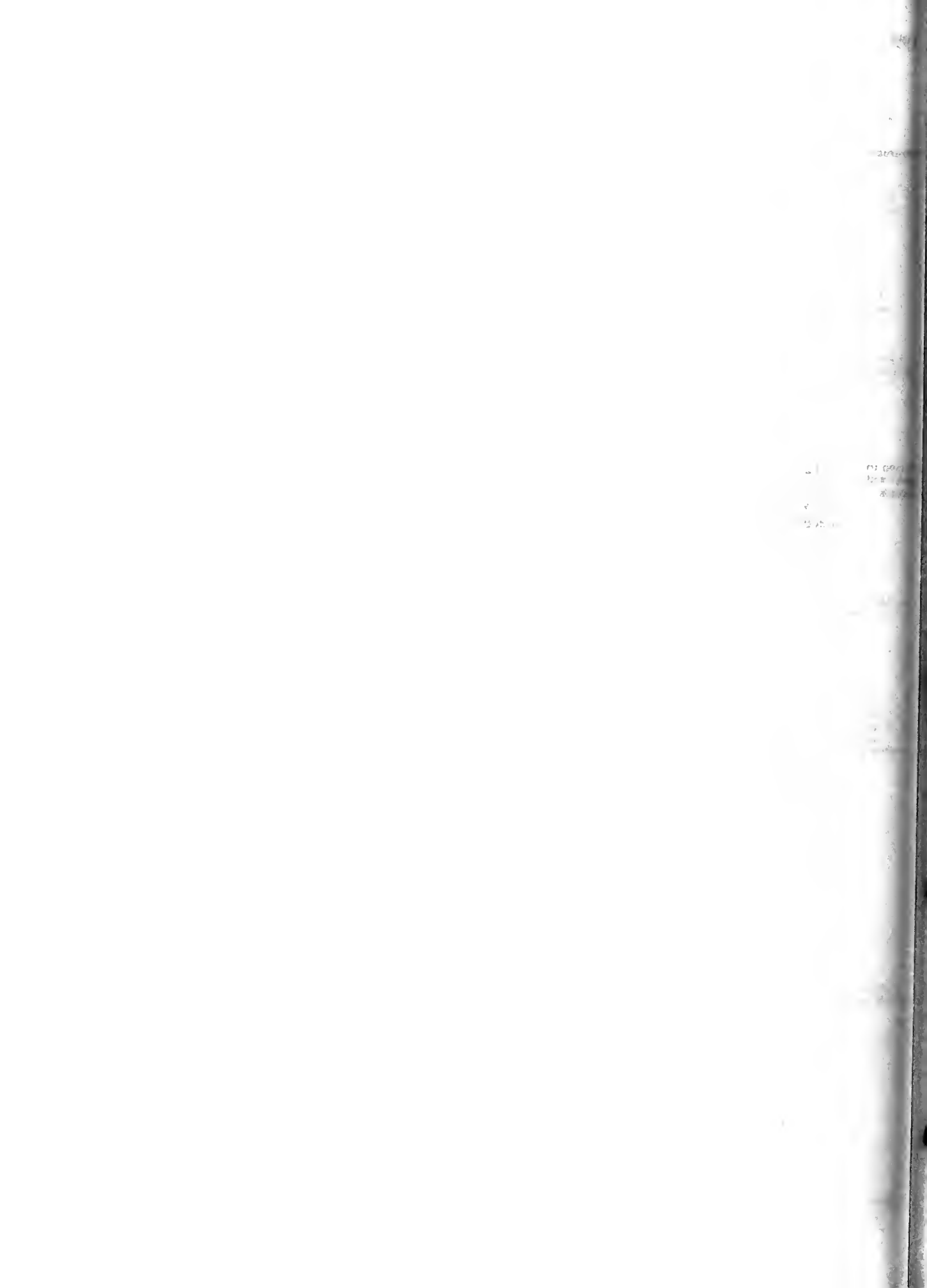
Idem

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

Commencement

15. The short title of this Act is the *Lead Acid Batteries Recycling Act, 1990*.

Short title



Bill 27

An Act to amend the Mental Health Act

Mr. Callahan

1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The proposed amendments to the *Mental Health Act* relate to section 35a of the Act. Under subsection 35a (4), the review board may make an order authorizing the giving of specified psychiatric treatment to a patient who is not mentally competent.

The new subsection 35a (10a) provides that an appeal to the District Court of an order made by the review board under subsection (4) shall be heard within thirty days after the appeal is perfected or within such longer period as is agreed to by the parties.

The new subsection 35a (11a) supplements subsection 35a (11). Subsection (11) provides that where a party appeals an order of the review board authorizing the providing of specified treatment, the treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to. Subsection (11a) provides that a judge may on motion make an interim order authorizing the providing of the treatment.

An Act to amend the Mental Health Act

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

1. Section 35a of the *Mental Health Act*, as enacted by the Statutes of Ontario, 1987, chapter 37, section 12, is amended by adding the following subsections:

(10a) An appeal of an order made under subsection (4) shall be heard within thirty days after the appeal is perfected or such longer period as is agreed to by the parties.

Date for
appeal

(11a) On an appeal referred to in subsection (11), a judge may on motion make an interim order authorizing the providing of the treatment or course of treatment specified in the order made under subsection (4) pending the outcome of the appeal.

Interim order

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

Commence-
ment

3. The short title of this Act is the *Mental Health Amendment Act, 1990*.

Short title

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 28

An Act respecting Class Proceedings

The Hon. H. Hampton
Attorney General

1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

Projet de loi 28

Loi concernant les recours collectifs

L'honorable H. Hampton
Procureur général

1^{re} lecture 17 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTES

The purpose of the Bill is to facilitate class proceedings in Ontario. The principal provisions of the Bill are as follows:

1. Class proceedings may be initiated in three ways. A member of a class of persons may commence a proceeding on behalf of the class. A person who commences such a proceeding must make a motion to the court to have the proceeding certified as a class proceeding and to be appointed representative plaintiff (section 2). A defendant to two or more proceedings may move to have the proceedings certified as a class proceeding and a representative plaintiff appointed (section 3). As well, a party to a proceeding against two or more defendants may move to have the proceeding certified as a class proceeding and a representative defendant appointed (section 4).
2. The court is given guidance as to when to certify a class proceeding (sections 5 and 6).
3. Class members may opt out of a class proceeding (section 9).
4. The court may make any appropriate order concerning the conduct of a class proceeding to ensure its fair and expeditious determination (section 12). The court may stay any proceeding related to a class proceeding (section 13).
5. Class members may be permitted by the court to participate in a class proceeding (section 14). Discovery of class members and examination of class members before a motion or application is permitted in certain circumstances (sections 15 and 16).
6. There is provision for notice to class members when a class proceeding is certified and when individual participation is required to determine individual issues (sections 17 and 18). The court may also order notice to class members at any time to protect the interests of class members or parties (section 19).
7. Statistical information may be admitted as evidence in a class proceeding in certain circumstances (section 23).
8. The court may determine the aggregate or any part of a defendant's liability to class members and give judgment accordingly (section 24).
9. The court may require the participation of class members in order to determine individual issues and may, for the purpose, select appropriate procedures (section 25).
10. The court has a wide discretion as to how awards made in a class proceeding are to be distributed (section 26).
11. The extent to which a judgment on common issues binds class members is addressed (section 27). The question of limitation periods is also addressed (section 28).
12. Discontinuance, abandonment and settlement of a class proceeding require the approval of the court (section 29).
13. There is provision for appeals of orders made in a class proceeding (section 30).

NOTES EXPLICATIVES

Le projet de loi a pour but de faciliter les recours collectifs en Ontario. En voici les principales dispositions :

1. Les recours collectifs peuvent être introduits de trois façons différentes. Tout membre d'un groupe de personnes peut introduire une instance au nom du groupe et, à cette fin, doit demander au tribunal, par voie de motion, de certifier que l'instance constitue un recours collectif et de le nommer représentant des demandeurs (article 2). Le défendeur dans plusieurs instances peut également demander, par voie de motion, que l'instance soit certifiée comme recours collectif et qu'un représentant des demandeurs soit nommé (article 3). Une partie à une instance introduite contre plusieurs défendeurs peut encore demander, par voie de motion, que l'instance soit certifiée comme recours collectif et qu'un représentant des défendeurs soit nommé (article 4).
2. Le projet de loi présente au tribunal des lignes directrices lui permettant de décider dans quelles circonstances certifier un recours collectif (articles 5 et 6).
3. Les membres du groupe peuvent se retirer d'un recours collectif (article 9).
4. Le tribunal peut, afin de parvenir à un règlement juste et expéditif, rendre les ordonnances appropriées concernant le déroulement du recours collectif (article 12). Il peut surseoir à une instance liée au recours collectif (article 13).
5. Le tribunal peut permettre aux membres du groupe de participer à un recours collectif (article 14). L'enquête préalable et l'interrogatoire de membres du groupe avant l'audition d'une motion ou d'une requête sont permis dans certaines circonstances (articles 15 et 16).
6. Le projet de loi prévoit qu'un avis est donné aux membres du groupe lorsque le recours collectif est certifié et que la participation, à titre individuel, des membres est nécessaire pour décider les questions individuelles (articles 17 et 18). Le tribunal peut aussi ordonner, en tout temps, qu'un avis soit donné aux membres du groupe afin de protéger leurs intérêts ou ceux des parties (article 19).
7. Dans certaines circonstances, les données statistiques peuvent être admises en preuve dans un recours collectif (article 23).
8. Le tribunal peut établir la totalité ou une partie de la responsabilité du défendeur envers les membres du groupe et rendre un jugement en conséquence (article 24).
9. Le tribunal peut demander la participation des membres du groupe afin de décider les questions individuelles et, à cette fin, peut choisir la procédure appropriée (article 25).
10. Le tribunal est investi d'un pouvoir discrétionnaire étendu pour décider de la façon dont les montants adjugés lors d'un recours collectif seront distribués (article 26).
11. Le projet de loi traite de la mesure dans laquelle les jugements rendus sur les questions communes lient les membres du groupe (article 27). Il traite également des délais de prescription (article 28).
12. Le désistement d'un recours collectif et la transaction obtenue dans le cadre de ce dernier doivent être approuvés par le tribunal (article 29).
13. Le projet de loi prévoit la possibilité d'interjeter appel des ordonnances rendues dans les recours collectifs (article 30).

14. An agreement respecting fees and disbursements between a solicitor and a representative party is not enforceable unless approved by the court (section 32). A solicitor may enter into an agreement with a representative party for payment of fees and disbursements only in the event of success in a class proceeding (section 33).

14. L'entente conclue entre un procureur et un représentant en matière d'honoraires et de débours n'est opposable qu'avec l'approbation du tribunal (article 32). Un procureur et un représentant peuvent conclure une entente qui ne prévoit le paiement des honoraires et des débours qu'en cas d'issue favorable du recours collectif (article 33).



An Act respecting Class Proceedings

Loi concernant les recours collectifs

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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:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

Definitions

1. In this Act,

“common issues” means,

- (a) common but not necessarily identical issues of fact, or
- (b) common but not necessarily identical issues of law that arise from common but not necessarily identical facts; (“questions communes”)

“court” means the Ontario Court (General Division) but does not include the Small Claims Court; (“tribunal”)

“defendant” includes a respondent; (“défendeur”)

“plaintiff” includes an applicant. (“demandeur”)

Plaintiff's class proceeding

2.—(1) One or more members of a class of persons may commence a proceeding in the court on behalf of the members of the class.

Motion for certification

(2) A person who commences a proceeding under subsection (1) shall make a motion to a judge of the court for an order certifying the proceeding as a class proceeding and appointing the person representative plaintiff.

Idem

(3) A motion under subsection (2) shall be made,

- (a) within ninety days after the later of,
 - (i) the date on which the last statement of defence, notice of intent to defend or notice of appearance is delivered, and
 - (ii) the date on which the time prescribed by the rules of court for delivery of the last statement of defence, notice of intent to defend or a notice of appearance expires without its being delivered; or
- (b) subsequently, with leave of the court.

Defendant's class proceeding

3. A defendant to two or more proceedings may, at any stage of one of the proceedings, make a motion to a judge of the court for an order certifying the proceedings as a class proceeding and appointing a representative plaintiff.

Classing defendants

4. Any party to a proceeding against two or more defendants may, at any stage of the proceeding, make a motion to a judge of the**1** Les définitions qui suivent s'appliquent à la présente loi. Définitions

«défendeur» S'entend en outre d'un intimé. («defendant»)

«demandeur» S'entend en outre d'un requérant. («plaintiff»)

«questions communes» S'entend, selon le cas :

- a) de questions de fait communes, mais pas nécessairement identiques,
- b) de questions de droit communes, mais pas nécessairement identiques, qui découlent de faits communs, mais pas nécessairement identiques. («common issues»)

«tribunal» La Cour de l'Ontario (Division générale), à l'exclusion de la Cour des petites créances. («court»)

2 (1) Une instance peut être introduite devant le tribunal au nom des membres d'un groupe de personnes par un ou plusieurs membres du groupe.

Recours collectif du demandeur

(2) La personne qui introduit une instance en vertu du paragraphe (1) demande à un juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que l'instance est un recours collectif et nommant la personne représentant des demandeurs.

Motion en vue de faire certifier le recours collectif

(3) La motion visée au paragraphe (2) est présentée, selon le cas :

Idem

a) dans les quatre-vingt-dix jours après celle des deux dates suivantes qui est postérieure à l'autre :

- (i) la date à laquelle la dernière défense, le dernier avis d'intention de présenter une défense ou le dernier avis de comparution a été remis,
- (ii) la date à laquelle expire le délai prescrit par les règles de pratique pour la remise de la dernière défense, du dernier avis d'intention de présenter une défense ou du dernier avis de comparution sans que celui-ci n'ait été remis;

b) par la suite, avec l'autorisation du tribunal.

3 Le défendeur dans plusieurs instances peut, en tout temps au cours de l'une des instances, demander à un juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que les instances sont un recours collectif et nommant un représentant des demandeurs.

Le défendeur fait certifier le recours collectif

4 Toute partie à une instance introduite contre plusieurs défendeurs peut, en tout temps au cours de l'instance, demander à un

Groupe de défendeurs

court for an order certifying the proceeding as a class proceeding and appointing a representative defendant.

Certification

5.—(1) The court shall certify a class proceeding on a motion under section 2, 3 or 4 if,

- (a) the pleadings or the notice of application discloses a cause of action;
- (b) there is an identifiable class of two or more persons that would be represented by the representative plaintiff or defendant;
- (c) the claims or defences of the class members raise common issues;
- (d) a class proceeding would be the preferable procedure for the resolution of the common issues; and
- (e) there is a representative plaintiff or defendant who,
 - (i) would fairly and adequately represent the interests of the class,
 - (ii) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
 - (iii) does not have, on the common issues for the class, an interest in conflict with the interests of other class members.

(2) Despite subsection (1), where a class includes a subclass whose members have claims or defences that raise common issues not shared by all the class members, so that, in the opinion of the court, the protection of the interests of the subclass members requires that they be separately represented, the court shall not certify the class proceeding unless there is a representative plaintiff or defendant who,

- (a) would fairly and adequately represent the interests of the subclass;
- (b) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the subclass and of notifying subclass members of the proceeding; and
- (c) does not have, on the common issues for the subclass, an interest in conflict with the interests of other subclass members.

Idem, subclass protection

juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que l'instance est un recours collectif et nommant un représentant des défendeurs.

5 (1) Le tribunal saisi d'une motion visée à l'article 2, 3 ou 4 certifie qu'il s'agit d'un recours collectif si les conditions suivantes sont réunies :

Recours collectif certifié par le tribunal

- a) les actes de procédure ou l'avis de requête révèlent une cause d'action;
- b) il existe un groupe identifiable de deux personnes ou plus qui se ferait représenter par le représentant des demandeurs ou des défendeurs;
- c) les demandes ou les défenses des membres du groupe soulèvent des questions communes;
- d) le recours collectif est le meilleur moyen de régler les questions communes;
- e) il y a un représentant des demandeurs ou des défendeurs qui :
 - (i) représenterait de façon équitable et approprié les intérêts du groupe,
 - (ii) a préparé un plan pour l'instance qui propose une méthode efficace de faire avancer l'instance au nom du groupe et d'aviser les membres du groupe de l'instance,
 - (iii) n'a pas de conflit d'intérêts avec d'autres membres du groupe, en ce qui concerne les questions communes du groupe.

(2) Malgré le paragraphe (1), s'il existe au sein d'un groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe de sorte que, de l'avis du tribunal, la protection des intérêts des membres du sous-groupe demande qu'ils aient un représentant distinct, le tribunal ne doit pas certifier qu'il s'agit d'un recours collectif, à moins qu'il n'y ait un représentant des demandeurs ou des défendeurs qui :

Idem, protection du sous-groupe

- a) représenterait de façon équitable et appropriée les intérêts du sous-groupe;
- b) a préparé un plan pour l'instance qui propose une méthode efficace de faire avancer l'instance au nom du sous-groupe et d'aviser les membres du sous-groupe de l'instance;
- c) n'a pas de conflit d'intérêts avec d'autres membres du sous-groupe, en ce qui concerne les questions communes du sous-groupe.

Evidence as to size of class

(3) Each party to a motion for certification shall, in an affidavit filed for use on the motion, provide the party's best information on the number of members in the class.

(3) Chaque partie à la motion en vue de faire certifier le recours collectif fournit, au moyen d'un affidavit déposé à l'appui de la motion, les renseignements les plus exacts possibles sur le nombre de membres du groupe.

Importance du groupe

Adjournments

(4) The court may adjourn the motion for certification to permit the parties to amend their materials or pleadings or to permit further evidence.

(4) Le tribunal peut ajourner la motion en vue de faire certifier le recours collectif afin de permettre aux parties de modifier leurs documents ou leurs actes de procédure ou d'autoriser la présentation d'éléments de preuve supplémentaires.

Ajournement

Certification not a ruling on merits

(5) An order certifying a class proceeding is not a determination of the merits of the proceeding.

(5) L'ordonnance certifiant qu'il s'agit d'un recours collectif ne constitue pas une décision sur le fond de l'instance.

Ordonnance ne constituant pas une décision sur le fond

Certain matters not bar to certification

6. The court shall not refuse to certify a proceeding as a class proceeding solely on any of the following grounds:

6 Le tribunal ne doit pas refuser de certifier qu'une instance est un recours collectif en se fondant uniquement sur l'un des motifs suivants :

Questions n'empêchant pas de faire certifier le recours collectif

1. The relief claimed includes a claim for damages that would require individual assessment after determination of the common issues.
2. The relief claimed relates to separate contracts involving different class members.
3. Different remedies are sought for different class members.
4. The number of class members or the identity of each class member is not known.
5. The class includes a subclass whose members have claims or defences that raise common issues not shared by all class members.

1. Les mesures de redressement demandées comprennent une demande de dommages-intérêts qui exigerait, une fois les questions communes décidées, une évaluation individuelle.
2. Les mesures de redressement demandées portent sur des contrats distincts concernant différents membres du groupe.
3. Des mesures correctives différentes sont demandées pour différents membres du groupe.
4. Le nombre de membres du groupe ou l'identité de chaque membre est inconnu.
5. Il existe au sein du groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe.

Refusal to certify: proceeding may continue in altered form

7. Where the court refuses to certify a proceeding as a class proceeding, the court may permit the proceeding to continue as one or more proceedings between different parties and, for the purpose, the court may,

7 S'il refuse de certifier qu'une instance est un recours collectif, le tribunal peut autoriser la continuation de l'instance sous forme d'une ou de plusieurs instances entre différentes parties et, à cette fin, le tribunal peut :

Continuation de l'instance sous une autre forme après refus de certifier

- (a) order the addition, deletion or substitution of parties;
- (b) order the amendment of the pleadings or notice of application; and
- (c) make any further order that it considers appropriate.

- a) ordonner la jonction, la radiation ou la substitution des parties;
- b) ordonner la modification des actes de procédure ou de l'avis de requête;
- c) rendre toute autre ordonnance qu'il estime appropriée.

Contents of certification order

8.—(1) An order certifying a proceeding as a class proceeding shall,

8 (1) L'ordonnance certifiant que l'instance est un recours collectif :

Contenu de l'ordonnance

- (a) describe the class;
- (b) state the names of the representative parties;

- a) décrit le groupe;
- b) indique le nom des représentants;

- (c) state the nature of the claims or defences asserted on behalf of the class;
- (d) state the relief sought by or from the class;
- (e) set out the common issues for the class; and
- (f) specify the manner in which class members may opt out of the class proceeding and a date after which class members may not opt out.

- c) indique la nature des demandes ou des défenses présentées au nom du groupe;
- d) indique les mesures de redressement demandées par le groupe ou au groupe;
- e) énonce les questions communes du groupe;
- f) précise la façon dont les membres du groupe peuvent se retirer du recours collectif et la date limite pour ce faire.

Subclass protection

(2) Where a class includes a subclass whose members have claims or defences that raise common issues not shared by all the class members, so that, in the opinion of the court, the protection of the interests of the subclass members requires that they be separately represented, subsection (1) applies with necessary modifications in respect of the subclass.

(2) S'il existe au sein d'un groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe de sorte que, de l'avis du tribunal, la protection des intérêts des membres du sous-groupe demande qu'ils aient un représentant distinct, le paragraphe (1) s'applique, avec les adaptations nécessaires, au sous-groupe.

Protection du sous-groupe

Amendment of certification order

(3) The court, on the motion of a party or class member, may amend an order certifying a proceeding as a class proceeding.

(3) Le tribunal peut, sur motion présentée par une partie ou un membre du groupe, modifier l'ordonnance certifiant qu'une instance est un recours collectif.

Modification de l'ordonnance

Opting out

9. Any member of a class involved in a class proceeding may opt out of the proceeding in the manner and within the time specified in the certification order.

9 Tout membre d'un groupe qui exerce un recours collectif peut s'en retirer de la façon et dans le délai précisés dans l'ordonnance certifiant le recours collectif.

Décision de se retirer

Where it appears conditions for certification not satisfied

10.—(1) On the motion of a party or class member, where it appears to the court that the conditions mentioned in subsections 5 (1) and (2) are not satisfied with respect to a class proceeding, the court may amend the certification order, may decertify the proceeding or may make any other order it considers appropriate.

10 (1) S'il semble au tribunal saisi d'une motion d'une partie ou d'un membre du groupe que les conditions relatives au recours collectif qui sont mentionnées aux paragraphes 5 (1) et (2) n'ont pas été respectées, le tribunal peut modifier ou annuler l'ordonnance certifiant le recours collectif, ou rendre toute autre ordonnance qu'il estime appropriée.

Inobservation des conditions

Proceeding may continue in altered form

(2) Where the court makes a decertification order under subsection (1), the court may permit the proceeding to continue as one or more proceedings between different parties.

(2) S'il rend une ordonnance d'annulation de l'ordonnance certifiant le recours collectif en vertu du paragraphe (1), le tribunal peut autoriser la continuation de l'instance sous forme d'une ou de plusieurs instances entre différentes parties.

Continuation de l'instance sous une autre forme

Powers of court

(3) For the purposes of subsections (1) and (2), the court has the powers set out in clauses 7 (a) to (c).

(3) Pour l'application des paragraphes (1) et (2), le tribunal est investi des pouvoirs énoncés aux alinéas 7 a) à c).

Pouvoirs du tribunal

Stages of class proceedings

11.—(1) Subject to section 12, in a class proceeding,

- (a) common issues for a class shall be determined together;
- (b) common issues for a subclass shall be determined together; and
- (c) individual issues that require the participation of individual class members shall be determined individually in accordance with sections 24 and 25.

11 (1) Sous réserve de l'article 12, dans un recours collectif :

- a) les questions communes du groupe sont décidées ensemble;
- b) les questions communes du sous-groupe sont décidées ensemble;
- c) les questions individuelles nécessitant la participation, à titre individuel, de membres du groupe sont décidées individuellement, conformément aux articles 24 et 25.

Organisation du recours collectif

Separate judgments

(2) The court may give judgment in respect of the common issues and separate judgments in respect of any other issue.

(2) Le tribunal peut rendre un jugement sur les questions communes et des jugements distincts sur les autres questions en litige.

Jugements distincts

Court may determine conduct of proceeding

12. The court, on the motion of a party or class member, may make any order it considers appropriate respecting the conduct of a class proceeding to ensure its fair and expeditious determination and, for the purpose, may impose such terms on the parties as it considers appropriate.

12 Le tribunal saisi d'une motion d'une partie ou d'un membre du groupe peut, afin de parvenir à un règlement juste et expéditif du recours collectif, rendre une ordonnance qu'il estime appropriée concernant le déroulement de celui-ci et imposer aux parties des conditions qu'il estime appropriées.

Ordonnance relative au déroulement de l'instance

Court may stay any other proceeding

13. The court, on its own initiative or on the motion of a party or class member, may stay any proceeding related to the class proceeding before it, on such terms as it considers appropriate.

13 Le tribunal peut, de sa propre initiative ou sur motion d'une partie ou d'un membre du groupe, surseoir à une instance liée au recours collectif en cours à des conditions qu'il estime appropriées.

Sursis des autres instances

Participation of class members

14.—(1) In order to ensure the fair and adequate representation of the interests of the class or any subclass or for any other appropriate reason, the court may, at any time in a class proceeding, permit one or more class members to participate in the proceeding.

14 (1) Afin de s'assurer que les intérêts du groupe ou d'un sous-groupe sont représentés de façon juste et appropriée ou pour toute autre raison valable, le tribunal peut, en tout temps au cours de l'instance, permettre à un ou plusieurs membres du groupe de participer à l'instance.

Participation des membres du groupe

Idem

(2) Participation under subsection (1) shall be in whatever manner and on whatever terms, including terms as to costs, the court considers appropriate.

(2) La participation prévue au paragraphe (1) est conforme à la façon et aux conditions, notamment en matière de dépens, que le tribunal estime appropriées.

Idem

Discovery of parties

15.—(1) Parties to a class proceeding have the same rights of discovery under the rules of court against one another as they would have in any other proceeding.

15 (1) Les parties à un recours collectif ont les mêmes droits à l'enquête préalable qui sont prévus par les règles de pratique que si elles étaient parties à une autre instance.

Enquête préalable

Discovery of class members with leave

(2) After discovery of the representative party, a party may move for discovery under the rules of court against other class members.

(2) Après avoir interrogé au préalable le représentant, une partie peut demander, par voie de motion, de procéder à l'interrogatoire préalable d'autres membres du groupe aux termes des règles de pratique.

Interrogatoire préalable avec autorisation

Idem

(3) In deciding whether to grant leave to discover other class members, the court shall consider,

(3) Afin de décider s'il accordera ou non l'autorisation d'interroger au préalable d'autres membres du groupe, le tribunal tient compte des points suivants :

Idem

- (a) the stage of the class proceeding and the issues to be determined at that stage;
- (b) the presence of subclasses;
- (c) whether the discovery is necessary in view of the claims or defences of the party seeking leave;
- (d) the approximate monetary value of individual claims, if any;
- (e) whether discovery would result in oppression or in undue annoyance, burden or expense for the class members sought to be discovered; and

- a) l'étape du recours collectif et les questions en litige à décider à cette étape;
- b) l'existence de sous-groupes;
- c) la nécessité de l'interrogatoire préalable, compte tenu des demandes ou des défenses de la partie qui demande l'autorisation;
- d) la valeur pécuniaire approximative des demandes individuelles, le cas échéant;
- e) la question de savoir si l'interrogatoire préalable pourrait entraîner, pour les membres du groupe qu'une partie cherche à interroger, des conséquences telles que l'oppression ou des désagréments, un fardeau ou des dépenses injustifiées;

(f) any other matter the court considers relevant.

Idem

(4) A class member is subject to the same sanctions under the rules of court as a party for failure to submit to discovery.

Examination of class members before a motion or application

16.—(1) A party shall not require a class member other than a representative party to be examined as a witness before the hearing of a motion or application, except with leave of the court.

Idem

(2) Subsection 15 (3) applies with necessary modifications to a decision whether to grant leave under subsection (1).

Notice of certification

17.—(1) Notice of certification of a class proceeding shall be given by the representative party to the class members in accordance with this section.

Court may dispense with notice

(2) The court may dispense with notice if, having regard to the factors set out in subsection (3), the court considers it appropriate to do so.

Order respecting notice

(3) The court shall make an order setting out when and by what means notice shall be given under this section and in so doing shall have regard to,

- (a) the cost of giving notice;
- (b) the nature of the relief sought;
- (c) the size of the individual claims of the class members;
- (d) the number of class members;
- (e) the places of residence of class members; and
- (f) any other relevant matter.

Idem

(4) The court may order that notice be given,

- (a) personally or by mail;
- (b) by posting, advertising, publishing or leafleting;
- (c) by individual notice to a sample group within the class; or
- (d) by any means or combination of means that the court considers appropriate.

Idem

(5) The court may order that notice be given to different class members by different means.

Contents of notice

(6) Notice under this section shall, unless the court orders otherwise,

f) toute autre question que le tribunal estime pertinente.

Idem

(4) Les membres du groupe sont passibles des sanctions prévues par les règles de pratique pour les parties qui ne se soumettent pas à l'interrogatoire préalable.

Interrogatoire précédant l'audition de la motion ou de la requête

16 (1) Les parties ne peuvent pas exiger qu'un membre du groupe, à l'exception du représentant, soit interrogé comme témoin avant l'audition d'une motion ou d'une requête, sauf avec l'autorisation du tribunal.

Idem

(2) Le paragraphe 15 (3) s'applique, avec les adaptations nécessaires, à la décision d'accorder ou non l'autorisation visée au paragraphe (1).

Avis annonçant que le recours collectif est certifié

17 (1) Le représentant donne aux membres du groupe un avis les informant que le recours collectif est certifié, conformément au présent article.

Dispense du tribunal

(2) Le tribunal peut dispenser le représentant de l'obligation de donner l'avis s'il estime que cela s'impose, compte tenu des points énumérés au paragraphe (3).

Ordonnance relative à l'avis

(3) Le tribunal indique, par ordonnance, quand et selon quels modes l'avis visé au présent article est donné et, ce faisant, il tient compte des points suivants :

- a) le coût de l'avis;
- b) la nature des mesures de redressement demandées;
- c) l'importance des demandes individuelles des membres du groupe;
- d) le nombre de membres du groupe;
- e) le lieu de résidence des membres du groupe;
- f) toute autre question pertinente.

Idem

(4) Le tribunal peut ordonner que l'avis soit donné :

- a) à personne ou par la poste;
- b) par voie d'affichage ou de publication, par annonce publicitaire ou par prospectus;
- c) sous forme d'avis personnel donné à un échantillon représentatif du groupe;
- d) selon un ou plusieurs modes que le tribunal estime appropriés.

Idem

(5) Le tribunal peut ordonner que l'avis soit donné à différents membres du groupe selon différents modes.

Contenu de l'avis

(6) Sauf ordonnance contraire du tribunal, l'avis visé au présent article doit :

- | | |
|---|--|
| <ul style="list-style-type: none"> (a) describe the proceeding, including the names and addresses of the representative parties and the relief sought; (b) state the manner by which and time within which class members may opt out of the proceeding; (c) describe the possible financial consequences of the proceeding to class members; (d) summarize any agreements between representative parties and their solicitors respecting fees and disbursements; (e) describe any counterclaim being asserted by or against the class, including the relief sought in the counterclaim; (f) state that the judgment, whether favourable or not, will bind all class members who do not opt out of the proceeding; (g) describe the right of any class member to participate in the proceeding; (h) give an address to which class members may direct inquiries about the proceeding; and (i) give any other information the court considers appropriate. | <ul style="list-style-type: none"> a) décrire l'instance, notamment indiquer les nom et adresse des représentants et les mesures de redressement demandées; b) indiquer la façon dont les membres du groupe peuvent se retirer de l'instance et la date limite pour ce faire; c) décrire les conséquences financières possibles de l'instance pour les membres du groupe; d) décrire brièvement les ententes relatives aux honoraires et aux débours qui ont été conclues par les représentants et leurs procureurs; e) décrire les demandes reconventionnelles présentées par le groupe ou contre le groupe, y compris les mesures de redressement qui y sont demandées; f) préciser que le jugement, qu'il soit favorable ou défavorable, liera tous les membres du groupe qui ne se retirent pas de l'instance; g) préciser le droit qu'a chaque membre du groupe de participer à l'instance; h) donner une adresse à laquelle les membres du groupe peuvent envoyer toute question relative à l'instance; i) donner tous les autres renseignements que le tribunal estime appropriés. |
|---|--|

Solicitations of contributions

(7) With leave of the court, notice under this section may include a solicitation of contributions from class members to assist in paying solicitor's fees and disbursements.

(7) Avec l'autorisation du tribunal, l'avis visé au présent article peut comprendre une demande de contribution adressée aux membres du groupe en vue du paiement des honoraires et des débours du procureur.

Demande de contribution

Notice where individual participation is required

18.—(1) When the court determines common issues in favour of a class and considers that the participation of individual class members is required to determine individual issues, the representative party shall give notice to those members in accordance with this section.

18 (1) Lorsque le tribunal décide les questions communes en faveur du groupe et estime que la participation, à titre individuel, de membres du groupe est nécessaire pour décider les questions individuelles, le représentant en donne avis aux membres concernés conformément au présent article.

Avis relatif à la participation de membres à titre individuel

Idem

(2) Subsections 17 (3) to (5) apply with necessary modifications to notice given under this section.

(2) Les paragraphes 17 (3) à (5) s'appliquent, avec les adaptations nécessaires, à l'avis donné aux termes du présent article.

Idem

Contents of notice

- (3) Notice under this section shall,
 - (a) state that common issues have been determined in favour of the class;
 - (b) state that class members may be entitled to individual relief;
 - (c) describe the steps to be taken to establish an individual claim;
 - (d) state that failure on the part of a class member to take those steps will result in the member not being entitled to

- (3) L'avis visé au présent article doit :
 - a) préciser que les questions communes ont été décidées en faveur du groupe;
 - b) indiquer que les membres du groupe peuvent avoir droit à des mesures de redressement individuelles;
 - c) décrire les mesures à prendre pour faire valoir des demandes individuelles;
 - d) indiquer que faute de prendre ces mesures, les membres du groupe perdent le droit de présenter des deman-

Contenu de l'avis

assert an individual claim except with leave of the court;

- (e) give an address to which class members may direct inquiries about the proceeding; and
- (f) give any other information that the court considers appropriate.

19.—(1) At any time in a class proceeding, the court may order any party to give such notice as it considers necessary to protect the interests of any class member or party or to ensure the fair conduct of the proceeding.

(2) Subsections 17 (3) to (5) apply with necessary modifications to notice given under this section.

20. A notice under section 17, 18 or 19 shall be approved by the court before it is given.

21. The court may order a party to deliver, by whatever means are available to the party, the notice required to be given by another party under section 17, 18 or 19, where that is more practical.

22.—(1) The court may make any order it considers appropriate as to the costs of any notice under section 17, 18 or 19, including an order apportioning costs among parties.

(2) In making an order under subsection (1), the court may have regard to the different interests of a subclass.

23.—(1) For the purposes of determining issues relating to the amount or distribution of a monetary award under this Act, the court may admit as evidence statistical information that would not otherwise be admissible as evidence, including information derived from sampling, if the information was compiled in accordance with principles that are generally accepted by experts in the field of statistics.

(2) A record of statistical information purporting to be prepared or published under the authority of the Parliament of Canada or the legislature of any province or territory of Canada may be admitted as evidence without proof of its authenticity.

(3) Statistical information shall not be admitted as evidence under this section unless the party seeking to introduce the information has,

- (a) given reasonable notice of it to the party against whom it is to be used, together with a copy of the information;

des individuelles, sauf avec l'autorisation du tribunal;

- e) donner une adresse à laquelle les membres du groupe peuvent envoyer toute question relative à l'instance;
- f) donner tous les autres renseignements que le tribunal estime appropriés.

19 (1) Le tribunal peut, en tout temps au cours de l'instance, ordonner à une partie de donner l'avis qu'il estime nécessaire à la protection des intérêts d'un membre du groupe ou d'une partie et à la conduite équitable de l'instance.

(2) Les paragraphes 17 (3) à (5) s'appliquent, avec les adaptations nécessaires, à l'avis donné aux termes du présent article.

20 L'avis visé à l'article 17, 18 ou 19 doit être approuvé par le tribunal avant d'être donné.

21 Le tribunal peut, pour des raisons de commodité, ordonner à une partie de remettre, par tout moyen dont elle dispose, l'avis qui doit être donné par une autre partie aux termes de l'article 17, 18 ou 19.

22 (1) Le tribunal peut rendre l'ordonnance relative au coût des avis visés à l'article 17, 18 ou 19 qu'il estime appropriée, y compris une ordonnance répartissant le coût entre les parties.

(2) Le tribunal qui rend une ordonnance en vertu du paragraphe (1) peut tenir compte des intérêts différents d'un sous-groupe.

23 (1) Afin de décider les questions en litige qui ont trait à la valeur ou à la distribution d'un montant adjugé aux termes de la présente loi, le tribunal peut admettre en preuve des données statistiques qui ne seraient pas admissibles en preuve autrement, obtenues notamment par échantillonnage, si les statistiques ont été établies conformément aux principes généralement reconnus par les statisticiens.

(2) Tout document qui montre des données statistiques qui se présentent comme étant élaborées ou publiées en vertu de l'autorité du Parlement du Canada ou de la législature d'une province ou d'un territoire du Canada peut être admis en preuve sans attestation de son authenticité.

(3) Les données statistiques ne sont admises en preuve en vertu du présent article que si la partie qui cherche à les produire :

- a) en a donné un avis raisonnable à la partie contre laquelle elle entend les utiliser, ainsi qu'une copie des données;

Notice to protect interests of affected persons

Idem

Approval of notice by the court

Delivery of notice

Costs of notice

Idem

Statistical evidence

Idem

Notice

Avis relatif à la protection des personnes concernées

Idem

Approbation de l'avis par le tribunal

Remise de l'avis

Coût de l'avis

Idem

Données statistiques

Idem

Avis

Contents of notice	<p>(b) complied with subsections (4) and (5); and</p> <p>(c) complied with any requirement to produce documents under subsection (7).</p>	<p>b) s'est conformée aux paragraphes (4) et (5);</p> <p>c) s'est conformée à l'obligation de produire des documents prévue au paragraphe (7).</p>	Contenu de l'avis
Idem	<p>(4) Notice under this section shall specify the source of any statistical information sought to be introduced that,</p> <p>(a) was prepared or published under the authority of the Parliament of Canada or the legislature of any province or territory of Canada;</p> <p>(b) was derived from market quotations, tabulations, lists, directories or other compilations generally used and relied on by members of the public; or</p> <p>(c) was derived from reference material generally used and relied on by members of an occupational group.</p>	<p>(4) L'avis visé au présent article précise la source des données statistiques qu'une partie cherche à produire et qui :</p> <p>a) ont été élaborées ou publiées en vertu de l'autorité du Parlement du Canada ou de la législature d'une province ou d'un territoire du Canada;</p> <p>b) proviennent de cours du marché, de tableaux, de listes, de répertoires ou d'autres recueils que consulte couramment le grand public et qu'il considère comme fiables;</p> <p>c) proviennent de documents de référence que consultent couramment les membres d'un groupe professionnel et qu'ils considèrent comme fiables.</p>	Idem
Cross-examination	<p>(5) Except with respect to information referred to in subsection (4), notice under this section shall,</p> <p>(a) specify the name and qualifications of each person who supervised the preparation of statistical information sought to be introduced; and</p> <p>(b) describe any documents prepared or used in the course of preparing the statistical information sought to be introduced.</p>	<p>(5) Sauf pour les données mentionnées au paragraphe (4), l'avis visé au présent article contient les renseignements suivants :</p> <p>a) les nom et qualités de chaque personne qui a surveillé l'élaboration des données statistiques qu'une partie cherche à produire;</p> <p>b) une description des documents rédigés ou ayant servi à l'élaboration des données statistiques qu'une partie cherche à produire.</p>	Contre-interrogatoire
Production of documents	<p>(6) A party against whom statistical information is sought to be introduced under this section may require, for the purposes of cross-examination, the attendance of any person who supervised the preparation of the information.</p>	<p>(6) La partie contre laquelle une autre partie cherche à produire les données statistiques aux termes du présent article peut demander, aux fins du contre-interrogatoire, que soient présentes les personnes ayant surveillé l'élaboration des données.</p>	Production de documents
Aggregate assessment of monetary relief	<p>(7) Except with respect to information referred to in subsection (4), a party against whom statistical information is sought to be introduced under this section may require the party seeking to introduce it to produce for inspection any document that was prepared or used in the course of preparing the information, unless the document discloses the identity of persons responding to a survey who have not consented in writing to the disclosure.</p>	<p>(7) Sauf pour les données mentionnées au paragraphe (4), la partie contre laquelle une autre partie cherche à produire les données statistiques aux termes du présent article peut demander à la partie qui cherche à les produire, afin de les examiner, les documents qui ont été rédigés ou qui ont servi à l'élaboration des données, à moins que les documents ne divulguent l'identité des personnes ayant répondu dans le cadre d'une enquête qui n'ont pas consenti par écrit à ce que leur identité soit divulguée.</p>	Évaluation totale des mesures de redressement pécuniaire
	<p>24.—(1) The court may determine the aggregate or a part of a defendant's liability to class members and give judgment accordingly where,</p> <p>(a) monetary relief is claimed on behalf of some or all class members;</p>	<p>24 (1) Le tribunal peut établir la totalité ou une partie de la responsabilité d'un défendeur envers les membres du groupe et rendre un jugement en conséquence, si :</p> <p>a) les mesures de redressement pécuniaire sont demandées au nom de certains membres ou de tous les membres du groupe;</p>	

- (b) no questions of fact or law other than those relating to the assessment of monetary relief remain to be determined in order to establish the amount of the defendant's monetary liability; and
- (c) the aggregate or a part of the defendant's liability to some or all class members can reasonably be determined without proof by individual class members.

Average or proportional application

(2) The court may order that all or a part of an award under subsection (1) be applied so that some or all individual class members share in the award on an average or proportional basis.

Idem

(3) In deciding whether to make an order under subsection (2), the court shall consider whether it would be impractical or inefficient to identify the class members entitled to share in the award or to determine the exact shares that should be allocated to individual class members.

Court to determine whether individual claims need to be made

(4) When the court orders that all or a part of an award under subsection (1) be divided among individual class members, the court shall determine whether individual claims need to be made to give effect to the order.

Procedures for determining claims

(5) Where the court determines under subsection (4) that individual claims need to be made, the court shall specify procedures for determining the claims.

Idem

(6) In specifying procedures under subsection (5), the court shall minimize the burden on class members and, for the purpose, the court may authorize,

- (a) the use of standardized proof of claim forms;
- (b) the receipt of affidavit or other documentary evidence; and
- (c) the auditing of claims on a sampling or other basis.

Time limits for making claims

(7) When specifying procedures under subsection (5), the court shall set a reasonable time within which individual class members may make claims under this section.

Idem

(8) A class member who fails to make a claim within the time set under subsection (7) may not later make a claim under this section except with leave of the court.

b) seules les questions de fait ou de droit se rapportant à l'évaluation des mesures de redressement pécuniaire restent à être décidées afin de fixer le montant correspondant à la responsabilité financière du défendeur;

c) la totalité ou une partie de la responsabilité du défendeur envers certains membres ou tous les membres du groupe peut raisonnablement être établie sans que des membres du groupe aient à en faire la preuve individuellement.

(2) Le tribunal peut ordonner que la totalité ou une partie du montant adjugé aux termes du paragraphe (1) soit affectée de façon que certains membres ou tous les membres du groupe se partagent le montant adjugé selon la règle de la moyenne ou selon celle de la proportionnalité.

Règle de la moyenne ou règle de la proportionnalité

(3) Afin de décider s'il doit ou non rendre une ordonnance en vertu du paragraphe (2), le tribunal examine s'il serait irréaliste ou inutile d'identifier les membres du groupe qui ont droit à une part du montant adjugé ou d'établir le montant exact des parts qui doivent être affectées aux membres du groupe pris individuellement.

Idem

(4) Le tribunal qui ordonne que la totalité ou une partie du montant adjugé aux termes du paragraphe (1) soit répartie entre des membres du groupe pris individuellement décide en même temps s'il est nécessaire de présenter des demandes individuelles pour que l'ordonnance porte ses effets.

Présentation des demandes individuelles

(5) S'il décide, aux termes du paragraphe (4), qu'il est nécessaire de présenter des demandes individuelles, le tribunal précise la procédure à suivre pour décider les demandes.

Procédure pour décider les demandes

(6) Le tribunal qui précise la procédure à suivre aux termes du paragraphe (5) rend la tâche des membres du groupe aussi facile que possible et peut, à cette fin, autoriser :

Idem

- a) l'emploi de formules normalisées de preuve des demandes;
- b) la réception d'affidavits ou d'autres éléments de preuve documentaire;
- c) la vérification des demandes, notamment par échantillonnage.

(7) Le tribunal qui précise la procédure à suivre aux termes du paragraphe (5) fixe un délai raisonnable pour la présentation des demandes individuelles des membres du groupe aux termes du présent article.

Délai de présentation des demandes

(8) Les membres du groupe qui ne présentent pas de demande dans le délai fixé aux termes du paragraphe (7) ne peuvent en

Idem

Extension of
time

(9) The court may give leave under subsection (8) if it is satisfied that,

- (a) there are apparent grounds for relief;
- (b) the delay was not caused by any fault of the person seeking the relief; and
- (c) the defendant would not suffer substantial prejudice if leave were given.

Court may
amend subs.
(1) judgment

(10) The court may amend a judgment given under subsection (1) to give effect to a claim made with leave under subsection (8) if the court considers it appropriate to do so.

Individual
issues

25.—(1) When the court determines common issues in favour of a class and considers that the participation of individual class members is required to determine individual issues, other than those that may be determined under section 24, the court may,

- (a) determine the issues in further hearings presided over by the judge who determined the common issues or by another judge of the court;
- (b) appoint one or more persons to conduct a reference under the rules of court and report back to the court; and
- (c) with the consent of the parties, direct that the issues be determined in any other manner.

Directions as
to procedure

(2) The court shall give any necessary directions relating to the procedures to be followed in conducting hearings, inquiries and determinations under subsection (1), including directions for the purpose of achieving procedural conformity.

Idem

(3) In giving directions under subsection (2), the court shall choose the least expensive and most expeditious method of determining the issues that is consistent with justice to class members and the parties and, in so doing, the court may,

- (a) dispense with any procedural step that it considers unnecessary; and
- (b) authorize any special procedural steps, including steps relating to discovery, and any special rules, including rules relating to admission of evidence and means of proof, that it considers appropriate.

présenter par la suite aux termes du présent article qu'avec l'autorisation du tribunal.

(9) Le tribunal peut accorder l'autorisation visée au paragraphe (8) s'il est convaincu :

- a) qu'il existe des motifs apparents d'accorder l'autorisation;
- b) que le retard n'est pas dû à une faute de la personne qui demande l'autorisation;
- c) que l'autorisation ne causerait pas de préjudice grave au défendeur.

(10) Le tribunal peut, s'il estime que cela est approprié, modifier un jugement rendu en vertu du paragraphe (1) pour faire droit à une demande présentée avec une autorisation aux termes du paragraphe (8).

25 (1) Lorsque le tribunal décide les questions communes en faveur du groupe et estime que la participation, à titre individuel, de membres du groupe est nécessaire pour décider les questions individuelles, à l'exception de celles qui peuvent être décidées aux termes de l'article 24, le tribunal peut :

- a) décider les questions en litige dans d'autres audiences présidées par le juge qui a décidé les questions communes ou par un autre juge du tribunal;
- b) charger une ou plusieurs personnes de conduire un renvoi aux termes des règles de pratique et de présenter un rapport au tribunal;
- c) avec le consentement des parties, ordonner que les questions en litige soient décidées d'une autre façon.

(2) Le tribunal donne les directives nécessaires en matière de procédure à suivre pour le déroulement des audiences et des enquêtes et la prise des décisions visées au paragraphe (1), y compris des directives visant à assurer le respect de la procédure.

(3) Le tribunal qui donne des directives aux termes du paragraphe (2) choisit le mode de décision des questions en litige le moins onéreux et le plus expéditif qui rend justice aux membres du groupe et aux parties et, à cette fin, il peut :

- a) passer outre à une mesure procédurale qu'il estime inutile;
- b) autoriser des mesures procédurales particulières, notamment en matière d'interrogatoire préalable, et des règles particulières, notamment en matière d'admission de la preuve et des moyens de preuve, qu'il estime appropriées.

Prorogation

Le tribunal
peut modifier
le jugement

Questions
individuelles

Directives
relatives à la
procédure

Idem

Time limits
for making
claims

(4) The court shall set a reasonable time within which individual class members may make claims under this section.

(4) Le tribunal fixe un délai raisonnable pour la présentation des demandes individuelles des membres du groupe aux termes du présent article.

Délai de
présentation
des demandes

Idem

(5) A class member who fails to make a claim within the time set under subsection (4) may not later make a claim under this section except with leave of the court.

(5) Les membres du groupe qui ne présentent pas de demande pendant le délai fixé aux termes du paragraphe (4) ne peuvent en présenter par la suite aux termes du présent article qu'avec l'autorisation du tribunal.

Idem

Extension of
time

(6) Subsection 24 (9) applies with necessary modifications to a decision whether to give leave under subsection (5).

(6) Le paragraphe 24 (9) s'applique, avec les adaptations nécessaires, à la décision d'accorder ou non l'autorisation visée au paragraphe (5).

Prorogation
du délai

Determina-
tion under
cl. (1) (c)
deemed
court order
Judgment
distribution

(7) A determination under clause (1) (c) is deemed to be an order of the court.

(7) La décision visée à l'alinéa (1) c) est réputée une ordonnance judiciaire.

Décision
réputée une
ordonnance
judiciaire

26.—(1) The court may direct any means of distribution of amounts awarded under section 24 or 25 that it considers appropriate.

26 (1) Le tribunal peut ordonner que les montants adjugés aux termes de l'article 24 ou 25 soient distribués de la façon qu'il estime appropriée.

Distribution

Idem

(2) In giving directions under subsection (1), the court may order that,

(2) Le tribunal qui donne les directives en vertu du paragraphe (1) peut ordonner :

Idem

(a) the defendant distribute directly to class members the amount of monetary relief to which each class member is entitled by any means authorized by the court, including abatement and credit;

a) au défendeur de distribuer directement aux membres du groupe le montant des mesures de redressement pécuniaire auquel a droit chaque membre du groupe de la façon autorisée par le tribunal, y compris sous forme de réduction ou de crédit;

(b) the defendant pay into court or some other appropriate depository the total amount of the defendant's liability to the class until further order of the court; and

b) au défendeur de consigner au tribunal ou auprès d'un autre dépositaire approprié le total du montant correspondant à la responsabilité du défendeur envers le groupe, jusqu'à nouvelle ordonnance du tribunal;

(c) any person other than the defendant distribute directly to class members the amount of monetary relief to which each member is entitled by any means authorized by the court.

c) à toute personne qui n'est pas le défendeur de distribuer directement aux membres du groupe le montant des mesures de redressement pécuniaire auquel a droit chaque membre de la façon autorisée par le tribunal.

Idem

(3) In deciding whether to make an order under clause (2) (a), the court shall consider whether distribution by the defendant is the most practical way of distributing the award for any reason, including the fact that the amount of monetary relief to which each class member is entitled can be determined from the records of the defendant.

(3) Le tribunal qui décide s'il y a lieu de rendre une ordonnance aux termes de l'alinéa (2) a) examine si la façon la plus pratique de distribuer le montant adjugé est de confier cette tâche au défendeur, étant donné notamment qu'il est possible de déterminer d'après les dossiers du défendeur le montant des mesures de redressement pécuniaire auquel a droit chaque membre du groupe.

Idem

Idem

(4) The court may order that all or a part of an award under section 24 that has not been distributed within a time set by the court be applied in any manner that may reasonably be expected to benefit class members, even though the order does not provide for monetary relief to individual class members, if the court is satisfied that a reasonable number of class members who would not

(4) Le tribunal peut ordonner que la totalité ou une partie du montant adjugé aux termes de l'article 24 qui n'a pas été répartie dans le délai qu'il a fixé soit affectée d'une façon dont il est raisonnable de s'attendre qu'elle profite aux membres du groupe, même si l'ordonnance ne prévoit pas de mesures de redressement pécuniaire pour ceux-ci pris individuellement, si le tribunal

Idem

otherwise receive monetary relief would benefit from the order.

est convaincu qu'un nombre raisonnable de membres du groupe qui ne recevraient pas autrement de mesures de redressement pécuniaire bénéficierait de cette ordonnance.

Idem

(5) The court may make an order under subsection (4) whether or not all class members can be identified or all of their shares can be exactly determined.

(5) Le tribunal peut rendre une ordonnance en vertu du paragraphe (4), que tous les membres du groupe soient identifiables ou non, ou que la part de chacun d'eux puisse être ou non établie exactement.

Idem

Idem

(6) The court may make an order under subsection (4) even if the order would benefit,

(6) Le tribunal peut rendre une ordonnance en vertu du paragraphe (4), même si cette ordonnance profiterait :

Idem

(a) persons who are not class members; or

a) à des personnes qui ne sont pas membres du groupe;

(b) persons who may otherwise receive monetary relief as a result of the class proceeding.

b) à des personnes qui peuvent autrement bénéficier de mesures de redressement pécuniaire en raison du recours collectif.

Supervisory
role of the
court

(7) The court shall supervise the execution of judgments and the distribution of awards under section 24 or 25 and may stay the whole or any part of an execution or distribution for a reasonable period on such terms as it considers appropriate.

(7) Le tribunal surveille l'exécution des jugements et la distribution des montants adjugés aux termes de l'article 24 ou 25 et peut surseoir en totalité ou en partie à une exécution ou à une distribution pendant une période raisonnable aux conditions qu'il estime appropriées.

Surveillance
par le tribu-
nalPayment of
awards

(8) The court may order that an award made under section 24 or 25 be paid,

(8) Le tribunal peut ordonner qu'un montant adjugé aux termes de l'article 24 ou 25 soit payé, selon le cas :

Paiement des
montants
adjugés

(a) in a lump sum, forthwith or within a time set by the court; or

a) sous forme d'une somme globale, sans délai ou dans le délai imparti par le tribunal;

(b) in instalments, on such terms as the court considers appropriate.

b) en plusieurs versements, aux conditions que le tribunal estime appropriées.

Costs of
distribution

(9) The court may order that the costs of distribution of an award under section 24 or 25, including the costs of notice associated with the distribution and the fees payable to a person administering the distribution, be paid out of the proceeds of the judgment or may make such other order as it considers appropriate.

(9) Le tribunal peut ordonner que les frais de distribution du montant adjugé aux termes de l'article 24 ou 25, y compris les frais d'avis liés à la distribution et la rémunération de la personne chargée de la distribution, soient prélevés sur le produit du jugement, ou peut rendre l'ordonnance qu'il estime appropriée.

Frais de dis-
tributionReturn of
unclaimed
amounts

(10) Any part of an award for division among individual class members that remains unclaimed or otherwise undistributed after a time set by the court shall be returned to the party against whom the award was made, without further order of the court.

(10) Toute partie d'un montant adjugé, destiné à être réparti entre des membres du groupe pris individuellement, qui n'est pas réclamée ou autrement distribuée à l'expiration d'un délai fixé par le tribunal est rendue à la partie contre laquelle le jugement a été rendu, sans autre ordonnance du tribunal.

Remise des
sommes non
réclaméesContents of
judgment on
common
issues

27.—(1) A judgment on common issues of a class or subclass shall,

27 (1) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe :

Contenu du
jugement sur
les questions
communes

(a) set out the common issues;

a) énonce les questions communes;

(b) name or describe the class or subclass members;

b) donne le nom des membres du groupe ou du sous-groupe, ou les décrit;

(c) state the nature of the claims or defences asserted on behalf of the class or subclass; and

c) expose la nature des demandes ou des défenses présentées au nom du groupe ou du sous-groupe;

(d) specify the relief granted.

d) précise les mesures de redressement accordées.

Effect of judgment on common issues

(2) A judgment on common issues of a class or subclass does not bind,

(2) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe ne lie pas :

Effet du jugement sur les questions communes

(a) a person who has opted out of the class proceeding; or

a) les personnes qui se sont retirées du recours collectif;

(b) a party to the class proceeding in any subsequent proceeding between the party and a person mentioned in clause (a).

b) les parties au recours collectif qui participent à une instance subséquente entre les personnes mentionnées à l'alinéa a) et elles.

Idem

(3) A judgment on common issues of a class or subclass binds every class member who has not opted out of the class proceeding, but only to the extent that the judgment determines common issues that,

(3) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe lie chaque membre du groupe qui ne s'est pas retiré du recours collectif, mais seulement dans la mesure où le jugement décide les questions communes qui :

Idem

(a) are set out in the certification order;

a) figurent dans l'ordonnance certifiant le recours collectif;

(b) relate to claims or defences described in the certification order; and

b) se rapportent aux demandes ou aux défenses décrites dans l'ordonnance certifiant le recours collectif;

(c) relate to relief sought by or from the class or subclass as stated in the certification order.

c) se rapportent aux mesures de redressement demandées par le groupe ou le sous-groupe ou contre le groupe ou le sous-groupe, qui figurent dans l'ordonnance certifiant le recours collectif.

Limitations

28.—(1) Subject to subsection (2), any limitation period applicable to a cause of action asserted in a class proceeding is suspended in favour of a class member on the commencement of the class proceeding and resumes running against the class member when,

28 (1) Sous réserve du paragraphe (2), tout délai de prescription applicable à une cause d'action invoquée dans un recours collectif est suspendue en faveur d'un membre du groupe à l'introduction du recours collectif et reprend au détriment du membre au moment où, selon le cas :

Prescription

(a) the member opts out of the class proceeding;

a) ce membre se retire du recours collectif;

(b) an amendment that has the effect of excluding the member from the class is made to the certification order;

b) est apportée une modification de l'ordonnance certifiant le recours collectif qui a pour effet d'exclure du groupe le membre;

(c) a decertification order is made under section 10;

c) une ordonnance annulant l'ordonnance certifiant le recours collectif est rendue en vertu de l'article 10;

(d) the class proceeding is dismissed without an adjudication on the merits;

d) le recours collectif est rejeté sans décision sur le fond;

(e) the class proceeding is abandoned or discontinued with the approval of the court; or

e) il y a désistement du recours collectif avec l'approbation du tribunal;

(f) the class proceeding is settled with the approval of the court, unless the settlement provides otherwise.

f) le recours collectif fait l'objet d'une transaction avec l'approbation du tribunal, à moins que la transaction ne prévoie autre chose.

Idem

(2) Where there is a right of appeal in respect of an event described in clauses (1) (a) to (f), the limitation period resumes running as soon as the time for appeal has expired without an appeal being commenced

(2) Lorsqu'il existe un droit d'appel à l'égard d'un des événements décrits aux alinéas (1) a) à f), le délai de prescription reprend dès l'expiration du délai d'appel, si

Idem

or as soon as any appeal has been finally disposed of.

Discontinuance and abandonment

29.—(1) A proceeding commenced under this Act and a proceeding certified as a class proceeding under this Act may be discontinued or abandoned only with the approval of the court, on such terms as the court considers appropriate.

Settlement without court approval not binding
Effect of settlement

(2) A settlement of a class proceeding is not binding unless approved by the court.

(3) A settlement of a class proceeding that is approved by the court binds all class members.

Notice: dismissal, discontinuance, abandonment or settlement

(4) In dismissing a proceeding for delay or in approving a discontinuance, abandonment or settlement, the court shall consider whether notice should be given under section 19 and whether any notice should include,

- (a) an account of the conduct of the proceeding;
- (b) a statement of the result of the proceeding; and
- (c) a description of any plan for distributing settlement funds.

Appeals: refusals to certify and decertification orders

30.—(1) A party may appeal to the Divisional Court from an order refusing to certify a proceeding as a class proceeding and from an order decertifying a proceeding.

Appeals: certification orders

(2) A party may appeal to the Divisional Court from an order certifying a proceeding as a class proceeding, with leave of the Ontario Court (General Division) as provided in the rules of court.

Appeals: judgments on common issues and aggregate awards

(3) A party may appeal to the Court of Appeal from a judgment on common issues and from an order under section 24, other than an order that determines individual claims made by class members.

Appeals by class members on behalf of the class

(4) If a representative party does not appeal or seek leave to appeal as permitted by subsection (1) or (2), or if a representative party abandons an appeal under subsection (1) or (2), any class member may make a motion to the court for leave to act as the representative party for the purposes of the relevant subsection.

Idem

(5) If a representative party does not appeal as permitted by subsection (3), or if a

aucun appel n'a été introduit, ou dès le règlement d'un appel.

29 (1) Il ne peut y avoir désistement des instances introduites dans le cadre de la présente loi et des instances certifiées comme recours collectifs aux termes de la présente loi qu'avec l'approbation du tribunal et qu'aux conditions que celui-ci estime appropriées.

(2) La transaction obtenue dans le cadre d'un recours collectif ne lie les parties que si elle est homologuée par le tribunal.

(3) La transaction obtenue dans le cadre d'un recours collectif qui est homologuée par le tribunal lie tous les membres du groupe.

(4) Le tribunal qui rejette une instance pour cause de retard, qui approuve le désistement ou qui homologue la transaction examine s'il y a lieu de donner un avis aux termes de l'article 19 et si l'avis devrait comprendre :

- a) un compte rendu du déroulement de l'instance;
- b) une déclaration relative à l'issue de l'instance;
- c) une description du plan de distribution des sommes faisant l'objet de la transaction.

30 (1) Une partie peut interjeter appel devant la Cour divisionnaire d'une ordonnance refusant de certifier qu'une instance est un recours collectif ou d'une ordonnance annulant l'ordonnance certifiant un recours collectif.

(2) Une partie peut interjeter appel devant la Cour divisionnaire d'une ordonnance certifiant qu'une instance est un recours collectif avec l'autorisation de la Cour de l'Ontario (Division générale) comme le prévoient les règles de pratique.

(3) Une partie peut interjeter appel devant la Cour d'appel d'un jugement rendu sur les questions communes et d'une ordonnance rendue aux termes de l'article 24, à l'exclusion d'une ordonnance qui décide les demandes individuelles présentées par les membres du groupe.

(4) Si le représentant n'interjette pas appel ou ne demande pas l'autorisation d'interjeter appel en vertu du paragraphe (1) ou (2) ou s'il se désiste de l'appel visé au paragraphe (1) ou (2), un membre du groupe peut demander au tribunal, par voie de motion, l'autorisation d'agir comme représentant pour l'application du paragraphe pertinent.

(5) Si le représentant n'interjette pas appel en vertu du paragraphe (3) ou s'il se

Désistement

Obligation de faire homologuer la transaction

Effet de la transaction

Avis en cas de rejet, de désistement ou de transaction

Appel en cas de refus de certifier et d'ordonnance annulant l'ordonnance certifiant un recours collectif

Appel en cas d'ordonnance certifiant un recours collectif

Appel relatif aux questions communes

Appel par les membres du groupe au nom du groupe

Idem

representative party abandons an appeal under subsection (3), any class member may make a motion to the Court of Appeal for leave to act as the representative party for the purposes of subsection (3).

Appeals:
individual
awards

(6) A class member may appeal to the Divisional Court from an order under section 24 or 25 determining an individual claim made by the member and awarding more than \$3,000 to the member.

Idem

(7) A representative plaintiff may appeal to the Divisional Court from an order under section 24 determining an individual claim made by a class member and awarding more than \$3,000 to the member.

Idem

(8) A defendant may appeal to the Divisional Court from an order under section 25 determining an individual claim made by a class member and awarding more than \$3,000 to the member.

Idem

(9) With leave of the Ontario Court (General Division) as provided in the rules of court, a class member may appeal to the Divisional Court from an order under section 24 or 25,

- (a) determining an individual claim made by the member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by the member for monetary relief.

Idem

(10) With leave of the Ontario Court (General Division) as provided in the rules of court, a representative plaintiff may appeal to the Divisional Court from an order under section 24,

- (a) determining an individual claim made by a class member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by a class member for monetary relief.

Idem

(11) With leave of the Ontario Court (General Division) as provided in the rules of court, a defendant may appeal to the Divisional Court from an order under section 25,

- (a) determining an individual claim made by a class member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by a class member for monetary relief.

désiste de l'appel visé au paragraphe (3), un membre du groupe peut demander à la Cour d'appel, par voie de motion, l'autorisation d'agir comme représentant pour l'application du paragraphe (3).

(6) Tout membre du groupe peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 ou 25 qui décide sa demande individuelle et qui lui accorde plus de 3 000 \$.

Appel relatif
aux montants
individuels

Idem

(7) Le représentant des demandeurs peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 qui décide la demande individuelle présentée par un membre du groupe et qui accorde à celui-ci plus de 3 000 \$.

Idem

(8) Le défendeur peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 25 qui décide la demande individuelle présentée par un membre du groupe et qui accorde à celui-ci plus de 3 000 \$.

Idem

(9) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, un membre du groupe peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 ou 25 qui, selon le cas :

- a) décide la demande individuelle présentée par le membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par le membre.

Idem

(10) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, le représentant des demandeurs peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 qui, selon le cas :

- a) décide la demande individuelle présentée par un membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par un membre du groupe.

Idem

(11) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, le défendeur peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 25 qui, selon le cas :

- a) décide la demande individuelle présentée par un membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par un membre du groupe.

Costs

31.—(1) In exercising its discretion with respect to costs under subsection 141 (1) of the *Courts of Justice Act, 1984*, the court may consider whether the class proceeding was a test case, raised a novel point of law or involved a matter of public interest.

Liability of class members for costs

(2) Class members, other than the representative party, are not liable for costs except with respect to the determination of their own individual claims.

Small claims

(3) Where an individual claim under section 24 or 25 is within the monetary jurisdiction of the Small Claims Court where the class proceeding was commenced, costs related to the claim shall be assessed as if the claim had been determined by the Small Claims Court.

Agreements respecting fees and disbursements

32.—(1) An agreement respecting fees and disbursements between a solicitor and a representative party shall be in writing and shall,

- (a) state the terms under which fees and disbursements shall be paid;
- (b) give an estimate of the expected fee, whether contingent on success in the class proceeding or not; and
- (c) state the method by which payment is to be made, whether by lump sum, salary or otherwise.

Court to approve agreements

(2) An agreement respecting fees and disbursements between a solicitor and a representative party is not enforceable unless approved by the court, on the motion of the solicitor.

Priority of amounts owed under approved agreement

(3) Amounts owing under an enforceable agreement are a first charge on any settlement funds or monetary award.

Determination of fees where agreement not approved

(4) If an agreement is not approved by the court, the court may,

- (a) determine the amount owing to the solicitor in respect of fees and disbursements;
- (b) direct a reference under the rules of court to determine the amount owing; or
- (c) direct that the amount owing be determined in any other manner.

Agreements for payment only in the event of success

33.—(1) Despite the *Solicitors Act* and *An Act Respecting Champerty*, a solicitor and a representative party may enter into a written agreement providing for payment of fees and disbursements only in the event of success in a class proceeding.

31 (1) Le tribunal peut, dans l'exercice de son pouvoir discrétionnaire d'adjudication des dépens visé au paragraphe 141 (1) de la *Loi de 1984 sur les tribunaux judiciaires*, examiner si le recours collectif était une cause type, soulevait un nouveau point de droit ou posait une question d'intérêt public.

(2) Les membres du groupe, à l'exception du représentant, ne sont pas redevables des dépens, sauf à l'égard des demandes individuelles.

(3) Si les demandes individuelles visées à l'article 24 ou 25 ne dépassent pas la limite pécuniaire de la compétence d'attribution de la Cour des petites créances où le recours collectif a été introduit, les dépens qui se rapportent aux demandes sont liquidés comme si les demandes avaient été décidées par la Cour des petites créances.

32 (1) L'entente relative aux honoraires et aux débours entre le procureur et le représentant est conclue par écrit et :

- a) indique les modalités de paiement des honoraires et des débours;
- b) donne une estimation des honoraires prévus, qu'ils soient subordonnés à l'issue favorable du recours collectif ou non;
- c) indique le mode de paiement choisi, notamment sous forme de somme globale ou de salaire.

(2) L'entente conclue entre le procureur et le représentant en matière d'honoraires et de débours n'est opposable qu'avec l'approbation du tribunal saisi d'une motion à cet effet.

(3) Les sommes dues aux termes d'une entente opposable constituent une charge de premier rang sur les sommes qui font l'objet d'une transaction ou sur le montant adjugé.

(4) S'il n'approuve pas l'entente, le tribunal peut :

- a) fixer les sommes dues au procureur à titre d'honoraires et de débours;
- b) ordonner un renvoi aux termes des règles de pratique afin de fixer les sommes dues;
- c) ordonner que les sommes dues soient fixées d'une autre manière.

33 (1) Malgré la *Loi sur les procureurs* et la loi intitulée *An Act Respecting Champerty*, le procureur et le représentant peuvent conclure une entente écrite qui ne prévoit le paiement d'honoraires et de

Dépens

Responsabilité des membres du groupe à l'égard des dépens
Petites créances

Entente relative aux honoraires et aux débours

Entente assujettie à l'approbation du tribunal

Priorité des sommes dues

Établissement des honoraires en l'absence d'approbation judiciaire

Entente en cas d'issue favorable

Interpretation: success in a proceeding	(2) For the purpose of subsection (1), success in a class proceeding includes,	débours qu'en cas d'issue favorable du recours collectif.	Interprétation
	(a) a judgment on common issues in favour of some or all class members; and (b) a settlement that benefits one or more class members.	(2) Pour l'application du paragraphe (1), «issue favorable du recours collectif» s'entend notamment : a) d'un jugement rendu sur les questions communes en faveur de certains membres ou de tous les membres du groupe; b) d'une transaction qui profite à un ou plusieurs membres du groupe.	
Definitions	(3) For the purposes of subsections (4) to (7), “base fee” means the result of multiplying the total number of hours worked by an hourly rate; (“honoraires de base”) “multiplier” means a multiple to be applied to a base fee. (“multiplicateur”)	(3) Les définitions qui suivent s'appliquent aux paragraphes (4) à (7). «honoraires de base» Le produit du nombre total d'heures de travail multiplié par le taux horaire. («base fee») «multiplicateur» Le multiple appliqué aux honoraires de base. («multiplier»)	Définitions
Agreements to increase fees by a multiplier	(4) An agreement under subsection (1) may permit the solicitor to make a motion to the court to have his or her fees increased by a multiplier.	(4) L'entente visée au paragraphe (1) peut permettre au procureur de demander au tribunal, par voie de motion, l'augmentation de ses honoraires par application d'un multiplicateur.	Augmentation des honoraires par un multiplicateur
Motion to increase fee by a multiplier	(5) A motion under subsection (4) shall be heard by a judge who has, (a) given judgment on common issues in favour of some or all class members; or (b) approved a settlement that benefits any class member.	(5) La motion visée au paragraphe (4) est entendue par le juge qui : a) a rendu un jugement sur les questions communes en faveur de certains membres ou de tous les membres du groupe; b) a homologué une transaction qui profite aux membres du groupe.	Motion en vue d'augmenter les honoraires
Idem	(6) Where the judge referred to in subsection (5) is unavailable for any reason, the regional senior judge shall assign another judge of the court for the purpose.	(6) Si le juge mentionné au paragraphe (5) n'est pas disponible pour quelque raison que ce soit, le juge principal régional affecte un autre juge du tribunal à l'audition de la motion.	Idem
Idem	(7) On the motion of a solicitor who has entered into an agreement under subsection (4), the court, (a) shall determine the amount of the solicitor's base fee; (b) may apply a multiplier to the base fee that results in fair and reasonable compensation to the solicitor for the risk incurred in undertaking and continuing the proceeding under an agreement for payment only in the event of success; and (c) shall determine the amount of disbursements to which the solicitor is entitled, including interest calculated on the disbursements incurred, as totalled at the end of each six-month period following the date of the agreement.	(7) Le tribunal saisi de la motion du procureur qui a conclu une entente aux termes du paragraphe (4) : a) décide du montant des honoraires de base du procureur; b) peut appliquer aux honoraires de base un multiplicateur qui permette d'arriver à une rémunération équitable et raisonnable pour le procureur, compte tenu des risques qu'il a pris en introduisant et en continuant une instance dans le cadre d'une entente ne garantissant le paiement de ses honoraires qu'en cas d'issue favorable; c) décide du montant des débours auquel a droit le procureur, y compris les intérêts calculés sur les débours effectués, selon le total fait à la fin de chaque semestre suivant la date de l'entente.	Idem

Idem	(8) In making a determination under clause (7) (a), the court shall allow only a reasonable fee.	(8) Le tribunal qui rend une décision aux termes de l'alinéa (7) a) n'accorde que des honoraires raisonnables.	Idem
Idem	(9) In making a determination under clause (7) (b), the court may consider the manner in which the solicitor conducted the proceeding.	(9) Le tribunal qui rend une décision aux termes de l'alinéa (7) b) peut examiner la façon dont le procureur s'est acquitté de sa tâche au cours de l'instance.	Idem
Motions	34. —(1) The same judge shall hear all motions before the trial of the common issues.	34 (1) Le même juge entend toutes les motions avant l'instruction des questions communes.	Motions
Idem	(2) Where a judge who has heard motions under subsection (1) becomes unavailable for any reason, the regional senior judge shall assign another judge of the court for the purpose.	(2) Si le juge qui a entendu des motions aux termes du paragraphe (1) n'est plus disponible pour quelque raison que ce soit, le juge principal régional affecte un autre juge à l'audition des motions.	Idem
Idem	(3) Unless the parties agree otherwise, a judge who hears motions under subsection (1) or (2) shall not preside at the trial of the common issues.	(3) Sauf accord contraire des parties, le juge qui entend les motions aux termes du paragraphe (1) ou (2) ne doit pas présider l'instruction des questions communes.	Idem
Rules of court	35. The rules of court apply to class proceedings.	35 Les règles de pratique s'appliquent aux recours collectifs.	Règles de pratique
Crown bound	36. This Act binds the Crown.	36 La présente loi lie la Couronne.	Loi liant la Couronne
Application of Act	37. This Act does not apply to, (a) a proceeding that may be brought in a representative capacity under another Act; (b) a proceeding required by law to be brought in a representative capacity; and (c) a proceeding commenced before this Act comes into force.	37 La présente loi ne s'applique pas : a) aux instances qui peuvent être introduites comme recours collectifs aux termes d'une autre loi; b) aux instances qui doivent, selon la loi, être introduites comme recours collectifs; c) aux instances introduites avant l'entrée en vigueur de la présente loi.	Champ d'application de la loi
Commencement	38. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.	38 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Short title	39. The short title of this Act is the <i>Class Proceedings Act, 1990</i> .	39 Le titre abrégé de la présente loi est <i>Loi de 1990 sur les recours collectifs</i> .	Titre abrégé

Bill 29

An Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings

The Hon. H. Hampton
Attorney General

1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Law Society Act* to provide for the Class Proceedings Fund and establish the Class Proceedings Committee. The Class Proceedings Fund is to be administered by the Law Foundation of Ontario.

A plaintiff to a class proceeding may apply to the Class Proceedings Committee for financial support from the Class Proceedings Fund in respect of the plaintiff's disbursements related to the proceeding. The Bill sets out criteria for the Committee to consider in deciding whether to fund a plaintiff. A defendant to a class proceeding is entitled to payment from the Class Proceedings Fund in respect of costs awards made in the proceeding in the defendant's favour against a plaintiff who has received support from the Fund.

The Lieutenant Governor in Council is given regulation making powers relating to the Class Proceedings Fund.

An Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings

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

1. Section 52 of the *Law Society Act* is amended by striking out “53, 54, 55, 56, 57, 58 and 59” in the first line and substituting “53 to 59e” and by adding the following definitions:

- (aa) “class proceeding” means a proceeding certified as a class proceeding on a motion made under section 2 or 3 of the *Class Proceedings Act, 1990*;
- (ab) “Committee” means the Class Proceedings Committee referred to in section 59b;
- (ac) “defendant” includes a respondent;
- (ba) “plaintiff” includes an applicant.

2. Subsection 55 (1) of the Act is amended by adding the following paragraph:

- 4. The provision of costs assistance to parties to class proceedings and to proceedings commenced under the *Class Proceedings Act, 1990*.

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

59a.—(1) The board shall,

- (a) establish an account of the Foundation to be known as the Class Proceedings Fund;
- (b) within sixty days after this Act comes into force, endow the Class Proceedings Fund with \$300,000 from the funds of the Foundation;
- (c) within one year after the day on which the endowment referred to in clause (b) is made, endow the Class Proceedings Fund with a further \$200,000 from the funds of the Foundation; and
- (d) administer the Class Proceedings Fund in accordance with this Act and the regulations.

(2) The Class Proceedings Fund shall be used for the following purposes:

- 1. Financial support for plaintiffs to class proceedings and to proceedings commenced under the *Class Proceedings Act, 1990*, in respect of disbursements related to the proceeding.

- 2. Payments to defendants in respect of costs awards made in their favour against plaintiffs who have received financial support from the Fund.

(3) Funds in the Class Proceedings Fund are funds of the Foundation within the meaning of section 56, but payments out of the Class Proceedings Fund shall relate to the administration or purposes of the Fund. Application of s. 56

59b.—(1) The Class Proceedings Committee is established and shall be composed of, Class Proceedings Committee

- (a) one member appointed by the Foundation;
- (b) one member appointed by the Attorney General; and
- (c) three members appointed jointly by the Foundation and the Attorney General.

(2) Each member of the Class Proceedings Committee shall hold office for a period of three years and is eligible for re-appointment. Term of office

(3) Three members of the Committee constitute a quorum. Quorum

(4) Where there are not more than two vacancies in the membership of the Committee, the remaining members constitute the Committee for all purposes. Vacancies

(5) The members of the Committee shall serve without remuneration, but each member is entitled to compensation for expenses incurred in carrying out the functions of the Committee. Remuneration

59c.—(1) A plaintiff to a class proceeding or to a proceeding commenced under section 2 of the *Class Proceedings Act, 1990* may apply to the Committee for financial support from the Class Proceedings Fund in respect of disbursements related to the proceeding. Applications by plaintiffs

Class Proceedings Fund

Purposes of the Class Proceedings Fund

Idem (2) An application under subsection (1) shall not include a claim in respect of solicitor's fees.

Committee may authorize payment (3) The Committee may direct the board to make payments from the Class Proceedings Fund to a plaintiff who makes an application under subsection (1), in the amount that the Committee considers appropriate.

Idem (4) In making a decision under subsection (3), the Committee may have regard to, (a) the merits of the plaintiff's case; (b) whether the plaintiff has made reasonable efforts to raise funds from other sources; (c) whether the plaintiff has a clear and reasonable proposal for the use of any funds awarded; (d) whether the plaintiff has appropriate financial controls to ensure that any funds awarded are spent for the purposes of the award; and (e) any other matter that the Committee considers relevant.

Supplementary funding (5) A plaintiff who has received funding under subsection (3) may apply to the Committee at any time up to the end of the class proceeding for supplementary funding and the Committee may direct the board to make further payments from the Class Proceedings Fund to the plaintiff if the Committee is of the opinion, having regard to all the circumstances, that it is appropriate to do so.

Board shall make payments (6) The board shall make payments in accordance with any directions given by the Committee under this section.

Applications by defendants 59d.—(1) A defendant to a proceeding may apply to the board for payment from the Class Proceedings Fund in respect of a costs award made in the proceeding in the defendant's favour against a plaintiff who has received financial support from the Class Proceedings Fund in respect of the proceeding.

Board shall make payments (2) The board shall make payments applied for in accordance with subsection (1) from the Class Proceedings Fund, subject to any limits or tariffs applicable to such payments prescribed by the regulations.

Plaintiff not liable (3) A defendant who has the right to apply for payment from the Class Proceed-

ings Fund in respect of a costs award against a plaintiff may not recover any part of the award from the plaintiff.

59e.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the administration of the Class Proceedings Fund;
(b) establishing procedures for making applications under sections 59c and 59d;
(c) establishing criteria in addition to those set out in section 59c for decisions of the Committee under section 59c;
(d) establishing limits and tariffs for payments under sections 59c and 59d;
(e) prescribing conditions of awards under section 59c;
(f) providing for the assessment of costs in respect of which a claim is made under section 59d;
(g) providing for levies in favour of the Class Proceedings Fund against awards and settlement funds in proceedings in respect of which a party receives financial support from the Class Proceedings Fund.

(2) A regulation made under clause (1) (d) may provide for different limits and tariffs for different stages and types of proceedings. Idem

(3) A regulation made under clause (1) (g) may provide for levies that exceed the amount of financial support received by the parties to a proceeding. Idem

(4) A regulation made under clause (1) (g) may provide for levies based on a formula that takes the amount of an award or settlement fund into account. Idem

(5) A levy under clause (1) (g) against a settlement fund or monetary award is a charge on the fund or award. Idem

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 Law Society Amendment Act (Class Proceedings Funding), 1990. Short title

Bill 30

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

1. The provisions relating to pupil records are amended to comply with freedom of information legislation by authorizing the collection of information to be included in pupil records and by authorizing the release of certain information to the local medical officer of health (subsection 1 (2) and sections 6 and 7 of the Bill).
2. The Minister is authorized to provide funds to boards for the construction of child care facilities on school sites (subsection 1 (3) and section 2 of the Bill).
3. Boards are empowered to construct and renovate child care facilities and to include the amounts required for that construction and renovation in their estimates (section 5 of the Bill).
4. Demonstration schools are authorized to provide special education programs and services, in a residential or non-residential setting, for exceptional pupils with learning disabilities or hearing or visual impairments (section 3 of the Bill).
5. The Minister is authorized to enter into licence agreements to obtain the right for school boards to copy works protected by copyright and covered by the licence agreement (subsection 1 (1) of the Bill).
6. Public boards and Roman Catholic school boards are permitted to share sick leave gratuities for designated teachers in a ratio agreed upon by the boards (section 4 of the Bill).

An Act to amend the Education 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 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
 - (i) extend the rights under the licence agreement to boards, and
 - (ii) require boards to comply with the terms of the licence agreement.

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clause:

- (zh) make allocations in respect of the construction of child care facilities on school sites.

2. Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of money appropriated or raised by the Legislature for the construction of child care facilities in schools.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

(4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.

4. Section 136-1 of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsection:

(20a) Despite subsection (20), the public board and the Roman Catholic school board may agree to share the amount of the payment under subsection (18) or (19) in any manner, including the payment of the entire amount by either board. Idem

5.—(1) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

- 47. construct and renovate child care facilities in any school. Child care facilities

(2) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

(3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1), Child care facilities

- (a) in a public school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

6. Clause 236 (d) of the Act is repealed and the following substituted:

(d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record. Pupil records

7.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

Copyright licence agreements

Capital allocations

Idem

Definition

(1) In this section, except in subsection (12), "record", in respect of a pupil, means a record under clause 236 (d).

(2) Clause 237 (2) (a) of the Act is repealed and the following substituted:

(a) subject to subsections (2a), (3) and (5), is not available to any other person; and

(3) Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is further amended by adding the following subsection:

Information to medical officer of health

(2a) The principal of a school shall, upon request by the medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent. Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991. Idem

(3) Section 4 shall be deemed to have come into force on the 1st day of January, 1989. Idem

9. The short title of this Act is the Education Amendment Act (Miscellaneous), 1990. Short title

Bill 30

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading December 17th, 1990
2nd Reading June 13th, 1991
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

1. The provisions relating to pupil records are amended to comply with freedom of information legislation by authorizing the collection of information to be included in pupil records and by authorizing the release of certain information to the local medical officer of health (subsection 1 (2) and sections 6 and 7 of the Bill).
2. The Minister is authorized to provide funds to boards for the construction of child care facilities on school sites (subsection 1 (3) and section 2 of the Bill).
3. Boards are empowered to construct and renovate child care facilities and to include the amounts required for that construction and renovation in their estimates (section 5 of the Bill).
4. Demonstration schools are authorized to provide special education programs and services, in a residential or non-residential setting, for exceptional pupils with learning disabilities or hearing or visual impairments (section 3 of the Bill).
5. The Minister is authorized to enter into licence agreements to obtain the right for school boards to copy works protected by copyright and covered by the licence agreement (subsection 1 (1) of the Bill).
6. Public boards and Roman Catholic school boards are permitted to share sick leave gratuities for designated teachers in a ratio agreed upon by the boards (section 4 of the Bill).

An Act to amend the Education 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 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
- (i) extend the rights under the licence agreement to boards, and
- (ii) require boards to comply with the terms of the licence agreement.

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clause:

- (zh) make allocations in respect of the construction of child care facilities on school sites.

2. Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of money appropriated or raised by the Legislature for the construction of child care facilities in schools.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

- (4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.



4.—(1) Section 136-1 of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2 and amended by 1990, chapter 24, section 6, is further amended by adding the following subsection:

- (20fa) Despite subsection (20f), the boards concerned may agree to share the amount of the payment under subsection (20d) or (20e) in any manner, including the payment of the entire amount by one of the boards.

(2) Subsection 136-1 (20g) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 24, section 6, is amended by striking out “subsections (20d) to (20f)” in the first line and substituting “subsections (20d) to (20fa)”.

(3) Boards to which former subsection 136-1 (20) of the Act applied before the 20th day of December, 1990 shall, despite that subsection, be deemed to have had the authority to agree to share the amount of a payment under former subsection 136-1 (18) or (19) of the Act in any manner, including the payment of the entire amount by one of the boards.



5.—(1) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

- 47. construct and renovate child care facilities in any school.

(2) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

- (3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1),

- (a) in a public school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

Copyright licence agreements

Capital allocations

Idem

6. Clause 236 (d) of the Act is repealed and the following substituted:

Pupil records

(d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

7.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

Definition

(1) In this section, except in subsection (12), "record", in respect of a pupil, means a record under clause 236 (d).

(2) Clause 237 (2) (a) of the Act is repealed and the following substituted:

(a) subject to subsections (2a), (3) and (5), is not available to any other person; and

(3) Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is further amended by adding the following subsection:

(2a) The principal of a school shall, upon request by the medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

Information to medical officer of health

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent.

Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991.

Idem

(3) Section 4 shall be deemed to have come into force on the 20th day of December, 1990.

Idem

9. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1991.*

Short title

Bill 30

*(Chapter 10
Statutes of Ontario, 1991)*

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading	December 17th, 1990
2nd Reading	June 13th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

6. Clause 236 (d) of the Act is repealed and the following substituted:

Pupil records

(d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

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Definition

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8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent.

Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991.

Idem

(3) Section 4 shall be deemed to have come into force on the 20th day of December, 1990.

Idem

9. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1991.*

Short title

Bill 30

*(Chapter 10
Statutes of Ontario, 1991)*

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education

1st Reading	December 17th, 1990
2nd Reading	June 13th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

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An Act to amend the Education 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 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
 - (i) extend the rights under the licence agreement to boards, and
 - (ii) require boards to comply with the terms of the licence agreement.

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clause:

- (zh) make allocations in respect of the construction of child care facilities on school sites.

2. Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of money appropriated or raised by the Legislature for the construction of child care facilities in schools.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

(4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.

4.—(1) Section 136-1 of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2 and amended by 1990, chapter 24, section 6, is further amended by adding the following subsection:

(20fa) Despite subsection (20f), the boards concerned may agree to share the amount of the payment under subsection (20d) or (20e) in any manner, including the payment of the entire amount by one of the boards. Idem

(2) Subsection 136-1 (20g) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 24, section 6, is amended by striking out “subsections (20d) to (20f)” in the first line and substituting “subsections (20d) to (20fa)”.

(3) Boards to which former subsection 136-1 (20) of the Act applied before the 20th day of December, 1990 shall, despite that subsection, be deemed to have had the authority to agree to share the amount of a payment under former subsection 136-1 (18) or (19) of the Act in any manner, including the payment of the entire amount by one of the boards.

5.—(1) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

- 47. construct and renovate child care facilities in any school. Child care facilities

(2) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

(3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1), Child care facilities

- (a) in a public school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

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6. Clause 236 (d) of the Act is repealed and the following substituted:

Pupil records

(d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

7.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

Definition

(1) In this section, except in subsection (12), "record", in respect of a pupil, means a record under clause 236 (d).

(2) Clause 237 (2) (a) of the Act is repealed and the following substituted:

(a) subject to subsections (2a), (3) and (5), is not available to any other person; and

(3) Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, sec-

tion 27, is further amended by adding the following subsection:

(2a) The principal of a school shall, upon request by the medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

Information to medical officer of health

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent.

Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991.

Idem

(3) Section 4 shall be deemed to have come into force on the 20th day of December, 1990.

Idem

9. The short title of this Act is the Education Amendment Act (Miscellaneous), 1991.

Short title

Bill 31

An Act to amend the Representation Act, 1986

Mr. Villeneuve

1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

Self-explanatory.

An Act to amend the Representation Act, 1986

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

1. The Schedule to the *Representation Act, 1986* is amended by renaming “THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY” as “THE ELECTORAL DISTRICT OF S-D-G & EAST GRENVILLE”.

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

3. The short title of this Act is the *Representation Amendment Act, 1990*. Short title

Bill 31

*(Chapter 2
Statutes of Ontario, 1991)*

An Act to amend the Representation Act, 1986

Mr. Villeneuve

1st Reading	December 18th, 1990
2nd Reading	March 28th, 1991
3rd Reading	April 3rd, 1991
Royal Assent	April 4th, 1991

An Act to amend the Representation Act, 1986

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

1. The Schedule to the *Representation Act, 1986* is amended by renaming "THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY" as "THE ELECTORAL DISTRICT OF S-D-G & EAST GRENVILLE".

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

3. The short title of this Act is the *Representation Amendment Act, 1991*. Short title

Bill 32

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for the election of the chairman of the Regional Council of The Regional Municipality of Ottawa-Carleton by direct vote of the electors in the regional municipality.

The chairman would be allowed to have a vote. At present the chairman does not have a vote except in cases of a tied vote.

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

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

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following section:

4a.—(1) The chairman shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

(2) A person is qualified to hold office as chairman if he or she is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality and is not disqualified to hold the office by this or any other Act.

(3) The clerk of The Corporation of the City of Ottawa is the returning officer for the election.

(4) Nominations for the office of chairman shall be filed with the clerk of The Corporation of the City of Ottawa, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of The Corporation of the City of Ottawa, who shall prepare the final summary and announce the vote.

3. Section 11 of the Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 6, is further amended by adding the following subsections:

(3a) The clerk of The Corporation of the City of Ottawa shall, immediately after the election, certify under the seal of the area municipality to the Regional Corporation the

name of the person who has been elected chairman.

(3b) The person shall not take the office of chairman until the clerk of the Regional Corporation has received the certificate under subsection (3a). Idem

4.—(1) Subsection 13 (2) of the Act is amended by striking out “Subject to subsection (3)” at the beginning.

(2) Subsection 13 (3) of the Act is repealed.

5. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chairman, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor. Vacancy in office of chairman

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member’s seat thereby becomes vacant. Vacancy filled by member of council of area municipality

6.—(1) Clause 2 (a) of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subclause:

(vi) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding “or” at the end of subclause (vi) and by adding the following subclause:

(vii) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is

Election of chairman

Qualifications of chairman

Returning officer

Nominations

Results of vote

Certificate under seal

further amended by adding the following paragraph:

2b. In The Regional Municipality of Ottawa-Carleton, the elector is entitled to vote once only for one candidate for chairman of the Regional Council.

Commencement

7.—(1) This Act comes into force on the 1st day of December, 1991.

(2) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act were in force. Idem

8. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1990*. Short title

Bill 32

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 18th, 1990
2nd Reading	March 28th, 1991
3rd Reading	
Royal Assent	

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

EXPLANATORY NOTE

The purpose of the Bill is to provide for the election of the chair of the Regional Council of The Regional Municipality of Ottawa-Carleton by direct vote of the electors in the regional municipality.

The chair would be allowed to have a vote. At present the chair does not have a vote except in cases of a tied vote.

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

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

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following section:

4a.—(1) The chair shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

(2) A person is qualified to hold office as chair if he or she is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality and is not disqualified to hold the office by this or any other Act.

(3) The clerk of The Corporation of the City of Ottawa is the returning officer for the election.

(4) Nominations for the office of chair shall be filed with the clerk of The Corporation of the City of Ottawa, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of The Corporation of the City of Ottawa, who shall prepare the final summary and announce the vote.

3. Section 11 of the Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 6, is further amended by adding the following subsections:

(3a) The clerk of The Corporation of the City of Ottawa shall, immediately after the election, certify under the seal of the area municipality to the Regional Corporation the

name of the person who has been elected chair.

(3b) The person shall not take the office of chair until the clerk of the Regional Corporation has received the certificate under subsection (3a). Idem

4.—(1) Subsection 13 (2) of the Act is amended by striking out “Subject to subsection (3)” at the beginning.

(2) Subsection 13 (3) of the Act is repealed.

5. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chair, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor. Vacancy in office of chair

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member’s seat thereby becomes vacant. Vacancy filled by member of council of area municipality

6.—(1) Clause 2 (a) of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subclause:

(vi) chair of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding “or” at the end of subclause (vi) and by adding the following subclause:

(vii) chair of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is

further amended by adding the following paragraph:

2b. In The Regional Municipality of Ottawa-Carleton, the elector is entitled to vote once only for one candidate for chair of the Regional Council.

7.—(1) The *Regional Municipality of Ottawa-Carleton Act* is amended by striking out "chairman" wherever it appears and substituting "chair".

(2) The *Municipal Elections Act* is amended by striking out "chairman" wherever it appears and substituting "chair".

8.—(1) This Act comes into force on the 1st day of December, 1991.

Commencement

(2) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act were in force.

Idem

9. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1991*.

Short title

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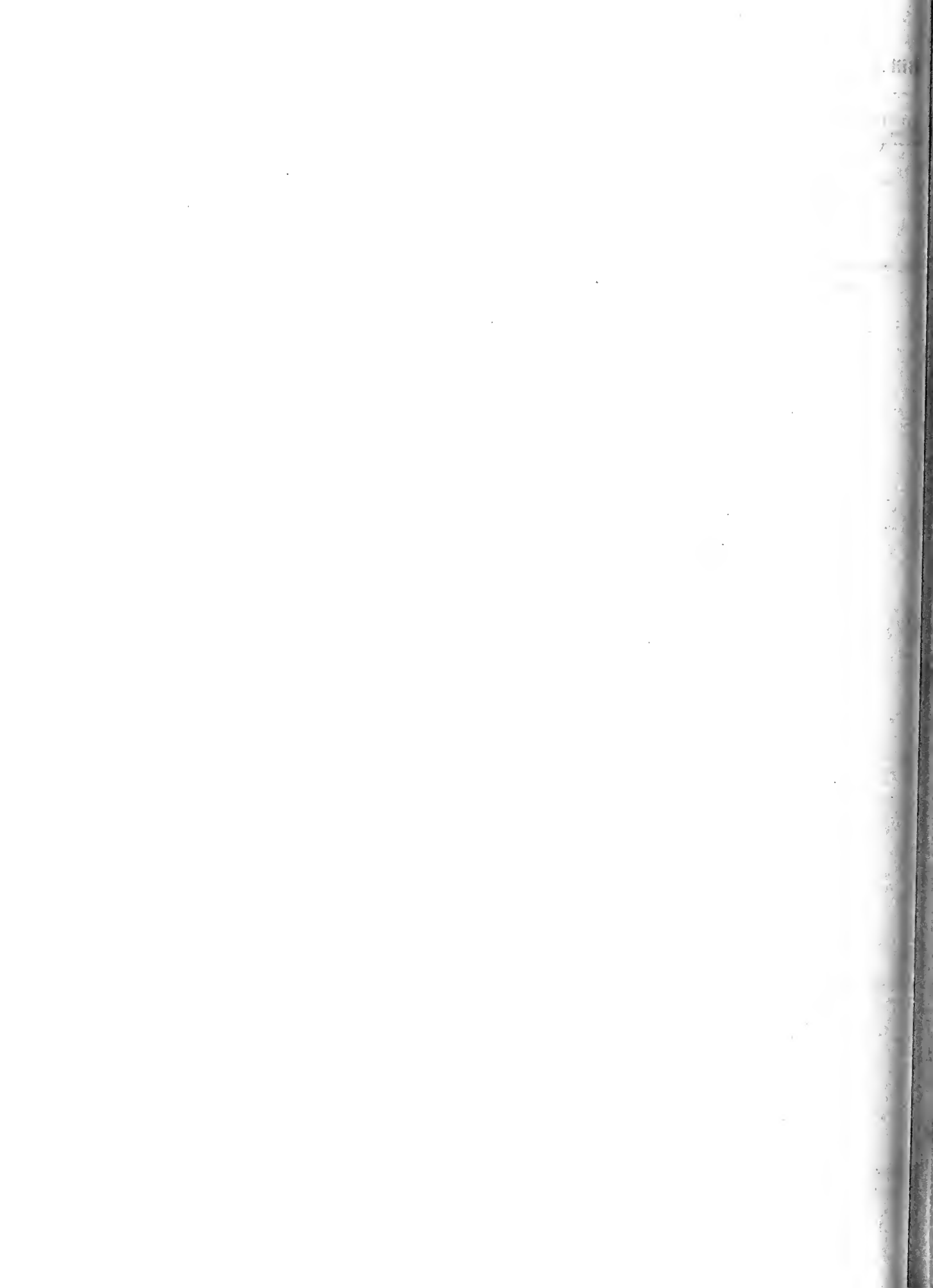
Bill 32

*(Chapter 3
Statutes of Ontario, 1991)*

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 18th, 1990
2nd Reading	March 28th, 1991
3rd Reading	April 4th, 1991
Royal Assent	April 8th, 1991



**An Act to amend the
Regional Municipality of Ottawa-Carleton Act
and the Municipal Elections Act**

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

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following section:

4a.—(1) The chair shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

(2) A person is qualified to hold office as chair if he or she is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality and is not disqualified to hold the office by this or any other Act.

(3) The clerk of The Corporation of the City of Ottawa is the returning officer for the election.

(4) Nominations for the office of chair shall be filed with the clerk of The Corporation of the City of Ottawa, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of The Corporation of the City of Ottawa, who shall prepare the final summary and announce the vote.

3. Section 11 of the Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 6, is further amended by adding the following subsections:

(3a) The clerk of The Corporation of the City of Ottawa shall, immediately after the election, certify under the seal of the area municipality to the Regional Corporation the

name of the person who has been elected chair.

(3b) The person shall not take the office of chair until the clerk of the Regional Corporation has received the certificate under subsection (3a). Idem

4.—(1) Subsection 13 (2) of the Act is amended by striking out “Subject to subsection (3)” at the beginning.

(2) Subsection 13 (3) of the Act is repealed.

5. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chair, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor. Vacancy in office of chair

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member’s seat thereby becomes vacant. Vacancy filled by member of council of area municipality

6.—(1) Clause 2 (a) of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subclause:

(vi) chair of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding “or” at the end of subclause (vi) and by adding the following subclause:

(vii) chair of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is

Election of chair

Qualifications of chair

Returning officer

Nominations

Results of vote

Certificate under seal

further amended by adding the following paragraph:

2b. In The Regional Municipality of Ottawa-Carleton, the elector is entitled to vote once only for one candidate for chair of the Regional Council.

7.—(1) The *Regional Municipality of Ottawa-Carleton Act* is amended by striking out “chairman” wherever it appears and substituting “chair”.

(2) The *Municipal Elections Act* is amended by striking out “chairman” wherever it appears and substituting “chair”.

8.—(1) This Act comes into force on the 1st day of December, 1991.

Commencement

(2) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act were in force.

Idem

9. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1991*.

Short title

Bill 33

An Act to amend the Health Disciplines Act

Mr. Henderson

1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The Bill amends Part III (Medicine) of the *Health Disciplines Act*.

New section 52a prohibits members of the College of Physicians and Surgeons of Ontario, except where required by specified statutes, from disclosing medical information concerning a patient to third parties without the patient's consent. The section requires members to give a patient sufficient information to enable the patient to decide whether to consent to disclosure and, in addition, sets out the requirements for valid consent. Nothing will be shown in a patient's file or medical record to indicate that consent to disclosure of information was withheld.

An Act to amend the Health Disciplines 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 Disciplines Act* is amended by adding the following section:

52a.—(1) Despite any obligations of the member under an employment contract or an agency arrangement, no member shall disclose to a third party any information concerning a patient's medical condition unless the patient consents to disclosure.

Confidentiality of medical information

(2) Subsection (1) does not apply where the member has an obligation to disclose under,

Exception

- (a) subsection 177 (1) of the *Highway Traffic Act*;
- (b) sections 25 and 26 of the *Health Protection and Promotion Act, 1983*; or
- (c) regulations regarding designated substances made under the *Occupational Health and Safety Act*.

(3) Following an examination, a member shall offer counsel to a patient on the general findings of the examination sufficient to enable the patient to decide whether to consent to disclosure of information arising from that examination to a third party.

Member to counsel patient

(4) The consent of a patient to disclosure of information is valid only,

When consent of patient valid

- (a) when in writing;
- (b) when given at the completion of an examination; and
- (c) after the patient has been counselled by the member in accordance with subsection (3).

(5) The member who conducted the examination shall not indicate in the patient's file or medical record that consent to disclosure of information was withheld.

Patient's file or medical record

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

Commencement

3. The short title of this Act is the *Health Disciplines Amendment Act, 1990*.

Short title



Bill 34

An Act to amend the Workers' Compensation Act

Mr. Henderson

1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to allow a worker to refuse his or her consent to disclosure of medical information obtained during medical examinations required by the Act. Once the worker has refused consent, he or she can choose to withdraw their claim for compensation. If the claim is withdrawn, nothing will be shown in the worker's file or medical record to indicate the reason for the withdrawal.

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. Section 21 of the *Workers' Compensation Act*, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 8, is amended by adding the following subsections:

(3) The worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

- (a) refuse to consent to the disclosure to the employer of any medical information arising out of the examination; and
- (b) withdraw his or her claim for compensation.

(4) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (1) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

2. Section 75 of the Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding the following subsections:

(5) Notwithstanding section 53, the worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

- (a) refuse to consent to the disclosure to the Board of any medical information

arising out of the medical examination; and

- (b) withdraw his or her claim for compensation.

(6) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (3) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

3. Section 86h of the Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding the following subsections:

(8) Notwithstanding section 53, the worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

- (a) refuse to consent to the disclosure to the Appeals Tribunal of any medical information arising out of the medical examination; and
- (b) withdraw his or her claim for compensation.

(9) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (4) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

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

5. The short title of this Act is the *Workers' Compensation Amendment Act, 1990*.

Claim for compensation withdrawn

Worker may refuse consent to disclosure

Claim for compensation withdrawn

Commencement

Short title

Worker may refuse consent to disclosure

Claim for compensation withdrawn

Worker may refuse consent to disclosure



Bill 35

An Act respecting Vacancies in Municipal Offices

Mr. Callahan

1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide that in the event of a vacancy occurring on a municipal council or school board, the council or board must appoint the candidate who received the second-highest number of votes at the election at which the council or board member who is no longer in office was elected.

An Act respecting Vacancies in Municipal Offices

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

Definition

1. In this Act,

“board” means board as defined in the *Education Act* and includes the Ottawa-Carleton French-language School Board;

“municipality” includes a district, regional or metropolitan municipality and the County of Oxford.

Vacancy to be filled by appointment

2.—(1) If a vacancy occurs in the office of a member of a board or the council of a municipality and the member was elected otherwise than by acclamation or by vote of the other members of the board or council, the board or council shall fill the

vacancy by appointing the unsuccessful candidate for that office who received the highest number of votes at the election at which the member was elected.

(2) Subsection (1) does not apply if the unsuccessful candidate who received the highest number of votes is unwilling or unable to hold the office or is no longer qualified to hold the office.

Exception

3. If there is a conflict between this Act and any other Act, this Act prevails to the extent of the conflict.

This Act to prevail

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

Commencement

5. The short title of this Act is the *Municipal Offices Vacancies Act, 1990.*

Short title

Bill 36

An Act to amend certain Acts respecting Assessment

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading December 19th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The Bill would allow the Ministry of Revenue to prepare the equalized assessments and equalization factors of municipalities and localities on a quadrennial basis. The first one would take place in 1993. However, if a municipality or locality experiences a major change in its tax base or if merged area calculations are required to support county restructuring, the Ministry of Revenue shall determine the relevant equalized assessment and equalization factor. The Ministry of Revenue would no longer be required to carry out annual mini-enumerations.

Complementary amendments are made to the *Ontario Unconditional Grants Act*.

The provisions dealing with apportionment have been transferred from the *Ontario Unconditional Grants Act* to the *Municipal Act*.

An Act to amend certain Acts respecting Assessment

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

1.—(1) Subsection 14 (2) of the *Assessment Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is repealed.

(2) Subsection 14 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is amended by striking out “or (2)” in the second and third lines.

2. Subsection 15 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 22, is repealed and the following substituted:

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the last enumeration, including updates thereto under subsection 14 (6).

3.—(1) Subsection 55 (1) of the Act is amended by adding at the beginning “In every fourth year, commencing in 1993”.

(2) Subsection 55 (3) of the Act is amended by inserting after “year” in the third line “referred to in subsection (1)”.

(3) Section 55 of the Act, as amended by the Statutes of Ontario, 1982, chapter 40, section 3 and 1983, chapter 58, section 3, is further amended by adding the following subsections:

(9) The equalized assessment and equalization factor published in *The Ontario Gazette* on the 14th day of July, 1990, as amended or adjusted after appeal, shall be the equalized assessment and equalization factor for each municipality and locality until a new equalized assessment and equalization factor is published in 1993.

(10) If the Ministry receives a request from the Ministry of Education, the Ministry of Municipal Affairs or the Ministry of Northern Development and Mines, it shall determine the equalized assessment and equalization factor for a municipality or locality,

(a) if the municipality or locality has experienced a significant change in the assessment of rateable property; or

(b) if merged area calculations are required to support county restructuring.

(11) The equalized assessment and equalization factor determined under subsection (10) shall be published in *The Ontario Gazette* and replaces the equalized assessment and equalization factor last published for the municipality or locality.

4. Section 9a of the *Ontario Unconditional Grants Act*, as enacted by the Statutes of Ontario, 1981, chapter 9, section 9, is repealed.

5. The *Municipal Act* is amended by adding the following section:

365a.—(1) In this section,

“area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in the *County of Oxford Act*;

“commercial assessment” has the same meaning as in section 368a;

“district board” means a district welfare administration board established under the *District Welfare Administration Boards Act* or a board of management established under the *Homes for the Aged and Rest Homes Act*;

“lower tier municipality” means a city, town, village, township or improvement district;

“merged area” means a merged area as defined in an Act establishing a regional municipality;

“regional municipality” means a metropolitan, regional or district municipality as defined in the Act establishing the municipality and includes the County of Oxford;

“residential and farm assessment” has the same meaning as in section 368a;

“supporting municipality” means,

(a) an area municipality,

Publication

Definitions

preparation
of list

transition

exception

- (b) a municipality required to provide money to a county for county purposes under subsection 365 (6), and
- (c) a municipality that is located wholly or partly within an area under the jurisdiction of a district board or a conservation authority and against which an apportionment utilizing equalized assessment is to be made in any year by the district board or conservation authority;

“upper tier municipality” means a county or regional municipality.

Regulations

(2) Notwithstanding this Act or any other general or special Act, the Lieutenant Governor in Council may, each year by regulation, prescribe the basis on which apportionments, levies and requisitions are to be made by the councils of upper and lower tier municipalities and by any local board, or class thereof, specified in the regulation.

Retroactivity

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Application for review

(4) Where, in respect of any year, the council of a supporting municipality is of the opinion that an apportionment made pursuant to a regulation made under subsection (2) is incorrect because of,

- (a) an error or omission in the amount of the residential and farm assessment or

commercial assessment of one or more supporting municipalities;

- (b) an error or omission in the application of a factor used to equalize the residential and farm assessment or commercial assessment of one or more supporting municipalities;
- (c) an error or omission in a calculation; or
- (d) the failure to apply one or more provisions of the regulation,

the council may apply to the Ministry within thirty days after notice of the apportionment was sent to the supporting municipality for a review to determine the correct proportion of the apportionments, levies or requisitions that each supporting municipality or part thereof shall bear in each year.

(5) Any supporting municipality that is dissatisfied with the decision resulting from the Ministry review may, within thirty days after notice of the review was sent to the municipality, appeal in writing to the Municipal Board.

Appeal to Municipal Board

6. This Act comes into force on the 1st day of January, 1991.

Commencement

7. The short title of this Act is the *Assessment Statute Law Amendment Act, 1990.*

Short title

Bill 36

*(Chapter 11
Statutes of Ontario, 1991)*

An Act to amend certain Acts respecting Assessment

The Hon. S. Wark-Martyn
Minister of Revenue

1st Reading	December 19th, 1990
2nd Reading	June 19th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

An Act to amend certain Acts respecting Assessment

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

1.—(1) Subsection 14 (2) of the *Assessment Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is repealed.

(2) Subsection 14 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is amended by striking out “or (2)” in the second and third lines.

2. Subsection 15 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 22, is repealed and the following substituted:

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the last enumeration, including updates thereto under subsection 14 (6).

3.—(1) Subsection 55 (1) of the Act is amended by adding at the beginning “In every fourth year, commencing in 1993”.

(2) Subsection 55 (3) of the Act is amended by inserting after “year” in the third line “referred to in subsection (1)”.

(3) Section 55 of the Act, as amended by the Statutes of Ontario, 1982, chapter 40, section 3 and 1983, chapter 58, section 3, is further amended by adding the following subsections:

(9) The equalized assessment and equalization factor published in *The Ontario Gazette* on the 14th day of July, 1990, as amended or adjusted after appeal, shall be the equalized assessment and equalization factor for each municipality and locality until a new equalized assessment and equalization factor is published in 1993.

(10) If the Ministry receives a request from the Ministry of Education, the Ministry of Municipal Affairs or the Ministry of Northern Development and Mines, it shall determine the equalized assessment and equalization factor for a municipality or locality,

(a) if the municipality or locality has experienced a significant change in the assessment of rateable property; or

(b) if merged area calculations are required to support county restructuring.

(11) The equalized assessment and equalization factor determined under subsection (10) shall be published in *The Ontario Gazette* and replaces the equalized assessment and equalization factor last published for the municipality or locality.

4. Section 9a of the *Ontario Unconditional Grants Act*, as enacted by the Statutes of Ontario, 1981, chapter 9, section 9, is repealed.

5. The *Municipal Act* is amended by adding the following section:

365a.—(1) In this section,

“area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in the *County of Oxford Act*;

“commercial assessment” has the same meaning as in section 368a;

“district board” means a district welfare administration board established under the *District Welfare Administration Boards Act* or a board of management established under the *Homes for the Aged and Rest Homes Act*;

“lower tier municipality” means a city, town, village, township or improvement district;

“merged area” means a merged area as defined in an Act establishing a regional municipality;

“regional municipality” means a metropolitan, regional or district municipality as defined in the Act establishing the municipality and includes the County of Oxford;

“residential and farm assessment” has the same meaning as in section 368a;

“supporting municipality” means,

(a) an area municipality,

Publication

Definitions

Preparation
of list

Transition

Exception

- (b) a municipality required to provide money to a county for county purposes under subsection 365 (6), and
- (c) a municipality that is located wholly or partly within an area under the jurisdiction of a district board or a conservation authority and against which an apportionment utilizing equalized assessment is to be made in any year by the district board or conservation authority;

“upper tier municipality” means a county or regional municipality.

Regulations

(2) Notwithstanding this Act or any other general or special Act, the Lieutenant Governor in Council may, each year by regulation, prescribe the basis on which apportionments, levies and requisitions are to be made by the councils of upper and lower tier municipalities and by any local board, or class thereof, specified in the regulation.

Retroactivity

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Application for review

(4) Where, in respect of any year, the council of a supporting municipality is of the opinion that an apportionment made pursuant to a regulation made under subsection (2) is incorrect because of,

- (a) an error or omission in the amount of the residential and farm assessment or

commercial assessment of one or more supporting municipalities;

- (b) an error or omission in the application of a factor used to equalize the residential and farm assessment or commercial assessment of one or more supporting municipalities;
- (c) an error or omission in a calculation; or
- (d) the failure to apply one or more provisions of the regulation,

the council may apply to the Ministry within thirty days after notice of the apportionment was sent to the supporting municipality for a review to determine the correct proportion of the apportionments, levies or requisitions that each supporting municipality or part thereof shall bear in each year.

(5) Any supporting municipality that is dissatisfied with the decision resulting from the Ministry review may, within thirty days after notice of the review was sent to the municipality, appeal in writing to the Municipal Board.

Appeal to Municipal Board

6. This Act comes into force on the 1st day of January, 1991.

Commencement

7. The short title of this Act is the *Assessment Statute Law Amendment Act, 1991.*

Short title

Bill 37

An Act to provide for the Licensing of Motor Boat Operators

Mr. McLean

1st Reading December 19th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill, which applies only in respect of motor boats propelled by engines of at least twenty-five horsepower, prohibits the operation of such a motor boat by any person who does not have a motor boat operator's licence or by any person who has not completed a motor boat operation course.

The Bill requires every person to carry a licence while operating a motor boat to which the Bill applies, and to produce it when requested to do so by a police officer. If unable or unwilling to produce the licence, the motor boat operator is required to give the police officer his or her correct name or address.

The Bill creates the offences of careless operation of a motor boat and impaired operation of a motor boat.

A person who contravenes any of the provisions of the Bill or certain regulations made under the Bill is liable to pay a fine not exceeding \$1,000 and, in some cases, to have his or her motor boat operator's licence suspended or revoked.

An Act to provide for the Licensing of Motor Boat Operators

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

Definitions

1. In this Act,
 “Minister” means the Minister of Transportation;
 “prescribed” means prescribed by the regulations;
 “regulations” means the regulations made under this Act.

Application

2. This Act applies only in respect of motor boats propelled by engines of at least twenty-five horsepower.

Where licence required

3. No person shall operate a motor boat unless,
 (a) he or she has a licence issued under subsection 4 (1); or
 (b) he or she is a resident of another province, country or state and has a licence issued by that province, country or state authorizing the operation of a motor boat.

Issuance of licences

4.—(1) The Minister or any person authorized in writing by the Minister shall issue a motor boat operator’s licence to any person who applies in accordance with the regulations, pays the prescribed fee, and,
 (a) is at least twelve years of age and has successfully completed a motor boat operation course in accordance with the regulations; or
 (b) is at least sixteen years of age and has successfully completed a written examination in accordance with the regulations.

Item

(2) A person who is authorized by the Minister under subsection (1) to issue licences may retain, from the fee paid in respect of each licence issued, an amount that is approved in writing by the Minister.

Definition

5.—(1) In this section, “licence” means,
 (a) a licence issued under subsection 4 (1); or

(b) with respect to a resident of another province, country or state, a licence issued by that province, country or state authorizing the operation of a motor boat.

Operator to carry licence

(2) Every person shall carry his or her licence at all times while operating a motor boat and shall produce it when requested to do so by a police officer.

Operator to identify self

(3) Every person who is unable or refuses to produce a licence in accordance with subsection (2) shall give his or her correct name and address to the police officer upon request.

Arrest without warrant

(4) A police officer who, on reasonable and probable grounds, believes that a person has contravened subsection (3) may arrest the person without warrant.

Careless operation

6.—(1) No person shall operate a motor boat without due care and attention or without reasonable consideration for others.

Impaired operation

(2) No person whose ability to operate a motor boat is impaired by alcohol or a drug shall operate a motor boat.

Offences and fines

7.—(1) Every person who contravenes section 3, 5 or 6 or a regulation made under clause 8 (d) is guilty of an offence and on conviction is liable to a fine not exceeding \$1,000.

Suspension and revocation of licences

(2) In addition to any fine that may be imposed under subsection (1), the licence of any person who is convicted of contravening section 5 or 6, or a regulation made under clause 8 (d), may be suspended for a period of up to two years or may be revoked.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) providing for the periodic expiry and renewal of motor boat operators’ licences;
- (b) establishing procedures for obtaining or renewing motor boat operators’ licences;

- (c) prescribing fees for the issuance or renewal of motor boat operators' licences;
- (d) designating classes of motor boats that may not be operated by persons under sixteen years of age;
- (e) respecting motor boat operation courses to be completed by applicants for motor boat operators' licences who are under the age of sixteen;
- (f) respecting written examinations to be completed by applicants for motor boat operators' licences who are at least sixteen years of age.

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

10. The short title of this Act is the *Motor Boat Operators Licensing Act, 1990*. Short title

Bill 38

An Act to amend the Planning Act, 1983

Mr. Callahan

1st Reading December 19th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to enable the council of a municipality that rezones land in response to an application to require the applicant to appear before it if the applicant has not started developing the land in accordance with the rezoning within six months. If no satisfactory explanation for the failure to develop is offered, the council may revoke the rezoning or declare its intention to do so if no development has taken place within a further six months.

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 is amended by adding the following section:

34b.—(1) If a council amends a zoning by-law to permit development on any land in response to an application for amendment, the council shall determine whether any development of the land has taken place during the twelve months following the day on which the amendment came into force.

(2) The council's determination shall be made not later than three months following the expiry of the twelve months referred to in subsection (1).

(3) The council shall provide twenty days notice of the meeting at which it will make its determination to the applicant for the amendment and to any other person having an interest in the land.

(4) The council shall provide the applicant and any other person given notice under subsection (3) the opportunity to explain why development has not started.

(5) If the council determines that no development or no substantial development has taken place, it may, after hearing any explanation offered under subsection (4), revoke the amendment.

(6) In this section, "development" means a use of land or an erection, location or use of buildings or structures or a change made in relation to buildings or structures that was prohibited by a zoning by-law before it was amended.

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

3. The short title of this Act is the Planning Amendment Act, 1990.

Opportunity to explain

Council may revoke amendment

Definition

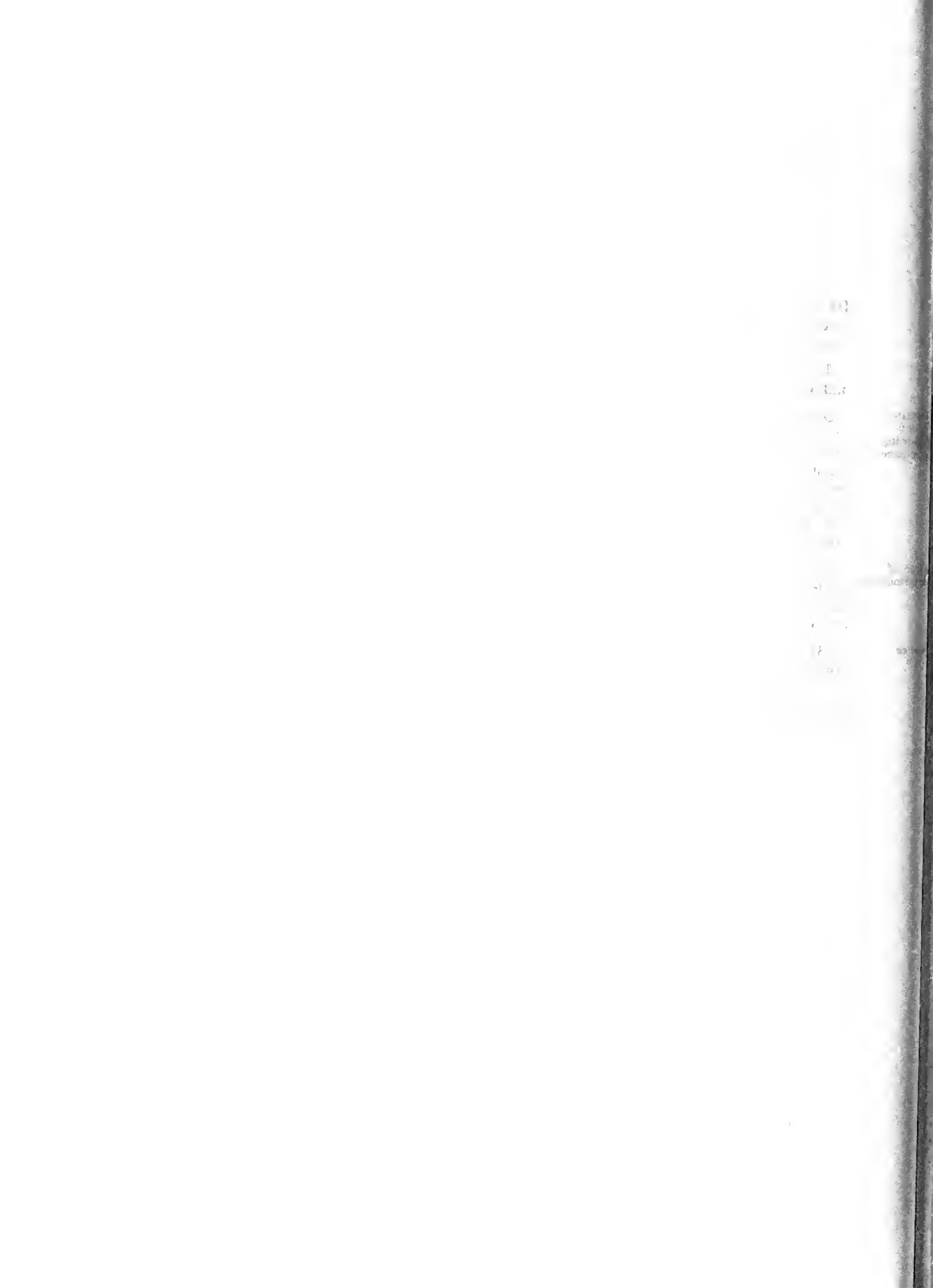
Commencement

Short title

Determination following amendment

Time of determination

Notice



1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 39

**An Act to amend the
Intervenor Funding
Project Act, 1988**

Mr. Chiarelli

Projet de loi 39

**Loi portant modification de la Loi de
1988 sur le projet d'aide financière aux
intervenants**

M. Chiarelli

1st Reading December 20th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

1^{re} lecture 20 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTE

The purpose of the Bill is to add the Ontario Municipal Board as a board to which the Act applies. The reference to "a major financial beneficiary" in the definition of "proponent" is broadened to include other areas in addition to financial matters.

NOTE EXPLICATIVE

Le projet de loi a pour objet d'ajouter la Commission des affaires municipales de l'Ontario à la liste des commissions auxquelles la Loi s'applique. Le sens de «bénéficiaire financier majeur» dans la définition de «proposant» est étendu de façon à recouvrir d'autres considérations que les seules questions financières.

**An Act to amend the
Intervenor Funding
Project Act, 1988**

**Loi portant modification de la Loi de
1988 sur le projet d'aide financière
aux intervenants**

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

1.—(1) The definition of “board” in section 1 of the *Intervenor Funding Project Act, 1988* is repealed and the following substituted:

“board” means a joint board, the Ontario Energy Board, the Environmental Assessment Board or the Ontario Municipal Board. (“commission”)

(2) The definition of “proponent” in section 1 is repealed and the following substituted:

“proponent” means a party whose undertaking, in the opinion of a funding panel, is the subject-matter of the hearing or another party, individual or corporation, who, in the opinion of a funding panel, is potentially a major beneficiary of the decision of the board. (“proposant”)

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

3. The short title of this Act is the *Intervenor Funding Project Amendment Act, 1990*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) La définition de «commission» donnée à l'article 1 de la *Loi de 1988 sur le projet d'aide financière aux intervenants* est abrogée et remplacée par ce qui suit :

«commission» Une commission mixte, la Commission de l'énergie de l'Ontario, la Commission des évaluations environnementales ou la Commission des affaires municipales de l'Ontario. («board»)

(2) La définition de «proposant» donnée à l'article 1 est abrogée et remplacée par ce qui suit :

«proposant» Partie dont l'entreprise, de l'avis d'un comité d'aide financière, fait l'objet de l'audience, ou une autre partie, personne physique ou personne morale qui, de l'avis d'un comité d'aide financière, est potentiellement un bénéficiaire important de la décision de la commission. («proponent»)

2 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

3 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le projet d'aide financière aux intervenants*.

Entrée en
vigueur

Titre abrégé

Commence-
ment

Short title

Bill 40

An Act to amend the Mortgages Act

The Hon. H. Hampton
Attorney General

1st Reading December 20th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The general effect of the Bill is to make the provisions of the *Landlord and Tenant Act* that govern residential tenancies applicable to various situations where a mortgagee of residential premises has dealings with the tenant.

A person who becomes a mortgagee in possession of residential premises is deemed to be a landlord and is subject to the tenancy agreement and the provisions of the *Landlord and Tenant Act* that apply to residential premises. A person who is deemed to be a landlord must give notice to the tenant (*section 45*).

A mortgagee may only obtain possession of residential premises according to the applicable provisions of the *Landlord and Tenant Act*. A person exercising rights under a mortgage who gives notice of termination of a tenancy is deemed to be a landlord (*section 46*).

A tenant who receives notice from a mortgagee and in good faith pays rent to the mortgagee is released from the obligation to pay rent to anyone else (*section 47*).

After a mortgage has gone into default, a mortgagee is given certain rights. Mortgagors and tenants are required to co-operate with the mortgagee and a mortgagee may apply to a court for an order requiring compliance (*section 48*).

A mortgagee is prohibited from interfering with the supply of services to or the reasonable enjoyment of residential premises. A breach of this requirement is an offence (*section 49*).

A mortgagee who believes that a mortgagor has entered into a tenancy agreement in contemplation of or after a default under the mortgage with the object of prejudicing the mortgagee may apply to court to vary or set aside the tenancy agreement (*section 50*).

A mortgagee of a single family home that is subject to a tenancy agreement has the right to obtain possession on behalf of a purchaser who, on closing, would be entitled to obtain possession under the *Landlord and Tenant Act* (*section 51*). If the purchaser does not occupy the premises, the tenant has the right to reoccupy them or, if another tenant has occupied them, the original tenant may bring an action against the purchaser (*section 52*). A mortgagee may on reasonable notice show a single family home to prospective purchasers at reasonable times (*section 53*).

The Bill preserves any rights that a tenant might have at common law or in equity.

The Bill contains transitional provisions that apply to mortgagees who become mortgagees in possession of residential premises on or after the 26th day of January, 1990. Before the Bill receives Royal Assent, a mortgagee is required to give notice of possession according to the provisions of the *Landlord and Tenant Act*. This requirement does not apply to a residential premises that is a single family home until the 20th day of December, 1990.

The Bill provides that a tenant who has paid a security deposit that has not been applied to the last rental period ranks fifth in priority to receive funds raised when, on default, a property is sold under a power of sale.

An Act to amend the Mortgages Act

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

1. Section 26 of the *Mortgages Act* is amended by striking out "and" in the ninth line, by adding "and" at the end of the eleventh line and by adding the following:

Fifthly, in payment to the tenants of the mortgagor of the security deposits paid under section 84 of the *Landlord and Tenant Act* where the security deposit was not applied in payment for the last rent period.

2. The Act is amended by adding the following sections:

PART V

MORTGAGEES IN POSSESSION OF RENTAL RESIDENTIAL PREMISES

42. In this Part,

"landlord" has the same meaning as in section 1 of the *Landlord and Tenant Act*;

"mortgagee" includes a condominium corporation with a lien enforceable under subsection 32 (6) of the *Condominium Act*;

"residential premises" has the same meaning as in section 1 of the *Landlord and Tenant Act*;

"tenancy agreement" has the same meaning as in section 81 of the *Landlord and Tenant Act*;

"tenant" has the same meaning as in section 81 of the *Landlord and Tenant Act*.

43.—(1) For purposes of this Part, a single family home is a residential premises that consists of a single dwelling unit or a primary dwelling unit and not more than two subsidiary dwelling units and that is not subject to a tenancy agreement when the mortgage is registered.

(2) A residential premises that is a duplex or a triplex is not a single family home.

(3) In deciding whether a residential premises qualifies as a single family home, the number of subsidiary units shall be the number that existed when the default under the mortgage occurred.

(4) For purposes of this section, "subsidiary dwelling unit" means,

(a) an apartment or a subsidiary residential premises, including a premises described in subclause 1 (c) (v) of the *Landlord and Tenant Act*; or

(b) a room or other subsidiary unit that is rented for residential purposes, including one that is rented to a member of the mortgagor's family or to an employee of the mortgagor.

44.—(1) In the event of a conflict between this Part and any other provision of this Act or any other Act, this Part prevails unless the provision or the Act states that it is to prevail over this Part.

(2) This Part applies despite any agreement to the contrary.

(3) This Part and section 26 apply to,

(a) tenancies of residential premises and tenancy agreements whether entered into before or after the date on which the *Mortgages Amendment Act, 1990* receives Royal Assent;

(b) mortgages, whether registered before or after the tenancy agreement was entered into, or the date on which the *Mortgages Amendment Act, 1990* receives Royal Assent.

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

45.—(1) A person who becomes the mortgagee in possession of mortgaged residential premises which are the subject of a tenancy agreement between the mortgagor and a tenant or who obtains title to the residential premises by foreclosure or power of sale shall be deemed to be the landlord under the tenancy agreement.

(2) A person who is the landlord under the tenancy agreement ceases to be the landlord while another person is deemed to be a landlord under subsection (1).

(3) A person who is deemed to be a landlord is subject to the tenancy agreement and to the provisions of the *Landlord and Tenant Act* which apply to residential premises.

Definitions

Single family home

Duplexes or triplexes

When number of units determined

Definition

Application

Idem

Idem

Person deemed to be landlord

Person ceases to be landlord

Person deemed to be landlord

Person ceases to be landlord

(4) A person shall no longer be deemed to be the landlord under the tenancy agreement when the person ceases to be a mortgagee in possession.

Mortgagee's obligations continue

(5) Despite subsection (4), a person who is deemed to be a landlord under subsection (1) continues to be liable for the obligations of a landlord that were incurred while the person was deemed to be a landlord.

Notice to tenants

(6) A person who is deemed to be a landlord shall serve notice to all tenants of the change in landlord.

Idem

(7) The notice shall be in writing and shall provide the person's name and address.

Idem

(8) The notice may be in the form prescribed by the regulations made under this Act.

Possession

46.—(1) No person exercising rights under a mortgage may obtain possession of residential premises from the mortgagor's tenant except according to the provisions of the *Landlord and Tenant Act* which apply to residential tenancies.

Person deemed to be landlord

(2) A person exercising rights under a mortgage who gives notice of termination of a tenancy shall be deemed to be a landlord under subsection 45 (1).

Payment of rent by tenant

47. On or after default under the mortgage, a tenant who in good faith pays rent to a mortgagee who first serves notice on the tenant is released from the obligation to pay the rent to any other person unless the mortgagee instructs otherwise or a court orders otherwise.

Mortgagee's rights after default

48.—(1) Despite section 40, a mortgagee may at any time after the default under a mortgage on residential premises make inquiries of the mortgagor regarding the existence of any tenancy agreement and require the mortgagor to provide a list of tenants, if any.

Idem

(2) Despite section 40, a mortgagee at any time after default under a mortgage on residential premises which are the subject of a tenancy agreement may,

- (a) enter into the common areas of the residential premises for the purpose of inspection;
- (b) demand production from the mortgagor or the mortgagor's tenant of a copy of the tenancy agreement if it is written; and
- (c) demand from the mortgagor or the mortgagor's tenant any particulars of the tenancy agreement.

Mortgagee not deemed mortgagee in possession

(3) The mortgagee does not become a mortgagee in possession of residential prem-

ises by any of the acts described in subsection (1) or (2).

(4) In the circumstances described in subsection (1), the mortgagor shall provide the mortgagee with the information requested.

(5) In the circumstances described in subsection (2), the mortgagor and the mortgagor's tenant shall provide the mortgagee with the information and documents requested and shall permit the mortgagee to enter the common areas of the premises.

(6) If a mortgagor or a mortgagor's tenant does not comply with subsection (4) or (5), the mortgagee may apply to the Ontario Court (General Division) for an order requiring compliance.

49.—(1) No mortgagee or person acting on behalf of the mortgagee shall,

- (a) deliberately interfere with a reasonable supply of any service such as heat, fuel, electricity, gas, food or water to a residential premises whether or not it was the mortgagor's obligation to supply the service; or
- (b) substantially interfere with the reasonable enjoyment of the residential premises for all the usual purposes by the mortgagor's tenant or household with the intent of causing the mortgagor's tenant to give up possession of the residential premises or to refrain from asserting any rights under this Act, the tenancy agreement or the *Landlord and Tenant Act*.

(2) Any person who contravenes or fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 in the case of an individual and \$25,000 in the case of a corporation.

50.—(1) The Ontario Court (General Division) may on application by the mortgagee vary or set aside a tenancy agreement, or any of its provisions, entered into by the mortgagor in contemplation of or after default under the mortgage with the object of,

- (a) discouraging the mortgagee from taking possession of the residential premises on default; or
- (b) adversely affecting the value of the mortgagee's interest in the residential premises.

(2) In considering the application, the judge shall have regard to the interests of the tenant and the mortgagee.

4. The Act is further amended by adding the following sections:

Obligations of mortgagor

Obligations of mortgagor and tenant

Application for compliance order

Mortgagee not to interfere

Offence

Application to set aside tenancy

Idem

Termination of tenancy

51.—(1) A person described in subsection 45 (1) may obtain, under section 105 of the *Landlord and Tenant Act*, possession of a single family home that is the subject of a tenancy agreement in the circumstances described in this section.

immediately before the date of termination.

(2) An application by the tenant must be brought within 210 days after the date of termination set out in the notice of termination.

Limitation

Possession on behalf of purchaser

(2) When a person described in subsection 45 (1) has entered into a binding agreement for the purchase and sale of a single family home, the person may obtain possession of it on behalf of a purchaser who on closing would be entitled to give notice of termination under section 105 of the *Landlord and Tenant Act*.

(3) If the tenant makes an application or is entitled to make an application, and the premises are occupied by another tenant, the original tenant may bring an action against the purchaser to recover any costs and damages incurred as the result of the tenant having to vacate the premises.

Tenant's right to recovery

Purchaser's undertaking in writing

(3) The person described in subsection 45 (1) shall obtain from the purchaser an undertaking in writing that states that the purchaser requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

53. A person described in subsection 45 (1) may on reasonable notice show a single family home that is the subject of a tenancy agreement to a prospective purchaser at reasonable times.

Right to show single family home

5. The Act is further amended by adding the following sections:

Notice of termination

(4) The notice of termination may be effective at least sixty days after it is given regardless of any fixed term of tenancy.

54. Nothing in this Part diminishes any rights which a tenant of a mortgagor has at common law or in equity where the mortgagee is bound by the tenancy agreement.

Tenant's rights preserved

dem

(5) In addition to the information required under section 99 of the *Landlord and Tenant Act*, the notice of termination shall include a copy of the undertaking supplied by the purchaser.

55. All documents required to be served by this Part shall be served in accordance with section 123 of the *Landlord and Tenant Act*.

Service

form of notice

(6) The form of notice of termination may be the same as the form used under section 110 of the *Landlord and Tenant Act* except that it shall be modified to indicate that the mortgagee is obtaining possession on behalf of a purchaser who requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

56. The Lieutenant Governor in Council may make regulations prescribing the form of notice described in subsection 45 (8).

Regulations

6.—(1) This section applies to a person who becomes a mortgagee in possession of a mortgaged residential premises, after the 26th day of January, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

Transition: general

order for writ of possession

(7) A person who has served notice may bring an application for an order for a writ of possession under section 113 of the *Landlord and Tenant Act* except that the application may be brought at any time after serving notice but in any event the writ will not be effective before the date of termination set out in the notice of termination.

(2) No mortgagee may obtain possession of residential premises from the mortgagor's tenant on or after the 26th day of January, 1990 except according to the provisions of the *Landlord and Tenant Act* which apply to residential tenancies.

Possession

purchaser exercises rights of mortgagee

(8) For the purpose of obtaining possession, a purchaser may exercise the rights of the person who served the notice of termination.

(3) This section does not apply to single family homes as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

Exception

tenant's right to occupy

52.—(1) If the purchaser does not within 180 days of the date of termination occupy the premises for his or her own use for a reasonable period, the tenant who was served notice under section 51 may bring an application to the Ontario Court (General Division) for an order directing that the tenant has the right to occupy the premises on the same terms that existed

7.—(1) This section applies to a person who becomes a mortgagee in possession of a single family home, on or after the 20th day of December, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

Transition: single family home

(2) No mortgagee may obtain possession of a single family home from the mortgagor's tenant on or after the 20th day of December, 1990 except according to the provisions of the

Possession

Landlord and Tenant Act which apply to residential tenancies.

Idem

(3) Nothing in this section diminishes the right of any person to obtain possession of a single family home under section 51 of the *Mortgages Act*, as made by section 4 of this Act.

Single family home

(4) For purposes of this section, a "single family home" is a single family home as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

8.—(1) This Act, except sections 2, 4, 6 and 7, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 2, 4 and 7 shall be deemed to have come into force on the 20th day of December, 1990. Idem

(3) Section 6 shall be deemed to have come into force on the 26th day of January, 1990. Idem

9. The short title of this Act is the *Mortgages Amendment Act, 1990*. Short title

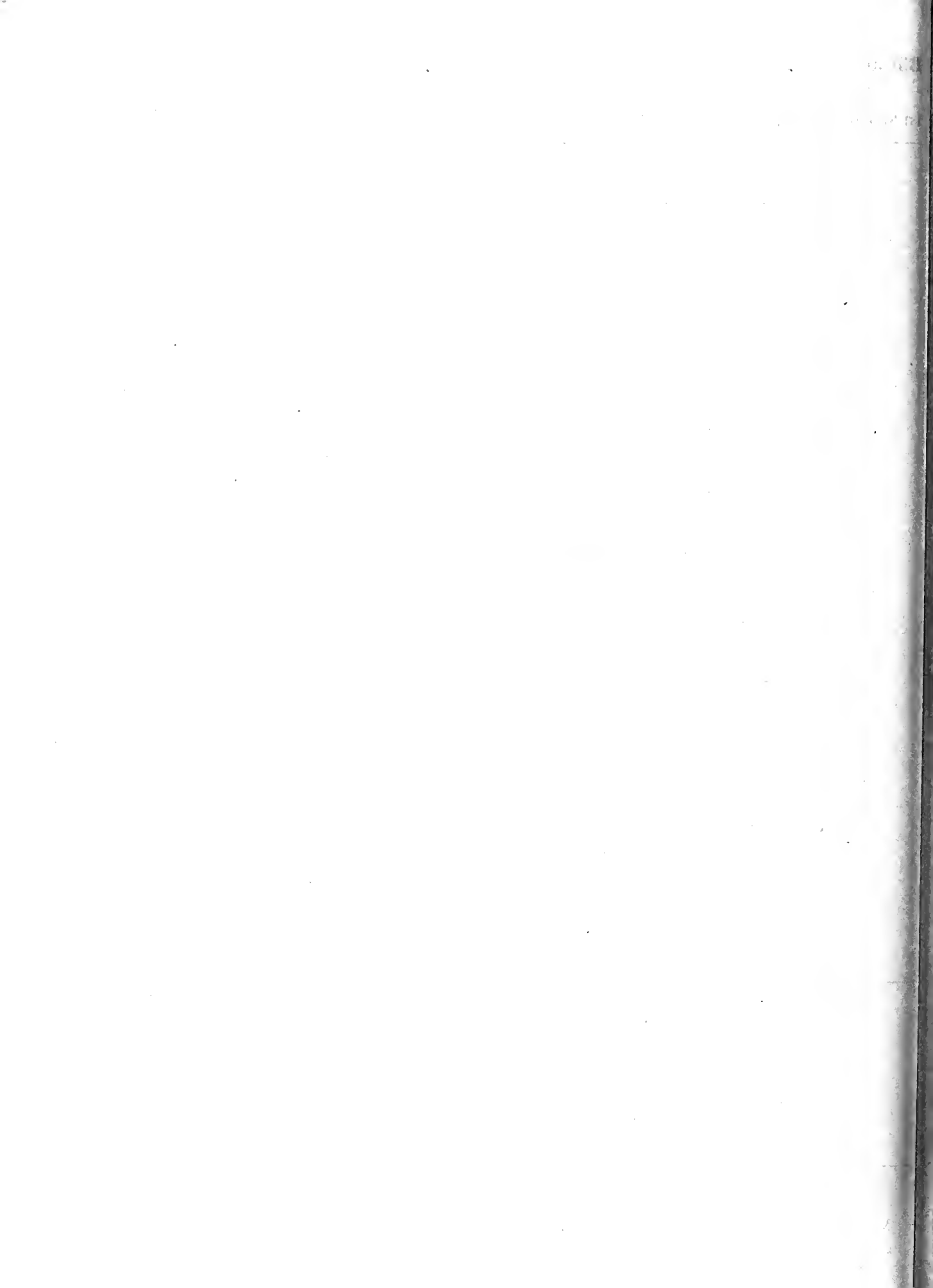
Bill 40

*(Chapter 6
Statutes of Ontario, 1991)*

An Act to amend the Mortgages Act

The Hon. H. Hampton
Attorney General

1st Reading	December 20th, 1990
2nd Reading	June 12th, 1991
3rd Reading	June 13th, 1991
Royal Assent	June 13th, 1991



An Act to amend the Mortgages Act

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

1. Section 26 of the *Mortgages Act* is amended by striking out "and" in the ninth line, by adding "and" at the end of the eleventh line and by adding the following:

Fifthly, in payment to the tenants of the mortgagor of the security deposits paid under section 84 of the *Landlord and Tenant Act* where the security deposit was not applied in payment for the last rent period.

2. The Act is amended by adding the following sections:

PART V

MORTGAGEES IN POSSESSION OF RENTAL RESIDENTIAL PREMISES

42. In this Part,

"landlord" has the same meaning as in section 1 of the *Landlord and Tenant Act*;

"mortgagee" includes a condominium corporation with a lien enforceable under subsection 32 (6) of the *Condominium Act*;

"residential premises" has the same meaning as in section 1 of the *Landlord and Tenant Act*;

"tenancy agreement" has the same meaning as in section 81 of the *Landlord and Tenant Act*;

"tenant" has the same meaning as in section 81 of the *Landlord and Tenant Act*.

43.—(1) For purposes of this Part, a single family home is a residential premises that consists of a single dwelling unit or a primary dwelling unit and not more than two subsidiary dwelling units and that is not subject to a tenancy agreement when the mortgage is registered.

(2) A residential premises that is a duplex or a triplex is not a single family home.

(3) In deciding whether a residential premises qualifies as a single family home, the number of subsidiary units shall be the number that existed when the default under the mortgage occurred.

(4) For purposes of this section, "subsidiary dwelling unit" means,

(a) an apartment or a subsidiary residential premises, including a premises described in subclause 1 (c) (v) of the *Landlord and Tenant Act*; or

(b) a room or other subsidiary unit that is rented for residential purposes, including one that is rented to a member of the mortgagor's family or to an employee of the mortgagor.

44.—(1) In the event of a conflict between this Part and any other provision of this Act or any other Act, this Part prevails unless the provision or the Act states that it is to prevail over this Part.

(2) This Part applies despite any agreement to the contrary.

(3) This Part and section 26 apply to,

(a) tenancies of residential premises and tenancy agreements whether entered into before or after the date on which the *Mortgages Amendment Act, 1991* receives Royal Assent;

(b) mortgages, whether registered before or after the tenancy agreement was entered into, or the date on which the *Mortgages Amendment Act, 1991* receives Royal Assent.

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

45.—(1) A person who becomes the mortgagee in possession of mortgaged residential premises which are the subject of a tenancy agreement between the mortgagor and a tenant or who obtains title to the residential premises by foreclosure or power of sale shall be deemed to be the landlord under the tenancy agreement.

(2) A person who is the landlord under the tenancy agreement ceases to be the landlord while another person is deemed to be a landlord under subsection (1).

(3) A person who is deemed to be a landlord is subject to the tenancy agreement and to the provisions of the *Landlord and Tenant Act* which apply to residential premises.

Definitions

Single family home

Duplexes or triplexes

When number of units determined

Definition

Application

Idem

Idem

Person deemed to be landlord

Person ceases to be landlord

Person deemed to be landlord

Person ceases to be landlord

(4) A person shall no longer be deemed to be the landlord under the tenancy agreement when the person ceases to be a mortgagee in possession.

ises by any of the acts described in subsection (1) or (2).

Mortgagee's obligations continue

(5) Despite subsection (4), a person who is deemed to be a landlord under subsection (1) continues to be liable for the obligations of a landlord that were incurred while the person was deemed to be a landlord.

(4) In the circumstances described in subsection (1), the mortgagor shall provide the mortgagee with the information requested.

Obligations of mortgagor

Notice to tenants

(6) A person who is deemed to be a landlord shall serve notice to all tenants of the change in landlord.

(5) In the circumstances described in subsection (2), the mortgagor and the mortgagor's tenant shall provide the mortgagee with the information and documents requested and shall permit the mortgagee to enter the common areas of the premises.

Obligations of mortgagor and tenant

Idem

(7) The notice shall be in writing and shall provide the person's name and address.

(6) If a mortgagor or a mortgagor's tenant does not comply with subsection (4) or (5), the mortgagee may apply to the Ontario Court (General Division) for an order requiring compliance.

Application for compliance order

Idem

(8) The notice may be in the form prescribed by the regulations made under this Act.

49.—(1) No mortgagee or person acting on behalf of the mortgagee shall,

Mortgagee not to interfere

Possession

46.—(1) No person exercising rights under a mortgage may obtain possession of residential premises from the mortgagor's tenant except according to the provisions of the *Landlord and Tenant Act* which apply to residential tenancies.

(a) deliberately interfere with a reasonable supply of any service such as heat, fuel, electricity, gas, food or water to a residential premises whether or not it was the mortgagor's obligation to supply the service; or

Person deemed to be landlord

(2) A person exercising rights under a mortgage who gives notice of termination of a tenancy shall be deemed to be a landlord under subsection 45 (1).

(b) substantially interfere with the reasonable enjoyment of the residential premises for all the usual purposes by the mortgagor's tenant or household with the intent of causing the mortgagor's tenant to give up possession of the residential premises or to refrain from asserting any rights under this Act, the tenancy agreement or the *Landlord and Tenant Act*.

Payment of rent by tenant

47. On or after default under the mortgage, a tenant who in good faith pays rent to a mortgagee who first serves notice on the tenant is released from the obligation to pay the rent to any other person unless the mortgagee instructs otherwise or a court orders otherwise.

(2) Any person who contravenes or fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 in the case of an individual and \$25,000 in the case of a corporation.

Offence

Mortgagee's rights after default

48.—(1) Despite section 40, a mortgagee may at any time after the default under a mortgage on residential premises make inquiries of the mortgagor regarding the existence of any tenancy agreement and require the mortgagor to provide a list of tenants, if any.

50.—(1) The Ontario Court (General Division) may on application by the mortgagee vary or set aside a tenancy agreement, or any of its provisions, entered into by the mortgagor in contemplation of or after default under the mortgage with the object of,

Application to set aside tenancy

Idem

(2) Despite section 40, a mortgagee at any time after default under a mortgage on residential premises which are the subject of a tenancy agreement may,

- (a) enter into the common areas of the residential premises for the purpose of inspection;
- (b) demand production from the mortgagor or the mortgagor's tenant of a copy of the tenancy agreement if it is written; and
- (c) demand from the mortgagor or the mortgagor's tenant any particulars of the tenancy agreement.

(a) discouraging the mortgagee from taking possession of the residential premises on default; or

(b) adversely affecting the value of the mortgagee's interest in the residential premises.

(2) In considering the application, the judge shall have regard to the interests of the tenant and the mortgagee.

Idem

Mortgagee not deemed mortgagee in possession

(3) The mortgagee does not become a mortgagee in possession of residential prem-

4. The Act is further amended by adding the following sections:

Termination of tenancy

51.—(1) A person described in subsection 45 (1) may obtain, under section 105 of the *Landlord and Tenant Act*, possession of a single family home that is the subject of a tenancy agreement in the circumstances described in this section.

immediately before the date of termination.

(2) An application by the tenant must be brought within 210 days after the date of termination set out in the notice of termination.

Limitation

Possession on behalf of purchaser

(2) When a person described in subsection 45 (1) has entered into a binding agreement for the purchase and sale of a single family home, the person may obtain possession of it on behalf of a purchaser who on closing would be entitled to give notice of termination under section 105 of the *Landlord and Tenant Act*.

(3) If the tenant makes an application or is entitled to make an application, and the premises are occupied by another tenant, the original tenant may bring an action against the purchaser to recover any costs and damages incurred as the result of the tenant having to vacate the premises.

Tenant's right to recovery

Purchaser's undertaking in writing

(3) The person described in subsection 45 (1) shall obtain from the purchaser an undertaking in writing that states that the purchaser requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

53. A person described in subsection 45 (1) may on reasonable notice show a single family home that is the subject of a tenancy agreement to a prospective purchaser at reasonable times.

Right to show single family home

Notice of termination

(4) The notice of termination may be effective at least sixty days after it is given regardless of any fixed term of tenancy.

5. The Act is further amended by adding the following sections:

54. Nothing in this Part diminishes any rights which a tenant of a mortgagor has at common law or in equity where the mortgagee is bound by the tenancy agreement.

Tenant's rights preserved

Idem

(5) In addition to the information required under section 99 of the *Landlord and Tenant Act*, the notice of termination shall include a copy of the undertaking supplied by the purchaser.

55. All documents required to be served by this Part shall be served in accordance with section 123 of the *Landlord and Tenant Act*.

Service

Form of notice

(6) The form of notice of termination may be the same as the form used under section 110 of the *Landlord and Tenant Act* except that it shall be modified to indicate that the mortgagee is obtaining possession on behalf of a purchaser who requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

56. The Lieutenant Governor in Council may make regulations prescribing the form of notice described in subsection 45 (8).

Regulations

6.—(1) This section applies to a person who becomes a mortgagee in possession of a mortgaged residential premises, after the 26th day of January, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

Transition: general

Order for writ of possession

(7) A person who has served notice may bring an application for an order for a writ of possession under section 113 of the *Landlord and Tenant Act* except that the application may be brought at any time after serving notice but in any event the writ will not be effective before the date of termination set out in the notice of termination.

(2) No mortgagee may obtain possession of residential premises from the mortgagor's tenant on or after the 26th day of January, 1990 except according to the provisions of the *Landlord and Tenant Act* which apply to residential tenancies.

Possession

Purchaser exercises rights of mortgagee

(8) For the purpose of obtaining possession, a purchaser may exercise the rights of the person who served the notice of termination.

(3) This section does not apply to single family homes as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

Exception

Tenant's right to occupy

52.—(1) If the purchaser does not within 180 days of the date of termination occupy the premises for his or her own use for a reasonable period, the tenant who was served notice under section 51 may bring an application to the Ontario Court (General Division) for an order directing that the tenant has the right to occupy the premises on the same terms that existed

7.—(1) This section applies to a person who becomes a mortgagee in possession of a single family home, on or after the 20th day of December, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

Transition: single family home

(2) No mortgagee may obtain possession of a single family home from the mortgagor's tenant on or after the 20th day of December, 1990 except according to the provisions of the

Possession

Landlord and Tenant Act which apply to residential tenancies.

Idem

(3) Nothing in this section diminishes the right of any person to obtain possession of a single family home under section 51 of the *Mortgages Act*, as made by section 4 of this Act.

Single family home

(4) For purposes of this section, a "single family home" is a single family home as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

8.—(1) This Act, except sections 2, 4, 6 and 7, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 2, 4 and 7 shall be deemed to have come into force on the 20th day of December, 1990. Idem

(3) Section 6 shall be deemed to have come into force on the 26th day of January, 1990. Idem

9. The short title of this Act is the *Mortgages Amendment Act, 1991*. Short title

Bill 41

Private Member's Bill

Projet de loi 41

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 41

**An Act to amend the
Environmental Protection Act**

Mr. Chiarelli

1st Reading March 25th, 1991
2nd Reading
3rd Reading
Royal Assent

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Projet de loi 41

**Loi portant modification de la Loi sur
la protection de l'environnement**

M. Chiarelli

1^{re} lecture 25 mars 1991
2^e lecture
3^e lecture
sanction royale

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EXPLANATORY NOTE

The Bill would amend the *Environmental Protection Act* by giving municipalities and, in territory without municipal organization, Local Services Boards, the authority to make by-laws prohibiting the depositing of waste from outside the municipality or Board area at sites within the municipality or Board area. The by-laws could prohibit this either absolutely or unless certain conditions set out in the by-law were met. The by-laws would be effective even in the case of a waste disposal site in respect of which the owner or operator had previously obtained an approval from the Director under the *Environmental Protection Act*.

The Bill amends only the English version of the *Environmental Protection Act*. The Legislature has not yet adopted an official French language version of that Act.

NOTE EXPLICATIVE

Le projet de loi modifierait la loi intitulée *Environmental Protection Act* («*Loi sur la protection de l'environnement*») en donnant aux municipalités le pouvoir de prendre des règlements municipaux interdisant le dépôt, dans un lieu situé à l'intérieur de la municipalité, de déchets provenant d'en dehors de la municipalité. Ces règlements pourraient interdire le dépôt soit de façon absolue, soit sous réserve de certaines conditions qui y seraient énoncées. Ils s'appliqueraient même à un lieu d'élimination des déchets pour lequel le propriétaire ou l'exploitant aurait obtenu au préalable l'autorisation du directeur aux termes de la loi intitulée *Environmental Protection Act* («*Loi sur la protection de l'environnement*»).

Le projet de loi ne modifie que la version anglaise de cette Loi, la Législature n'ayant pas encore adopté de version française officielle.

An Act to amend the Environmental Protection Act

Loi portant modification de la Loi sur la protection de l'environnement

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. Section 35 of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1988, chapter 54, section 23, is further amended by adding the following subsection:

1 L'article 35 de la loi intitulée *Environmental Protection Act* («*Loi sur la protection de l'environnement*»), tel qu'il est modifié par l'article 23 du chapitre 54 des Lois de l'Ontario de 1988, est modifié de nouveau par adjonction du paragraphe suivant :

(7) This section does not apply to a by-law made under section 38a or 38b.

(7) This section does not apply to a by-law made under section 38a or 38b.

2. The Act is amended by adding the following sections:

2 La Loi est modifiée par adjonction des articles suivants :

38a.—(1) In this section and section 38b,

38a.—(1) In this section and section 38b,

“council of a municipality” includes a Local Services Board established under the *Local Services Boards Act*;

“council of a municipality” includes a Local Services Board established under the *Local Services Boards Act*;

“municipality” means,

“municipality” means,

- (a) a local municipality, other than a local municipality within a municipality referred to in clause (b),
- (b) a metropolitan, regional or district municipality and the County of Oxford,
- (c) in territory without municipal organization, the geographical area within which a Local Services Board may exercise its jurisdiction.

- (a) a local municipality, other than a local municipality within a municipality referred to in clause (b),
- (b) a metropolitan, regional or district municipality and the County of Oxford,
- (c) in territory without municipal organization, the geographical area within which a Local Services Board may exercise its jurisdiction.

(2) The council of a municipality may make a by-law prohibiting the deposit of waste from outside the municipality on any land or land covered by water in the municipality.

(2) The council of a municipality may make a by-law prohibiting the deposit of waste from outside the municipality on any land or land covered by water in the municipality.

(3) No person shall deposit waste contrary to a by-law made under subsection (2).

(3) No person shall deposit waste contrary to a by-law made under subsection (2).

(4) Subsection (3) applies even if the deposit of waste is made at a waste disposal site in respect of which a certificate of approval or provisional certificate of approval has been issued, and even if the certificate was issued before the coming into force of this section.

(4) Subsection (3) applies even if the deposit of waste is made at a waste disposal site in respect of which a certificate of approval or provisional certificate of approval has been issued, and even if the certificate was issued before the coming into force of this section.

(5) A by-law referred to in subsection (2) may provide for compensation to be paid to

(5) A by-law referred to in subsection (2) may provide for compensation to be paid to

Exception

Definitions

By-law prohibiting imported waste

Offence

Idem

Compensation

Exception

Definitions

By-law prohibiting imported waste

Offence

Idem

Compensation

the owner or operator of a waste disposal site affected by the by-law, but the compensation paid shall not exceed the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

By-law imposing conditions

38b.—(1) The council of a municipality may make a by-law prohibiting, except upon conditions specified in the by-law, the deposit of waste from outside the municipality at any waste disposal site in the municipality in respect of which a certificate of approval or provisional certificate of approval has been issued.

Offence

(2) No person shall deposit waste at a waste disposal site contrary to a by-law made under subsection (1).

Idem

(3) Subsection (2) applies even if the certificate of approval or provisional certificate of approval had been issued in respect of the site before the coming into force of this section.

Conditions in by-law

(4) A by-law passed under subsection (1) may,

- (a) control the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (b) provide for a progressive reduction in the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (c) provide for the periodic review of matters pertaining to the waste disposal site;
- (d) require payment by the owner or operator of the waste disposal site of a fee for depositing waste from outside the municipality at the site; or
- (e) provide for compensation to be paid to the owner or operator of the waste disposal site for the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

3. Section 146 of the Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 14, 1989, chapter 72, section 32 and 1990, chapter 18, section 14, is further amended by adding the following subsection:

Exception not to apply

(2a) Subsection (2) does not apply in the case of a contravention of subsection 38a (3) or 38b (2).

the owner or operator of a waste disposal site affected by the by-law, but the compensation paid shall not exceed the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

By-law imposing conditions

38b.—(1) The council of a municipality may make a by-law prohibiting, except upon conditions specified in the by-law, the deposit of waste from outside the municipality at any waste disposal site in the municipality in respect of which a certificate of approval or provisional certificate of approval has been issued.

Offence

(2) No person shall deposit waste at a waste disposal site contrary to a by-law made under subsection (1).

Idem

(3) Subsection (2) applies even if the certificate of approval or provisional certificate of approval had been issued in respect of the site before the coming into force of this section.

Conditions in by-law

(4) A by-law passed under subsection (1) may,

- (a) control the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (b) provide for a progressive reduction in the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (c) provide for the periodic review of matters pertaining to the waste disposal site;
- (d) require payment by the owner or operator of the waste disposal site of a fee for depositing waste from outside the municipality at the site; or
- (e) provide for compensation to be paid to the owner or operator of the waste disposal site for the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

3 L'article 146 de la Loi, tel qu'il est modifié par l'article 14 du chapitre 68 des Lois de l'Ontario de 1986, par l'article 32 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 14 du chapitre 18 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction du paragraphe suivant :

Exception to apply

(2a) Subsection (2) does not apply in the case of a contravention of subsection 38a (3) or 38b (2).

Commence-
ment

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

4 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

Short title

5. The short title of this Act is the *Environmental Protection Amendment Act, 1991*.

5 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur la protection de l'environnement*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 42

**An Act to revise the
Arbitrations Act**

The Hon. H. Hampton
Attorney General

1st Reading March 27th, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 42

**Loi portant révision de la
Loi sur l'arbitrage**

L'honorable H. Hampton
Procureur général

1^{re} lecture 27 mars 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill, which replaces the *Arbitrations Act*, is based on the UNCITRAL model law on international commercial arbitration. It resembles the *Uniform Arbitration Act* recently adopted by the Uniform Law Conference of Canada.

The guiding principles of the new *Arbitration Act* are that the parties to valid arbitration agreements should abide by their agreements, that they should be free to design the process for their own arbitration as they see fit, within the limits of overall fairness, that opportunities for delay should be minimized and, finally, that awards made in arbitrations should be readily enforceable and should be reviewable only for specific defects.

Some of the important features of the Bill are:

1. The Act applies to all arbitrations conducted under arbitration agreements, unless its application is excluded by law or the *International Commercial Arbitration Act, 1988* applies. Arbitrations under existing agreements are also covered if they are commenced after the Act comes into force. (Arbitrations commenced before that time will continue to be governed by the old law.) The Act also applies, with necessary modifications, to arbitrations conducted under other statutes. (Section 2)
2. The parties to an arbitration agreement are free to design their own arbitration process, subject only to a specific list of compulsory provisions. Section 3 in effect constitutes a general permission to vary or exclude everything outside that list. The fact that parties may agree to vary or exclude particular provisions is generally not repeated elsewhere in the Act. (Section 3)
3. Parties who have objections that arise in the course of arbitration must raise them promptly or risk losing the right to do so. (Section 4)
4. Arbitrations are ultimately subject to judicial supervision. However, the Act does not confer broad discretion on the court to intervene in arbitrations; instead, it describes the specific circumstances in which it may act. (Section 6)
5. An arbitrator must be independent and impartial and must disclose to the parties any circumstances that could cast doubt on his or her independence and impartiality. Procedures for challenging and removing arbitrators are provided. (Sections 11 to 15)
6. Objections to jurisdiction are to be made to the arbitral tribunal in the first instance, then to the court if the arbitral tribunal's resolution of the question is not satisfactory. Objections to the arbitral tribunal's jurisdiction to conduct the arbitration must be made by the beginning of the hearing, and objections that it is exceeding its authority must be made as soon as the relevant matter is raised during the arbitration; however, the arbitral tribunal may permit later objections. (Section 17)
7. The rules of natural justice apply to arbitrations, and the arbitral tribunal determines its own procedure. It is required to decide the dispute before it in accordance with law and may apply rules of equity. (Sections 19, 20 and 31)

NOTES EXPLICATIVES

Le projet de loi, qui remplace la loi intitulée *Arbitrations Act*, s'inspire de la loi type de la CNUDCI sur l'arbitrage commercial international. Il ressemble à la *Loi uniforme sur l'arbitrage* récemment adoptée par la Conférence sur l'uniformisation des lois au Canada.

Les principes directeurs de la nouvelle *Loi sur l'arbitrage* sont les suivants : les parties à une convention d'arbitrage sont tenues de respecter leur convention, sauf en cas d'invalidité de celle-ci; les parties doivent pouvoir, à leur gré, concevoir leur propre processus arbitral comme elles le jugent approprié, tout en respectant les principes généraux d'équité; les possibilités de retarder le processus arbitral doivent être réduites au minimum et, enfin, l'exécution des sentences rendues au cours de l'arbitrage doit se faire aisément et leur révision n'être possible que dans le cas de vices précis.

Voici quelques-unes des caractéristiques essentielles du projet de loi :

1. La Loi s'applique à tous les arbitrages effectués en vertu de conventions d'arbitrage, à moins que son application ne soit exclue de par la loi ou que la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique. La Loi vise également les arbitrages effectués en vertu de conventions existantes s'ils ont été engagés après la date où elle entre en vigueur. (Les arbitrages engagés avant cette date continuent d'être régis par l'ancienne loi.) En outre, la Loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués en vertu d'autres lois. (Article 2)
2. Les parties à une convention d'arbitrage peuvent, à leur gré, concevoir leur propre processus arbitral, à condition de respecter une liste précise de dispositions obligatoires. L'article 3 constitue en fait une autorisation générale de modifier ou d'exclure toutes les dispositions qui ne figurent pas sur cette liste. La possibilité qu'ont les parties de convenir de modifier ou d'exclure des dispositions particulières n'est le plus souvent pas répétée ailleurs dans la Loi. (Article 3)
3. Les parties qui ont des objections au cours de l'arbitrage doivent les soulever promptement, sinon elles risquent de perdre leur droit d'objection. (Article 4)
4. Les arbitrages sont fondamentalement soumis au contrôle judiciaire. La Loi ne confère toutefois pas au tribunal judiciaire de vastes pouvoirs en matière d'intervention dans les arbitrages; elle décrit plutôt les circonstances particulières dans lesquelles celui-ci peut agir. (Article 6)
5. Un arbitre doit être indépendant et impartial et doit communiquer aux parties toute circonstance susceptible de mettre en doute son indépendance et son impartialité. Des procédures de récusation et de révocation des arbitres sont prévues. (Articles 11 à 15)
6. Les objections touchant la compétence doivent être présentées au tribunal arbitral en première instance, puis au tribunal judiciaire si la résolution de la question n'est pas satisfaisante. Les objections touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doivent être présentées au plus tard au début de l'audience et celles selon lesquelles il outrepassé ses pouvoirs doivent l'être dès que la question pertinente est soulevée pendant l'arbitrage; le tribunal arbitral peut toutefois autoriser la présentation d'objections tardives. (Article 17)
7. Les règles de justice naturelle s'appliquent aux arbitrages, et il appartient au tribunal arbitral de déterminer sa propre procédure. Il est tenu de trancher le différend conformément à la common law et peut appliquer les principes d'équité. (Articles 19, 20 et 31)

8. The award of an arbitral tribunal may be appealed to the Ontario Court (General Division), if the arbitration agreement so permits, or with leave in the case of an appeal on a question of law. It may also be set aside for procedural defects on an application to that court. A party who has not participated in the arbitration has the further remedy of applying to the court, at any stage, for a declaration that the arbitration is invalid. (Sections 45, 46 and 48)

9. Awards made in Ontario or elsewhere in Canada may be enforced by an application to the court. (Section 50)

8. La sentence d'un tribunal arbitral est susceptible d'appel devant la Cour de l'Ontario (Division générale), si la convention d'arbitrage le permet, ou sur autorisation dans le cas d'un appel sur une question de droit. Elle peut également être annulée en cas de vices de procédure, sur requête présentée à ce tribunal judiciaire. Une partie qui n'a pas participé à l'arbitrage a le droit, comme recours additionnel, à quelque étape que ce soit, de demander, par voie de requête, au tribunal judiciaire de déclarer nul l'arbitrage par jugement déclaratoire. (Articles 45, 46 et 48)

9. Les sentences rendues en Ontario ou ailleurs au Canada peuvent être exécutées sur simple requête présentée au tribunal judiciaire. (Article 50)



An Act to revise the Arbitrations Act

Loi portant révision de la Loi sur l'arbitrage

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- 55. Arbitrator's fees and expenses
- 56. Assessment of costs, fees and expenses
- 57. Interest
- 58. Repeal
- 59. Commencement
- 60. Short title

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

INTRODUCTORY MATTERS

Definitions

1. In this Act,

“arbitration agreement” means an agreement by which two or more persons agree to submit to arbitration a dispute that has arisen or may arise between them; (“convention d'arbitrage”)

“arbitrator” includes an umpire; (“arbitre”)

“court”, except in sections 6 and 7, means the Ontario Court (General Division). (“tribunal judiciaire”)

Application of Act to arbitrations conducted under agreements

2.—(1) This Act applies to an arbitration conducted under an arbitration agreement unless,

- (a) the application of this Act is excluded by law; or
- (b) the *International Commercial Arbitration Act, 1988* applies to the arbitration.

Transition, existing agreements

(2) This Act applies to an arbitration conducted under an arbitration agreement made before the day this Act comes into force, if the arbitration is commenced after that day.

- 38. Forme de la sentence
- 39. Prorogation du délai
- 40. Explications
- 41. Sentences provisoires
- 42. Plus d'une sentence définitive
- 43. Clôture de l'arbitrage
- 44. Corrections

RECOURS

- 45. Appel
- 46. Annulation de la sentence
- 47. Délai
- 48. Déclaration de nullité de l'arbitrage
- 49. Nouvel appel
- 50. Exécution de la sentence

DISPOSITIONS GÉNÉRALES

- 51. Couronne liée
- 52. Délais de prescription
- 53. Signification d'avis
- 54. Dépens
- 55. Honoraires et frais de l'arbitre
- 56. Liquidation des dépens, frais et honoraires
- 57. Intérêts
- 58. Abrogation
- 59. Entrée en vigueur
- 60. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit :

QUESTIONS PRÉLIMINAIRES

1 Les définitions qui suivent s'appliquent à la présente loi.

«arbitre» S'entend en outre d'un surarbitre. («arbitrator»)

«convention d'arbitrage» Convention par laquelle plusieurs personnes conviennent de soumettre à l'arbitrage un différend survenu ou susceptible de survenir entre elles. («arbitration agreement»)

«tribunal judiciaire» Sauf aux articles 6 et 7, s'entend de la Cour de l'Ontario (Division générale). («court»)

2 (1) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage à moins que, selon le cas :

- a) l'application de la présente loi ne soit exclue de par la loi;
- b) la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique à l'arbitrage.

(2) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage conclue avant la date où la présente loi entre en vigueur, si l'arbitrage est engagé après cette date.

Definitions

Application de la Loi au arbitrages effectués en vertu de conventions

Disposition transitoire, conventions existantes

Application of Act to arbitrations conducted under statutes	<p>(3) This Act applies with necessary modifications to an arbitration conducted in accordance with another Act, unless that Act provides otherwise; however, in the event of conflict between this Act and the other Act or regulations made under the other Act, the other Act or the regulations prevail.</p>	<p>(3) La présente loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués conformément à une autre loi, sauf disposition contraire de cette loi. Toutefois, en cas de conflit entre la présente loi et l'autre loi ou les règlements pris en application de cette dernière, l'autre loi ou les règlements l'emportent.</p>	Application de la Loi aux arbitrages effectués en vertu d'autres lois
Transition, arbitrations already commenced	<p>(4) Despite its repeal by subsection 58 (1), the <i>Arbitrations Act</i>, being chapter 25 of the Revised Statutes of Ontario, 1980, continues to apply to arbitrations that are commenced before the day this Act comes into force.</p>	<p>(4) Malgré son abrogation par le paragraphe 58 (1), la loi intitulée <i>Arbitrations Act</i>, qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, continue de s'appliquer aux arbitrages engagés avant la date où la présente loi entre en vigueur.</p>	Disposition transitoire : arbitrages déjà engagés
Contracting out	<p>3. The parties to an arbitration agreement may agree, expressly or by implication, to vary or exclude any provision of this Act except the following:</p>	<p>3 Les parties à une convention d'arbitrage peuvent convenir, expressément ou implicitement, de modifier ou d'exclure une disposition de la présente loi, à l'exception de celles qui suivent :</p>	Exclusion de dispositions
	<ol style="list-style-type: none"> 1. Subsection 5 (4) ("<i>Scott v. Avery</i>" clauses). 2. Section 19 (equality and fairness). 3. Section 39 (extension of time limits). 4. Section 46 (setting aside award). 5. Section 48 (declaration of invalidity of arbitration). 6. Section 50 (enforcement of award). 	<ol style="list-style-type: none"> 1. Le paragraphe 5 (4) (clauses du type «<i>Scott c. Avery</i>»). 2. L'article 19 (égalité et équité). 3. L'article 39 (prorogation du délai). 4. L'article 46 (annulation de la sentence). 5. L'article 48 (déclaration de nullité de l'arbitrage). 6. L'article 50 (exécution de la sentence). 	
Waiver of right to object	<p>4. A party who participates in an arbitration despite being aware of non-compliance with a provision of this Act, except one mentioned in section 3, or with the arbitration agreement, and does not object to the non-compliance within the time limit provided or, if none is provided, within a reasonable time, shall be deemed to have waived the right to object.</p>	<p>4 Est réputée avoir renoncé à son droit d'objection la partie qui, tout en sachant qu'une disposition de la présente loi, à l'exclusion d'une disposition mentionnée à l'article 3, ou la convention d'arbitrage n'est pas respectée, participe à un arbitrage sans s'opposer à ce non-respect dans le délai prévu ou, s'il n'est pas prévu de délai, dans un délai raisonnable.</p>	Renonciation au droit d'objection
Arbitration agreements	<p>5.—(1) An arbitration agreement may be an independent agreement or part of another agreement.</p>	<p>5 (1) La convention d'arbitrage peut constituer une convention distincte ou faire partie d'une autre convention.</p>	Convention d'arbitrage
Further agreements	<p>(2) If the parties to an arbitration agreement make a further agreement in connection with the arbitration, it shall be deemed to form part of the arbitration agreement.</p>	<p>(2) Si les parties à une convention d'arbitrage concluent une autre convention relativement à l'arbitrage, celle-ci est réputée faire partie de la convention d'arbitrage.</p>	Conventions ultérieures
Oral agreements	<p>(3) An arbitration agreement need not be in writing.</p>	<p>(3) Il n'est pas nécessaire que la convention d'arbitrage soit sous forme écrite.</p>	Convention verbale
"Scott v. Avery" clauses	<p>(4) An agreement requiring or having the effect of requiring that a matter be adjudicated by arbitration before it may be dealt with by a court has the same effect as an arbitration agreement.</p>	<p>(4) La convention qui exige ou qui a pour effet d'exiger qu'une question soit tranchée par la voie arbitrale avant de pouvoir être portée devant un tribunal judiciaire a le même effet qu'une convention d'arbitrage.</p>	Clauses du type « <i>Scott c. Avery</i> »
Revocation	<p>(5) An arbitration agreement may be revoked only in accordance with the ordinary rules of contract law.</p>	<p>(5) La convention d'arbitrage ne peut être révoquée que conformément aux règles ordinaires du droit des obligations.</p>	Révocation

COURT INTERVENTION

INTERVENTION DU TRIBUNAL JUDICIAIRE

Court inter-
vention
limited

6. No court shall intervene in matters governed by this Act, except as this Act provides.

6 Aucun tribunal judiciaire ne doit intervenir dans les questions régies par la présente loi, sauf dans les cas prévus par celle-ci.

Intervention
limitée du tri-
bunal judi-
ciaire

Stay

7.—(1) If a party to an arbitration agreement commences a proceeding in respect of a matter to be submitted to arbitration under the agreement, the court in which the proceeding is commenced shall, on the motion of another party to the arbitration agreement, stay the proceeding.

7 (1) Si une partie à une convention d'arbitrage introduit une instance à l'égard d'une question que la convention oblige à soumettre à l'arbitrage, le tribunal judiciaire devant lequel l'instance est introduite doit, sur la motion d'une autre partie à la convention d'arbitrage, surseoir à l'instance.

Sursis

Exceptions

(2) However, the court may refuse to stay the proceeding in any of the following cases:

(2) Cependant, le tribunal judiciaire peut refuser de surseoir à l'instance dans l'un ou l'autre des cas suivants :

Exceptions

1. A party entered into the arbitration agreement while under a legal incapacity.
2. The arbitration agreement is invalid.
3. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
4. The motion was brought with undue delay.
5. The matter is a proper one for default or summary judgment.

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.
2. La convention d'arbitrage est nulle.
3. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
4. La motion a été présentée avec un retard indu.
5. La question est propre à un jugement par défaut ou à un jugement sommaire.

Arbitration
may
continue

(3) An arbitration of the dispute may be commenced and continued while the motion is before the court.

(3) L'arbitrage du différend peut être engagé et poursuivi pendant que la motion est devant le tribunal judiciaire.

Poursuite de
l'arbitrageEffect of
refusal to
stay

(4) If the court refuses to stay the proceeding,

(4) Si le tribunal judiciaire refuse de surseoir à l'instance :

Conséquences
du refus de
surseoir

- (a) no arbitration of the dispute shall be commenced; and
- (b) an arbitration that has been commenced shall not be continued, and anything done in connection with the arbitration before the court made its decision is without effect.

- a) d'une part, aucun arbitrage du différend ne peut être engagé;
- b) d'autre part, l'arbitrage qui a été engagé ne peut être poursuivi, et tout ce qui a été fait dans le cadre de l'arbitrage avant que le tribunal judiciaire ne rende sa décision est sans effet.

Agreement
covering part
of dispute

(5) The court may stay the proceeding with respect to the matters dealt with in the arbitration agreement and allow it to continue with respect to other matters if it finds that,

(5) Le tribunal judiciaire peut surseoir à l'instance en ce qui touche les questions traitées dans la convention d'arbitrage et permettre qu'elle se poursuive en ce qui touche les autres questions, s'il constate :

Convention
s'appliquant à
une partie du
différend

- (a) the agreement deals with only some of the matters in respect of which the proceeding was commenced; and
- (b) it is reasonable to separate the matters dealt with in the agreement from the other matters.

- a) d'une part, que la convention ne traite que de certaines des questions à l'égard desquelles l'instance a été introduite;
- b) d'autre part, qu'il est raisonnable de dissocier les questions traitées dans la convention des autres questions.

No appeal

(6) There is no appeal from the court's decision.

(6) La décision du tribunal judiciaire n'est pas susceptible d'appel.

Décision sans
appelPowers of
court

8.—(1) The court's powers with respect to the detention, preservation and inspec-

8 (1) Les pouvoirs du tribunal judiciaire en ce qui concerne la garde, la con-

Pouvoirs du
tribunal judi-
ciaire

tion of property, interim injunctions and the appointment of receivers are the same in arbitrations as in court actions.

servation et l'examen des biens, les injonctions provisoires et la nomination de séquestres sont les mêmes dans le cas d'arbitrages que dans le cas d'actions en justice.

Questions of law	(2) The arbitral tribunal may determine any question of law that arises during the arbitration; the court may do so on the application of the arbitral tribunal, or on a party's application if the other parties or the arbitral tribunal consent.	(2) Le tribunal arbitral peut statuer sur toute question de droit qui est soulevée au cours de l'arbitrage. Le tribunal judiciaire peut également le faire à la requête du tribunal arbitral, ou à la requête d'une partie, si les autres parties ou le tribunal arbitral y consentent.	Questions de droit
Appeal	(3) The court's determination of a question of law may be appealed to the Court of Appeal, with leave.	(3) La décision du tribunal judiciaire sur une question de droit peut faire l'objet d'un appel devant la Cour d'appel, sur autorisation de celle-ci.	Appel
More than one arbitration	(4) On the application of all the parties to more than one arbitration the court may order, on such terms as are just,	(4) À la requête de toutes les parties à plusieurs arbitrages, le tribunal judiciaire peut ordonner, selon le cas et aux conditions qui sont justes :	Plusieurs arbitrages
	(a) that the arbitrations be consolidated;	a) que les arbitrages soient joints;	
	(b) that the arbitrations be conducted simultaneously or consecutively; or	b) que les arbitrages soient effectués simultanément ou consécutivement;	
	(c) that any of the arbitrations be stayed until any of the others are completed.	c) qu'il soit sursis à l'un des arbitrages jusqu'à ce que l'un ou l'autre des arbitrages soit terminé.	
Arbitral tribunal for consolidated arbitrations	(5) When the court orders that arbitrations be consolidated, it may appoint an arbitral tribunal for the consolidated arbitration; if all the parties agree as to the choice of arbitral tribunal, the court shall appoint it.	(5) Si le tribunal judiciaire ordonne la jonction d'arbitrages, il peut désigner un tribunal arbitral pour effectuer les arbitrages joints. Si toutes les parties s'entendent sur le choix du tribunal arbitral, le tribunal judiciaire doit le désigner.	Tribunal arbitral chargé d'effectuer les arbitrages joints
Consolidation by agreement of parties	(6) Subsection (4) does not prevent the parties to more than one arbitration from agreeing to consolidate the arbitrations and doing everything necessary to effect the consolidation.	(6) Le paragraphe (4) n'a pas pour effet d'empêcher les parties à plus d'un arbitrage de s'entendre pour joindre les arbitrages et de prendre toutes les mesures nécessaires à cette fin.	Jonction des arbitrages par accord des parties
	COMPOSITION OF ARBITRAL TRIBUNAL	COMPOSITION DU TRIBUNAL ARBITRAL	
Number of arbitrators	9. If the arbitration agreement does not specify the number of arbitrators who are to form the arbitral tribunal, it shall be composed of one arbitrator.	9 Si la convention d'arbitrage ne précise pas le nombre d'arbitres qui doivent former le tribunal arbitral, celui-ci se compose d'un seul arbitre.	Nombre d'arbitres
Appointment of arbitral tribunal	10.—(1) The court may appoint the arbitral tribunal, on a party's application, if,	10 (1) Le tribunal judiciaire peut désigner le tribunal arbitral, à la requête d'une partie, dans les cas suivants :	Désignation du tribunal arbitral
	(a) the arbitration agreement provides no procedure for appointing the arbitral tribunal; or	a) la convention d'arbitrage ne prévoit aucune procédure de désignation du tribunal arbitral;	
	(b) a person with power to appoint the arbitral tribunal has not done so after a party has given the person seven days notice to do so.	b) une personne investie du pouvoir de désigner le tribunal arbitral n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.	
No appeal	(2) There is no appeal from the court's appointment of the arbitral tribunal.	(2) La désignation du tribunal arbitral par le tribunal judiciaire n'est pas susceptible d'appel.	Désignation sans appel

More than one arbitrator

(3) Subsections (1) and (2) apply with necessary modifications to the appointment of individual members of arbitral tribunals that are composed of more than one arbitrator.

(3) Les paragraphes (1) et (2) s'appliquent, avec les adaptations nécessaires, à la désignation de chacun des membres des tribunaux arbitraux qui comprennent plus d'un arbitre.

Cas où il y a plus d'un arbitre

Chair

(4) If the arbitral tribunal is composed of three or more arbitrators, they shall elect a chair from among themselves; if it is composed of two arbitrators, they may do so.

(4) Si le tribunal arbitral se compose d'au moins trois arbitres, ceux-ci doivent élire un président choisi parmi eux. S'il se compose de deux arbitres, ces derniers peuvent le faire.

Président

Duty of arbitrator

11.—(1) An arbitrator shall be independent of the parties and shall act impartially.

11 (1) L'arbitre doit être indépendant des parties et agir en toute impartialité.

Obligations de l'arbitre

Disclosure before accepting appointment

(2) Before accepting an appointment as arbitrator, a person shall disclose to all parties to the arbitration any circumstances of which he or she is aware that may give rise to a reasonable apprehension of bias.

(2) Avant d'accepter sa désignation comme arbitre, la personne désignée doit communiquer à toutes les parties à l'arbitrage toutes les circonstances dont elle a connaissance qui pourraient susciter des craintes raisonnables de partialité.

Divulgence avant l'acceptation de la désignation

Disclosure during arbitration

(3) An arbitrator who, during an arbitration, becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose them to all the parties.

(3) L'arbitre qui, au cours d'un arbitrage, apprend l'existence de circonstances pouvant susciter des craintes raisonnables de partialité les communique promptement à toutes les parties.

Divulgence au cours d'un arbitrage

No revocation

12. A party may not revoke the appointment of an arbitrator.

12 Une partie ne peut révoquer la désignation d'un arbitre.

Révocation impossible

Challenge

13.—(1) A party may challenge an arbitrator only on one of the following grounds:

13 (1) Une partie ne peut récuser un arbitre que pour l'un des motifs suivants :

Récusation

1. Circumstances exist that may give rise to a reasonable apprehension of bias.
2. The arbitrator does not possess qualifications that the parties have agreed are necessary.

1. Il existe des circonstances qui peuvent susciter des craintes raisonnables de partialité.
2. L'arbitre ne possède pas les compétences nécessaires dont sont convenues les parties.

Idem, arbitrator appointed by party

(2) A party who appointed an arbitrator or participated in his or her appointment may challenge the arbitrator only for grounds of which the party was unaware at the time of the appointment.

(2) Une partie ne peut récuser l'arbitre qu'elle a désigné ou à la désignation duquel elle a participé que pour des motifs dont elle ignorait l'existence au moment de la désignation.

Idem : arbitre désigné par une partie

Procedure for challenge

(3) A party who wishes to challenge an arbitrator shall send the arbitral tribunal a statement of the grounds for the challenge, within fifteen days of becoming aware of them.

(3) La partie qui veut récuser un arbitre envoie au tribunal arbitral un énoncé des motifs de la récusation, dans les quinze jours de la date où elle en a appris l'existence.

Procédure de récusation

Removal or resignation of challenged arbitrator

(4) The other parties may agree to remove the challenged arbitrator, or the arbitrator may resign.

(4) Les autres parties peuvent convenir de révoquer l'arbitre récusé ou ce dernier peut démissionner.

Révocation ou démission de l'arbitre récusé

Decision of arbitral tribunal

(5) If the challenged arbitrator is not removed by the parties and does not resign, the arbitral tribunal, including the challenged arbitrator, shall decide the issue and shall notify the parties of its decision.

(5) Si l'arbitre récusé n'est pas révoqué par les parties et ne démissionne pas, le tribunal arbitral, y compris l'arbitre récusé, tranche le litige et avise les parties de sa décision.

Décision du tribunal arbitral

Application to court

(6) Within ten days of being notified of the arbitral tribunal's decision, a party may make an application to the court to decide the issue and, in the case of the challenging party, to remove the arbitrator.

(6) Dans les dix jours de la date où elle a reçu avis de la décision du tribunal arbitral, une partie peut présenter une requête au tribunal judiciaire pour qu'il tranche le litige et,

Requête devant le tribunal judiciaire

(7) While an application is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitration and make an award, unless the court orders otherwise.

14.—(1) An arbitrator's mandate terminates when,

- (a) the arbitrator resigns or dies;
- (b) the parties agree to terminate it;
- (c) the arbitral tribunal upholds a challenge to the arbitrator, ten days elapse after all the parties are notified of the decision and no application is made to the court; or
- (d) the court removes the arbitrator under subsection 15 (1).

(2) An arbitrator's resignation or a party's agreement to terminate an arbitrator's mandate does not imply acceptance of the validity of any reason advanced for challenging or removing him or her.

15.—(1) The court may remove an arbitrator on a party's application under subsection 13 (6) (challenge), or may do so on a party's application if the arbitrator becomes unable to perform his or her functions, commits a corrupt or fraudulent act, delays unduly in conducting the arbitration or does not conduct it in accordance with section 19 (equality and fairness).

(2) The arbitrator is entitled to be heard by the court if the application is based on an allegation that he or she committed a corrupt or fraudulent act or delayed unduly in conducting the arbitration.

(3) When the court removes an arbitrator, it may give directions about the conduct of the arbitration.

(4) If the court removes an arbitrator for a corrupt or fraudulent act or for undue delay, it may order that the arbitrator receive no payment for his or her services and may order that he or she compensate the parties for all or part of the costs, as determined by the court, that they incurred in connection with the arbitration before his or her removal.

(5) The arbitrator or a party may, within thirty days after receiving the court's decision, appeal an order made under subsection (4) or the refusal to make such an order to the Court of Appeal, with leave of that court.

dans le cas de la partie récusante, pour qu'il révoque l'arbitre.

(7) En attendant qu'il soit statué sur la requête, le tribunal arbitral, y compris l'arbitre récusé, peut poursuivre l'arbitrage et rendre une sentence, à moins que le tribunal judiciaire n'en ordonne autrement.

14 (1) Le mandat d'un arbitre prend fin dans les cas suivants :

- a) l'arbitre démissionne ou décède;
- b) les parties conviennent d'y mettre fin;
- c) le tribunal arbitral maintient une récusation de l'arbitre, il s'écoule dix jours après que toutes les parties ont été avisées de la décision et aucune requête n'est présentée au tribunal judiciaire;
- d) le tribunal judiciaire révoque l'arbitre aux termes du paragraphe 15 (1).

(2) Le fait qu'un arbitre démissionne ou qu'une partie accepte de mettre fin au mandat d'un arbitre n'implique pas que les motifs avancés pour le récuser ou le révoquer sont considérés comme valides.

15 (1) Le tribunal judiciaire peut révoquer un arbitre à la requête d'une partie présentée aux termes du paragraphe 13 (6) (récusation). Il peut également le révoquer à la requête d'une partie si l'arbitre n'est plus en mesure d'exercer ses fonctions, commet un acte vénal ou frauduleux, tarde indûment à effectuer l'arbitrage ou ne l'effectue pas conformément à l'article 19 (égalité et équité).

(2) L'arbitre a le droit d'être entendu par le tribunal judiciaire si la requête est fondée sur l'allégation selon laquelle il a commis un acte vénal ou frauduleux, ou a tardé indûment à effectuer l'arbitrage.

(3) Lorsqu'il révoque un arbitre, le tribunal judiciaire peut donner des directives touchant la conduite de l'arbitrage.

(4) Si le tribunal judiciaire révoque un arbitre pour avoir commis un acte vénal ou frauduleux, ou pour un retard indû, il peut interdire qu'une rémunération lui soit versée en contrepartie de ses services et lui ordonner de dédommager les parties pour tout ou partie des frais, selon la décision du tribunal judiciaire, qu'elles ont engagés relativement à l'arbitrage avant sa révocation.

(5) L'arbitre ou une partie peut, dans les trente jours de la date où ils ont reçu la décision du tribunal judiciaire, faire appel devant la Cour d'appel, sur autorisation de celle-ci, d'une ordonnance rendue aux termes du paragraphe (4) ou du refus de rendre une telle ordonnance.

Possibilité de poursuivre l'arbitrage

Fin du mandat de l'arbitre

Portée de la démission ou de l'accord pour mettre fin au mandat

Révocation de l'arbitre par le tribunal judiciaire

Droit de l'arbitre

Directives

Peine

Appel relatif à une peine

Arbitration may continue

Termination of arbitrator's mandate

Significance of resignation or agreement to terminate

Removal of arbitrator by court

Right of arbitrator

Directions

Penalty

Appeal re penalty

No other appeal

(6) Except as provided in subsection (5), there is no appeal from the court's decision or from its directions.

(6) Sauf disposition contraire du paragraphe (5), ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

Aucun autre appel possible

Appointment of substitute arbitrator

16.—(1) When an arbitrator's mandate terminates, a substitute arbitrator shall be appointed, following the procedure that was used in the appointment of the arbitrator being replaced.

16 (1) Lorsque le mandat d'un arbitre prend fin, un arbitre remplaçant est désigné selon la procédure qui a été suivie pour la désignation de l'arbitre remplacé.

Désignation d'un arbitre remplaçant

Directions

(2) When the arbitrator's mandate terminates, the court may, on a party's application, give directions about the conduct of the arbitration.

(2) Lorsque le mandat de l'arbitre prend fin, le tribunal judiciaire peut, à la requête d'une partie, donner des directives touchant la conduite de l'arbitrage.

Directives

Court appointment

(3) The court may appoint the substitute arbitrator, on a party's application, if,

(3) Le tribunal judiciaire peut désigner l'arbitre remplaçant, à la requête d'une partie, dans les cas suivants :

Désignation par le tribunal judiciaire

(a) the arbitration agreement provides no procedure for appointing the substitute arbitrator; or

a) la convention d'arbitrage ne prévoit aucune procédure de désignation de l'arbitre remplaçant;

(b) a person with power to appoint the substitute arbitrator has not done so after a party has given the person seven days notice to do so.

b) la personne investie du pouvoir de désigner l'arbitre remplaçant n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.

No appeal

(4) There is no appeal from the court's decision or from its directions.

(4) Ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

Aucun appel possible

Exception

(5) This section does not apply if the arbitration agreement provides that the arbitration is to be conducted only by a named arbitrator.

(5) Le présent article ne s'applique pas si la convention d'arbitrage prévoit que l'arbitrage ne doit être effectué que par un arbitre donné.

Exception

JURISDICTION OF ARBITRAL TRIBUNAL

COMPÉTENCE DU TRIBUNAL ARBITRAL

Arbitral tribunal may rule on own jurisdiction

17.—(1) An arbitral tribunal may rule on its own jurisdiction to conduct the arbitration and may in that connection rule on objections with respect to the existence or validity of the arbitration agreement.

17 (1) Le tribunal arbitral peut statuer sur sa propre compétence en matière de conduite de l'arbitrage et peut, à cet égard, statuer sur les objections relatives à l'existence ou à la validité de la convention d'arbitrage.

Possibilité pour le tribunal arbitral de statuer sur sa propre compétence

Independent agreement

(2) If the arbitration agreement forms part of another agreement, it shall, for the purposes of a ruling on jurisdiction, be treated as an independent agreement that may survive even if the main agreement is found to be invalid.

(2) La convention d'arbitrage qui fait partie d'une autre convention est considérée, aux fins d'une décision sur la compétence, comme une convention distincte pouvant subsister même si la convention principale est déclarée nulle.

Convention distincte

Time for objections to jurisdiction

(3) A party who has an objection to the arbitral tribunal's jurisdiction to conduct the arbitration shall make the objection no later than the beginning of the hearing or, if there is no hearing, no later than the first occasion on which the party submits a statement to the tribunal.

(3) Une partie qui a une objection touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doit la présenter au plus tard au début de l'audience ou, en l'absence d'audience, au plus tard à la première occasion à laquelle la partie soumet une déclaration au tribunal arbitral.

Délai de présentation des objections touchant la compétence

Party's appointment of arbitrator no bar to objection

(4) The fact that a party has appointed or participated in the appointment of an arbitrator does not prevent the party from making an objection to jurisdiction.

(4) Le fait qu'une partie ait désigné un arbitre ou participé à sa désignation ne l'empêche pas de présenter une objection touchant sa compétence.

Objections émanant d'une partie qui a désigné l'arbitre

Time for objections that tribunal is exceeding authority

(5) A party who has an objection that the arbitral tribunal is exceeding its authority shall make the objection as soon as the matter alleged to be beyond the tribunal's authority is raised during the arbitration.

(5) Une partie qui a une objection selon laquelle le tribunal arbitral outrepassé ses pouvoirs la présente dès que la question qui est prétendue constituer un abus de pouvoir est présentée au tribunal judiciaire.

Délai de présentation d'objections à un abus de pouvoir du tribunal judiciaire

Later objections	(6) Despite section 4, if the arbitral tribunal considers the delay justified, a party may make an objection after the time limit referred to in subsection (3) or (5), as the case may be, has expired.	(6) Malgré l'article 4, une partie peut présenter une objection une fois expiré le délai visé au paragraphe (3) ou (5), selon le cas, si le tribunal arbitral estime le retard justifié.	Objections tardives
Ruling	(7) The arbitral tribunal may rule on an objection as a preliminary question or may deal with it in an award.	(7) Le tribunal arbitral peut statuer sur une objection en la traitant comme une question préalable ou peut en traiter dans une sentence.	Décision
Review by court	(8) If the arbitral tribunal rules on an objection as a preliminary question, a party may, within thirty days after receiving notice of the ruling, make an application to the court to decide the matter.	(8) Si le tribunal arbitral statue sur une objection en la traitant comme une question préalable, une partie peut, dans les trente jours de la date où elle a reçu avis de la décision, présenter une requête au tribunal judiciaire pour qu'il rende une décision sur la question.	Révision par le tribunal judiciaire
No appeal	(9) There is no appeal from the court's decision.	(9) La décision du tribunal judiciaire n'est pas susceptible d'appel.	Aucun appel possible
Arbitration may continue	(10) While an application is pending, the arbitral tribunal may continue the arbitration and make an award.	(10) En attendant qu'il soit statué sur une requête, le tribunal arbitral peut poursuivre l'arbitrage et rendre une sentence.	Poursuite de l'arbitrage
Detention, preservation and inspection of property and documents	18.—(1) On a party's request, an arbitral tribunal may make an order for the detention, preservation or inspection of property and documents that are the subject of the arbitration or as to which a question may arise in the arbitration, and may order a party to provide security in that connection.	18 (1) À la demande d'une partie, le tribunal arbitral peut rendre une ordonnance portant sur la garde, la conservation ou l'examen des biens et des documents qui font l'objet de l'arbitrage ou à l'égard desquels une question peut être soulevée au cours de l'arbitrage. Il peut aussi ordonner à une partie de fournir un cautionnement à cet égard.	Garde, conservation et examen de biens et de documents
Enforcement by court	(2) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.	(2) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.	Exécution par le tribunal judiciaire
CONDUCT OF ARBITRATION		CONDUITE DE L'ARBITRAGE	
Equality and fairness	19.—(1) In an arbitration, the parties shall be treated equally and fairly.	19 (1) Au cours de l'arbitrage, les parties sont traitées sur un pied d'égalité et avec équité.	Égalité et équité
Idem	(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.	(2) Chaque partie doit avoir la possibilité de présenter son exposé des faits et de répliquer à ceux des autres parties.	Idem
Procedure	20.—(1) The arbitral tribunal may determine the procedure to be followed in the arbitration, in accordance with this Act.	20 (1) Le tribunal arbitral peut déterminer la procédure à suivre au cours de l'arbitrage, conformément à la présente loi.	Procédure
Idem	(2) An arbitral tribunal that is composed of more than one arbitrator may delegate the determination of questions of procedure to the chair.	(2) Le tribunal arbitral qui est composé de plus d'un arbitre peut déléguer au président la détermination des questions de procédure.	Idem
Evidence	21. Sections 14, 15 and 16 (protection of witnesses, evidence at hearings, notice of facts and opinions) of the <i>Statutory Powers Procedure Act</i> apply to the arbitration, with necessary modifications.	21 Les articles 14, 15 et 16 (immunité du témoin, preuve aux audiences, connaissance des faits et des opinions) de la <i>Loi sur l'exercice des compétences légales</i> s'appliquent à l'arbitrage, avec les adaptations nécessaires.	Preuves
Time and place of arbitration	22.—(1) The arbitral tribunal shall determine the time, date and place of arbi-	22 (1) Le tribunal arbitral décide de la date, de l'heure et du lieu de l'arbitrage,	Date, heure et lieu de l'arbitrage

tration, taking into consideration the parties' convenience and the other circumstances of the case.

Meetings for special purposes

(2) The arbitral tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or parties, or for inspecting property or documents.

Commencement of arbitration

23.—(1) An arbitration may be commenced in any way recognized by law, including the following:

1. A party to an arbitration agreement serves on the other parties notice to appoint or to participate in the appointment of an arbitrator under the agreement.
2. If the arbitration agreement gives a person who is not a party power to appoint an arbitrator, one party serves notice to exercise that power on the person and serves a copy of the notice on the other parties.
3. A party serves on the other parties a notice demanding arbitration under the agreement.

Exercise of arbitral tribunal's powers

(2) The arbitral tribunal may exercise its powers when every member has accepted appointment.

Matters referred to arbitration

24. A notice that commences an arbitration without identifying the dispute shall be deemed to refer to arbitration all disputes that the arbitration agreement entitles the party giving the notice to refer.

Procedural directions

25.—(1) An arbitral tribunal may require that the parties submit their statements within a specified period of time.

Contents of statements

(2) The parties' statements shall indicate the facts supporting their positions, the points at issue and the relief sought.

Documents and other evidence

(3) The parties may submit with their statements the documents they consider relevant, or may refer to the documents or other evidence they intend to submit.

Changes to statements

(4) The parties may amend or supplement their statements during the arbitration; however, the arbitral tribunal may disallow a change that is unduly delayed.

Oral statements

(5) With the arbitral tribunal's permission, the parties may submit their statements orally.

en tenant compte des convenances des parties et des autres circonstances de l'affaire.

(2) Le tribunal arbitral peut se réunir à tout endroit qu'il juge approprié pour la tenue de consultations entre ses membres, pour l'audition des témoins, des experts ou des parties, ou pour l'examen de biens ou de documents.

23 (1) L'arbitrage peut être engagé de quelque manière reconnue par la loi, y compris les suivantes :

1. Une partie à une convention d'arbitrage signifie aux autres parties un avis leur enjoignant de désigner un arbitre ou de participer à sa désignation aux termes de la convention.
2. Si la convention d'arbitrage confère à une personne qui n'est pas une partie le pouvoir de désigner un arbitre, une partie signifie à cette personne un avis lui enjoignant d'exercer ce pouvoir et signifie une copie de l'avis aux autres parties.
3. Une partie signifie aux autres parties un avis par lequel elle demande la tenue d'un arbitrage aux termes de la convention.

(2) Le tribunal arbitral peut exercer ses pouvoirs une fois que chacun des membres a accepté sa désignation.

24 L'avis qui introduit une procédure d'arbitrage sans préciser la nature du différend est réputé soumettre à l'arbitrage tous les différends que la convention d'arbitrage autorise la partie qui signifie l'avis à soumettre.

25 (1) Le tribunal arbitral peut exiger des parties qu'elles soumettent leur déclaration dans un délai précis.

(2) Dans leur déclaration, les parties énoncent les faits à l'appui de leur point de vue, les points litigieux et le redressement demandé.

(3) Les parties peuvent soumettre avec leur déclaration les documents qu'elles jugent pertinents ou y faire mention des documents ou autres preuves qu'elles comptent soumettre.

(4) Les parties peuvent modifier ou compléter leur déclaration au cours de l'arbitrage. Toutefois, le tribunal arbitral peut rejeter tout changement présenté avec un retard indû.

(5) Sur autorisation du tribunal arbitral, les parties peuvent soumettre leur déclaration oralement.

Réunions à des fins spéciales

Début de l'arbitrage

Exercice de ses pouvoirs par le tribunal arbitral

Questions soumises à l'arbitrage

Directives en matière de procédure

Contenu des déclarations

Documents et autres preuves

Changements apportés aux déclarations

Déclarations orales

Directions of arbitral tribunal	(6) The parties and persons claiming through or under them shall, subject to any legal objection, comply with the arbitral tribunal's directions, including directions to,	(6) Les parties et leurs ayants droit doivent, sous réserve de toute objection légale, se conformer aux directives du tribunal arbitral, y compris celles voulant :	Directives du tribunal arbitral
	(a) submit to examination on oath or affirmation with respect to the dispute;	a) qu'elles se soumettent à un interrogatoire sous serment ou sous déclaration solennelle relativement au différend;	
	(b) produce records and documents that are in their possession or power.	b) qu'elles produisent des dossiers et des documents qui sont en leur possession ou sous leur garde.	
Enforcement by court	(7) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.	(7) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.	Exécution par le tribunal judiciaire
Hearings and written proceedings	26. —(1) The arbitral tribunal may conduct the arbitration on the basis of documents or may hold hearings for the presentation of evidence and for oral argument; however, the tribunal shall hold a hearing if a party requests it.	26 (1) Le tribunal arbitral peut effectuer l'arbitrage en se fondant sur des documents ou tenir des audiences aux fins de la production de preuves et de la plaidoirie. Toutefois, si une partie en fait la demande, le tribunal arbitral doit tenir une audience.	Procédure orale et procédure écrite
Notice	(2) The arbitral tribunal shall give the parties sufficient notice of hearings and of meetings of the tribunal for the purpose of inspection of property or documents.	(2) Le tribunal arbitral donne aux parties un préavis suffisant de ses audiences et de ses réunions aux fins de l'examen de biens ou de documents.	Préavis
Communica- tion to parties	(3) A party who submits a statement to the arbitral tribunal or supplies the tribunal with any other information shall also communicate it to the other parties.	(3) Toute partie qui soumet une déclaration au tribunal arbitral ou lui fournit d'autres renseignements les communique également aux autres parties.	Communication aux parties
Idem	(4) The arbitral tribunal shall communicate to the parties any expert reports or other documents on which it may rely in making a decision.	(4) Le tribunal arbitral communique aux parties tous les rapports d'expert ou autres documents sur lesquels il peut s'appuyer pour rendre une décision.	Idem
Failure to submit state- ment	27. —(1) If the party who commenced the arbitration does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the party offers a satisfactory explanation, make an award dismissing the claim.	27 (1) Si la partie qui a introduit la procédure d'arbitrage ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, rendre une sentence qui rejette la demande.	Défaut de soumettre la déclaration
Idem	(2) If a party other than the one who commenced the arbitration does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration, but shall not treat the failure to submit a statement as an admission of another party's allegations.	(2) Si une partie autre que celle qui a introduit la procédure d'arbitrage ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage. Cependant, il ne doit pas considérer le fait qu'il ne soit pas soumis de déclaration comme une reconnaissance des allégations d'une autre partie.	Idem
Party's failure to appear or produce evidence	(3) If a party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration and make an award on the evidence before it.	(3) Si une partie ne comparait pas à une audience ou ne produit pas de preuves documentaires, le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage et rendre une sentence en se fondant sur les preuves dont il dispose.	Cas où une partie ne comparait pas ou ne produit pas de preuves
Delay	(4) In the case of delay by the party who commenced the arbitration, the arbitral tribunal may make an award dismissing the	(4) En cas de retard de la partie qui a introduit la procédure d'arbitrage, le tribunal arbitral peut rendre une sentence qui rejette	Retard

claim or give directions for the speedy determination of the arbitration, and may impose conditions on its decision.

Jointly commenced arbitration

(5) If the arbitration was commenced jointly by all the parties, subsections (2) and (3) apply with necessary modifications but subsections (1) and (4) do not.

Counterclaim

(6) This section applies in respect of a counterclaim as if the party making it were the party who commenced the arbitration.

Appointment of expert

28.—(1) An arbitral tribunal may appoint an expert to report to it on specific issues.

Information and documents

(2) The arbitral tribunal may require parties to give the expert any relevant information or to allow him or her to inspect property or documents.

Hearing

(3) At the request of a party or of the arbitral tribunal, the expert shall, after making the report, participate in a hearing in which the parties may question the expert and present the testimony of another expert on the subject-matter of the report.

Notice to witness

29.—(1) A party may serve a person with a notice requiring him or her to attend and give evidence at the arbitration at the time and place named in the notice.

Service of notice

(2) The notice has the same effect as a notice in a court proceeding requiring a witness to attend at a hearing or produce documents, and shall be served in the same way.

Power of arbitral tribunal

(3) An arbitral tribunal has power to administer an oath or affirmation and power to require a witness to testify under oath or affirmation.

Court orders and directions

(4) On the application of a party or of the arbitral tribunal, the court may make orders and give directions with respect to the taking of evidence for an arbitration as if it were a court proceeding.

Restriction

30. No person shall be compelled to produce information, property or documents or to give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

AWARDS AND TERMINATION OF ARBITRATION

Application of law and equity

31. An arbitral tribunal shall decide a dispute in accordance with law, including equity, and may order specific performance, injunctions and other equitable remedies.

la demande ou donner des directives en vue d'une résolution expéditive de l'arbitrage, et peut assortir sa décision de conditions.

(5) Si la procédure d'arbitrage a été introduite conjointement par toutes les parties, les paragraphes (2) et (3) s'appliquent, avec les adaptations nécessaires, mais les paragraphes (1) et (4) ne s'appliquent pas.

(6) Le présent article s'applique à l'égard d'une demande reconventionnelle comme si la partie qui la présente était la partie qui a introduit la procédure d'arbitrage.

28 (1) Le tribunal arbitral peut nommer un expert chargé de lui faire rapport sur des questions précises.

(2) Le tribunal arbitral peut exiger des parties qu'elles fournissent à l'expert tous renseignements pertinents ou qu'elles permettent à ce dernier d'examiner des biens ou des documents.

(3) À la demande d'une partie ou du tribunal arbitral, l'expert, après avoir préparé son rapport, participe à une audience au cours de laquelle les parties peuvent l'interroger et présenter le témoignage d'un autre expert sur l'objet du rapport.

29 (1) Une partie peut signifier à une personne un avis exigeant qu'elle compare à l'arbitrage et qu'elle y témoigne aux date, heure et lieu indiqués dans l'avis.

(2) L'avis a la même valeur qu'un avis donné dans une instance judiciaire qui exige d'un témoin qu'il compare à une audience ou produise des documents, et est signifié de la même manière.

(3) Un tribunal arbitral a le pouvoir de faire prêter serment ou de recevoir des déclarations solennelles et celui d'exiger d'un témoin qu'il témoigne sous serment ou sous déclaration solennelle.

(4) À la requête d'une partie ou du tribunal arbitral, le tribunal judiciaire peut rendre des ordonnances et donner des directives concernant l'obtention de preuves dans le cadre d'un arbitrage, comme si l'arbitrage constituait une instance judiciaire.

30 Nul ne doit être contraint, au cours d'un arbitrage, de fournir ou de produire des renseignements, des biens, des documents ou un témoignage qu'il ne pourrait être contraint de fournir ou de produire dans une instance judiciaire.

SENTENCES ET CLÔTURE DE L'ARBITRAGE

31 Le tribunal arbitral tranche le différend conformément à la loi, et notamment selon l'équité, et peut ordonner des exécutions en nature, prononcer des injonctions et ordonner d'autres redressements reconnus en équité.

Arbitrage introduit conjointement

Demande reconventionnelle

Nomination d'un expert

Renseignements et documents

Audience

Avis signifié au témoin

Signification de l'avis

Pouvoir du tribunal arbitral

Ordonnances et directives du tribunal judiciaire

Restriction

Application de la loi et de l'équité

Conflict of laws	<p>32.—(1) In deciding a dispute, an arbitral tribunal shall apply the rules of law designated by the parties or, if none are designated, the rules of law it considers appropriate in the circumstances.</p>	<p>32 (1) Pour trancher un différend, le tribunal arbitral applique les règles de droit désignées par les parties ou, si elles n'en ont pas désigné, les règles de droit qu'il juge appropriées dans les circonstances.</p>	Conflit de lois
Designation by parties	<p>(2) A designation by the parties of the law of a jurisdiction refers to the jurisdiction's substantive law and not to its conflict of laws rules, unless the parties expressly indicate that the designation includes them.</p>	<p>(2) Toute désignation de la loi d'une autorité législative par les parties vise ses règles juridiques de fond et non ses règles de conflit de lois, à moins que les parties n'indiquent expressément que la désignation les comprend également.</p>	Désignation par les parties
Application of arbitration agreement, contract and usages of trade	<p>33. The arbitral tribunal shall decide the dispute in accordance with the arbitration agreement and the contract, if any, under which the dispute arose, and shall also take into account any applicable usages of trade.</p>	<p>33 Le tribunal arbitral tranche le différend conformément à la convention d'arbitrage et au contrat, s'il en est, dans le cadre desquels le différend est survenu, et tient également compte de tout usage du commerce applicable.</p>	Application de la convention d'arbitrage, du contrat et des usages du commerce
Decision of arbitral tribunal	<p>34. If an arbitral tribunal is composed of more than one member, a decision of a majority of the members is the arbitral tribunal's decision; however, if there is no majority decision or unanimous decision, the chair's decision governs.</p>	<p>34 Si le tribunal arbitral comporte plus d'un membre, une décision prise à la majorité des membres constitue la décision du tribunal arbitral. Toutefois, s'il n'y a pas de décision prise à la majorité ou de décision unanime, c'est la décision du président qui l'emporte.</p>	Décision du tribunal arbitral
Mediation and conciliation	<p>35. The members of an arbitral tribunal shall not use mediation, conciliation or similar techniques during the arbitration.</p>	<p>35 Les membres du tribunal arbitral n'usent pas de techniques de médiation, de conciliation ni d'autres techniques similaires durant l'arbitrage.</p>	Médiation et conciliation
Settlement	<p>36. If the parties settle the dispute during arbitration, the arbitral tribunal shall terminate the arbitration and, if a party so requests, may record the settlement in the form of an award.</p>	<p>36 Si les parties règlent le différend durant l'arbitrage, le tribunal arbitral met fin à l'arbitrage et, si une partie en fait la demande, peut constater le règlement par une sentence.</p>	Règlement
Binding nature of award	<p>37. An award binds the parties, unless it is set aside or varied under section 45 or 46 (appeal, setting aside award).</p>	<p>37 La sentence lie les parties, à moins qu'elle ne soit annulée ou modifiée en vertu de l'article 45 ou 46 (appel, annulation d'une sentence).</p>	Caractère obligatoire de la sentence
Form of award	<p>38.—(1) An award shall be made in writing and, except in the case of an award made on consent, shall state the reasons on which it is based.</p>	<p>38 (1) La sentence est rendue sous forme écrite et, sauf s'il s'agit d'une sentence rendue par accord des parties, est motivée.</p>	Forme de la sentence
Idem	<p>(2) The award shall indicate the place where and the date on which it is made.</p>	<p>(2) La sentence indique le lieu et la date où elle a été rendue.</p>	Idem
Formalities of execution	<p>(3) The award shall be dated and shall be signed by all the members of the arbitral tribunal, or by a majority of them if an explanation of the omission of the other signatures is included.</p>	<p>(3) La sentence est datée et signée par tous les membres du tribunal arbitral, ou par la majorité d'entre eux à condition que soit fournie la raison de l'omission des autres signatures.</p>	Modalités d'exécution
Copies	<p>(4) A copy of the award shall be delivered to each party.</p>	<p>(4) Une copie de la sentence est remise à chaque partie.</p>	Copies
Extension of time limits	<p>39. The court may extend the time within which the arbitral tribunal is required to make an award, even if the time has expired.</p>	<p>39 Le tribunal judiciaire peut proroger le délai dans lequel le tribunal arbitral est tenu de rendre une sentence, même si ce délai a expiré.</p>	Prorogation du délai
Explanation	<p>40.—(1) A party may, within thirty days after receiving an award, request that the arbitral tribunal explain any matter.</p>	<p>40 (1) Une partie peut, dans les trente jours de la date où une sentence lui a été communiquée, demander que le tribunal arbitral donne des explications sur un point quelconque.</p>	Explications

Court order	(2) If the arbitral tribunal does not give an explanation within fifteen days after receiving the request, the court may, on the party's application, order it to do so.	(2) Si le tribunal arbitral ne donne pas d'explications dans les quinze jours de la réception de la demande, le tribunal judiciaire peut, à la requête de la partie, lui ordonner de le faire.	Ordonnance judiciaire
Interim awards	41. The arbitral tribunal may make one or more interim awards.	41 Le tribunal arbitral peut rendre une ou plusieurs sentences provisoires.	Sentences provisoires
More than one final award	42. The arbitral tribunal may make more than one final award, disposing of one or more matters referred to arbitration in each award.	42 Le tribunal arbitral peut rendre plus d'une sentence définitive et trancher une ou plusieurs questions soumises à l'arbitrage dans chaque sentence.	Plus d'une sentence définitive
Termination of arbitration	43. —(1) An arbitration is terminated when, (a) the arbitral tribunal makes a final award in accordance with this Act, disposing of all matters referred to arbitration; (b) the arbitral tribunal terminates the arbitration under subsection (2), (3), 27 (1) (claimant's failure to submit statement) or 27 (4) (delay); or (c) an arbitrator's mandate is terminated, if the arbitration agreement provides that the arbitration shall be conducted only by that arbitrator.	43 (1) L'arbitrage prend fin dans les circonstances suivantes : a) le tribunal arbitral rend une sentence définitive conformément à la présente loi, par laquelle sont tranchées toutes les questions soumises à l'arbitrage; b) le tribunal arbitral met fin à l'arbitrage aux termes du paragraphe (2), (3), 27 (1) (cas où le demandeur ne soumet pas de déclaration) ou 27 (4) (retard); c) le mandat d'un arbitre prend fin, si la convention d'arbitrage prévoit que l'arbitrage ne doit être effectué que par cet arbitre.	Clôture de l'arbitrage
Order by arbitral tribunal	(2) An arbitral tribunal shall make an order terminating the arbitration if the claimant withdraws the claim, unless the respondent objects to the termination and the arbitral tribunal agrees that the respondent is entitled to obtain a final settlement of the dispute.	(2) Le tribunal arbitral rend une ordonnance mettant fin à l'arbitrage si le demandeur retire sa demande, à moins que le défendeur ne s'oppose à la clôture de l'arbitrage et que le tribunal arbitral ne convienne que le défendeur a droit à un règlement définitif du différend.	Ordonnance du tribunal arbitral
Idem	(3) An arbitral tribunal shall make an order terminating the arbitration if, (a) the parties agree that the arbitration should be terminated; or (b) the arbitral tribunal finds that continuation of the arbitration has become unnecessary or impossible.	(3) Le tribunal arbitral rend une ordonnance qui met fin à l'arbitrage dans les cas suivants : a) les parties conviennent qu'il faut clore l'arbitrage; b) le tribunal arbitral estime que la poursuite de l'arbitrage s'avère superflue ou impossible.	Idem
Revival	(4) The arbitration may be revived for the purposes of section 44 (corrections) or subsection 45 (5) (appeal), 46 (7), 46 (8) (setting aside award) or 54 (3) (costs).	(4) L'arbitrage peut être repris pour l'application de l'article 44 (corrections) ou du paragraphe 45 (5) (appel), 46 (7), 46 (8) (annulation d'une sentence) ou 54 (3) (dépens).	Reprise
Death	(5) A party's death terminates the arbitration only with respect to claims that are extinguished as a result of the death.	(5) Le décès d'une partie ne met fin à l'arbitrage qu'en ce qui concerne les demandes qui s'éteignent par suite du décès.	Décès
Correction of errors	44. —(1) An arbitral tribunal may, on its own initiative within thirty days after making an award or at a party's request made within thirty days after receiving the award, (a) correct typographical errors, errors of calculation and similar errors in the award; or	44 (1) Le tribunal arbitral peut, de son propre chef, dans les trente jours suivant le prononcé de la sentence ou à la demande d'une partie présentée dans les trente jours de la date où la sentence lui est communiquée : a) corriger dans le texte de la sentence des erreurs de typographie, des erreurs de calcul et d'autres erreurs de ce genre;	Correction d'erreurs

(b) amend the award so as to correct an injustice caused by an oversight on the part of the arbitral tribunal.

b) modifier la sentence de façon à réparer une injustice qu'il aurait causée par inadvertance.

Idem

(2) The arbitral tribunal may, on its own initiative at any time or at a party's request made within thirty days after receiving the award, make an additional award to deal with a claim that was presented in the arbitration but omitted from the earlier award.

(2) Le tribunal arbitral peut, de son propre chef en tout temps ou à la demande d'une partie présentée dans les trente jours de la date où la sentence lui est communiquée, rendre une sentence additionnelle pour donner suite à une demande qui a été présentée au cours de l'arbitrage, mais omise dans la sentence précédente.

Idem

No hearing necessary

(3) The arbitral tribunal need not hold a hearing or meeting before rejecting a request made under this section.

(3) Il n'est pas nécessaire que le tribunal arbitral tienne une audience ou une réunion avant de rejeter une demande présentée aux termes du présent article.

Aucune audience nécessaire

REMEDIES

RECOURS

Appeal on question of law

45.—(1) A party may appeal an award to the court on a question of law with leave, which the court shall grant only if it is satisfied that,

45 (1) Une partie peut faire appel d'une sentence devant le tribunal judiciaire relativement à une question de droit, sur autorisation de ce tribunal. Il n'accorde son autorisation que s'il est convaincu :

Appel sur une question de droit

(a) the importance to the parties of the matters at stake in the arbitration justifies an appeal; and

a) d'une part, que l'importance pour les parties des questions en cause dans l'arbitrage justifie un appel;

(b) determination of the question of law at issue will significantly affect the rights of the parties.

b) d'autre part, que le règlement de la question de droit en litige aura une incidence importante sur les droits des parties.

Idem

(2) If the arbitration agreement so provides, a party may appeal an award to the court on a question of law.

(2) Si la convention d'arbitrage le prévoit, une partie peut faire appel devant le tribunal judiciaire d'une sentence relativement à une question de droit.

Idem

Appeal on question of fact or mixed fact and law

(3) If the arbitration agreement so provides, a party may appeal an award to the court on a question of fact or on a question of mixed fact and law.

(3) Si la convention d'arbitrage le prévoit, une partie peut faire appel devant le tribunal judiciaire d'une sentence relativement à une question de droit ou à une question mixte de fait et de droit.

Appel sur une question de fait ou une question mixte de droit et de fait

Powers of court

(4) The court may require the arbitral tribunal to explain any matter.

(4) Le tribunal judiciaire peut exiger du tribunal arbitral qu'il donne des explications sur un point quelconque.

Pouvoir du tribunal judiciaire

Idem

(5) The court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal with the court's opinion on the question of law, in the case of an appeal on a question of law, and give directions about the conduct of the arbitration.

(5) Le tribunal judiciaire peut confirmer, modifier ou annuler la sentence ou la renvoyer devant le tribunal arbitral, accompagnée de l'avis du tribunal judiciaire sur la question de droit, dans le cas d'un appel sur une question de droit, et donner des directives touchant la conduite de l'arbitrage.

Idem

Setting aside award

46.—(1) On a party's application, the court may set aside an award on any of the following grounds:

46 (1) À la requête d'une partie, le tribunal judiciaire peut annuler une sentence pour l'un des motifs suivants :

Annulation de la sentence

1. A party entered into the arbitration agreement while under a legal incapacity.

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.

2. The arbitration agreement is invalid or has ceased to exist.

2. La convention d'arbitrage est nulle ou a cessé d'exister.

3. The award deals with a dispute that the arbitration agreement does not cover or contains a decision on a mat-

3. La sentence porte sur un différend que la convention d'arbitrage ne prévoit pas, ou comporte une décision sur une

ter that is beyond the scope of the agreement.

4. The composition of the tribunal was not in accordance with the arbitration agreement or, if the agreement did not deal with that matter, was not in accordance with this Act.
5. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
6. The applicant was not treated equally and fairly, was not given an opportunity to present a case or to respond to another party's case, or was not given proper notice of the arbitration or of the appointment of an arbitrator.
7. The procedures followed in the arbitration did not comply with this Act.
8. An arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias.
9. The award was obtained by fraud.

Severable parts of award

(2) If paragraph 3 of subsection (1) applies and it is reasonable to separate the decisions on matters covered by the arbitration agreement from the impugned ones, the court shall set aside the impugned decisions and allow the others to stand.

Restriction

(3) The court shall not set aside an award on grounds referred to in paragraph 3 of subsection (1) if the party has agreed to the inclusion of the dispute or matter, waived the right to object to its inclusion or agreed that the arbitral tribunal has power to decide what disputes have been referred to it.

Idem

(4) The court shall not set aside an award on grounds referred to in paragraph 8 of subsection (1) if the party had an opportunity to challenge the arbitrator on those grounds under section 13 before the award was made and did not do so, or if those grounds were the subject of an unsuccessful challenge.

Deemed waiver

(5) The court shall not set aside an award on a ground to which the applicant is deemed under section 4 to have waived the right to object.

Exception

(6) If the ground alleged for setting aside the award could have been raised as an objection to the arbitral tribunal's jurisdiction to conduct the arbitration or as an

question qui dépasse les termes de la convention.

4. La composition du tribunal judiciaire n'était pas conforme à la convention d'arbitrage ou, si la convention ne traitait pas de cette question, n'était pas conforme à la présente loi.
5. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
6. Le requérant n'a pas été traité sur un pied d'égalité et avec équité, n'a pas eu la possibilité de présenter son exposé des faits ou de répliquer à celui d'une autre partie, ou n'a pas été avisé en bonne et due forme de la tenue de l'arbitrage ou de la désignation d'un arbitre.
7. Les procédures suivies au cours de l'arbitrage n'étaient pas conformes à la présente loi.
8. Un arbitre a commis un acte vénal ou frauduleux, ou il existe des craintes raisonnables de partialité.
9. La sentence a été obtenue frauduleusement.

(2) Si la disposition 3 du paragraphe (1) s'applique et qu'il est raisonnable de dissocier les décisions portant sur des questions prévues par la convention d'arbitrage de celles qui sont attaquées, le tribunal judiciaire annule les décisions attaquées, les autres restant valides.

Parties de la sentence dissociables

(3) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 3 du paragraphe (1) si la partie a donné son accord à l'inclusion du différend ou de la question dans l'arbitrage, a renoncé à son droit de s'opposer à son inclusion ou a convenu que le tribunal arbitral avait le pouvoir de déterminer les différends qui lui ont été soumis.

Restriction

(4) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 8 du paragraphe (1) si la partie avait la possibilité de récuser l'arbitre pour ces motifs en vertu de l'article 13 avant le prononcé de la sentence et s'en est abstenue, ou si ces motifs ont fait l'objet d'une récusation déboutée.

Idem

(5) Le tribunal judiciaire ne doit pas annuler une sentence pour un motif au sujet duquel, le requérant est réputé avoir renoncé à son droit d'objection aux termes de l'article 4.

Renonciation réputée

(6) Si le motif allégué pour annuler la sentence avait pu être soulevé à titre d'objection à la compétence du tribunal arbitral en matière de conduite de l'arbitrage ou à titre

Exception

objection that the arbitral tribunal was exceeding its authority, the court may set the award aside on that ground if it considers the applicant's failure to make an objection in accordance with section 17 justified.

(7) When the court sets aside an award, it may remove the arbitral tribunal or an arbitrator and may give directions about the conduct of the arbitration.

(8) Instead of setting aside an award, the court may remit it to the arbitral tribunal and give directions about the conduct of the arbitration.

47.—(1) An appeal of an award or an application to set aside an award shall be commenced within thirty days after the appellant or applicant receives the award, correction, explanation, change or statement of reasons on which the appeal or application is based.

(2) Subsection (1) does not apply if the appellant or applicant alleges corruption or fraud.

48.—(1) At any stage during or after an arbitration, on the application of a party who has not participated in the arbitration, the court may grant a declaration that the arbitration is invalid because,

- (a) a party entered into the arbitration agreement while under a legal incapacity;
- (b) the arbitration agreement is invalid or has ceased to exist;
- (c) the subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law; or
- (d) the arbitration agreement does not apply to the dispute.

(2) When the court grants the declaration, it may also grant an injunction against the commencement or continuation of the arbitration.

49. An appeal from the court's decision in an appeal of an award, an application to set aside an award or an application for a declaration of invalidity may be made to the Court of Appeal, with leave of that court.

50.—(1) A person who is entitled to enforcement of an award made in Ontario or elsewhere in Canada may make an application to the court to that effect.

d'objection selon laquelle le tribunal arbitral a outrepassé ses pouvoirs, le tribunal judiciaire peut annuler la sentence pour ce motif s'il estime justifié que le requérant n'ait pas présenté d'objection conformément à l'article 17.

(7) Lorsque le tribunal judiciaire annule une sentence, il peut révoquer le tribunal arbitral ou un arbitre et donner des directives touchant la conduite de l'arbitrage.

(8) Plutôt que d'annuler une sentence, le tribunal judiciaire peut la renvoyer devant le tribunal arbitral et donner des directives touchant la conduite de l'arbitrage.

47 (1) L'appel d'une sentence ou l'appel relatif à une question de droit doit être interjeté, ou la requête en annulation d'une sentence doit être introduite, dans les trente jours de la date où la sentence, la correction, les explications, le changement ou l'énoncé des motifs sur lesquels porte l'appel ou la requête sont communiqués à l'appelant ou au requérant.

(2) Le paragraphe (1) ne s'applique pas en cas d'allégations par l'appelant ou par le requérant de corruption ou de fraude.

48 (1) À quelque étape que ce soit durant ou après un arbitrage, à la requête d'une partie qui n'a pas participé à l'arbitrage, le tribunal judiciaire peut, par jugement déclaratoire, déclarer nul l'arbitrage pour l'un des motifs suivants :

- a) une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique;
- b) la convention d'arbitrage est nulle ou a cessé d'exister;
- c) l'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario;
- d) la convention d'arbitrage ne s'applique pas au différend.

(2) Lorsque le tribunal judiciaire rend le jugement déclaratoire, il peut également accorder une injonction interdisant l'engagement ou la poursuite de l'arbitrage.

49 Il peut être interjeté appel devant la Cour d'appel, sur autorisation de celle-ci, de la décision du tribunal judiciaire rendue à l'égard de l'appel d'une sentence, de la requête en annulation d'une sentence ou de la requête en vue d'obtenir une déclaration de nullité.

50 (1) Quiconque a droit à l'exécution d'une sentence rendue en Ontario ou ailleurs au Canada peut présenter une requête à cet effet au tribunal judiciaire.

Questions connexes

Renvoi de la sentence devant le tribunal arbitral par le tribunal judiciaire
Délai

Exception

Déclaration de nullité de l'arbitrage

Injonction

Nouvel appel

Requête pour obtenir l'exécution de la sentence

Connected matters

Court may remit award to arbitral tribunal

Time limit

Exception

Declaration of invalidity of arbitration

Injunction

Further appeal

Application for enforcement of award

Formalities

(2) The application shall be made on notice to the person against whom enforcement is sought, in accordance with the rules of court, and shall be supported by the original award or a certified copy.

(2) La requête doit être présentée avec préavis à la personne contre laquelle l'exécution est demandée, conformément aux règles de pratique, et être appuyée par l'original ou par une copie certifiée conforme de la sentence.

Formalités

Duty of court, award made in Ontario

(3) The court shall give a judgment enforcing an award made in Ontario unless,

(3) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue en Ontario à moins, selon le cas :

Obligation du tribunal judiciaire : sentence rendue en Ontario

- (a) the thirty-day period for commencing an appeal or an application to set the award aside has not yet elapsed;
- (b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity; or
- (c) the award has been set aside or the arbitration is the subject of a declaration of invalidity.

- a) que le délai de trente jours imparti pour interjeter appel ou introduire une requête en annulation de la sentence ne soit pas encore écoulé;
- b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance;
- c) que la sentence n'ait été annulée ou que l'arbitrage ne fasse l'objet d'une déclaration de nullité.

Duty of court, award made elsewhere in Canada

(4) The court shall give a judgment enforcing an award made elsewhere in Canada unless,

(4) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue ailleurs au Canada à moins, selon le cas :

Obligation du tribunal judiciaire : sentence rendue ailleurs au Canada

- (a) the period for commencing an appeal or an application to set the award aside provided by the laws of the province or territory where the award was made has not yet elapsed;
- (b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity in the province or territory where the award was made;
- (c) the award has been set aside in the province or territory where it was made or the arbitration is the subject of a declaration of invalidity granted there; or
- (d) the subject-matter of the award is not capable of being the subject of arbitration under Ontario law.

- a) que le délai pour interjeter appel ou introduire une requête en annulation de la sentence prévu par les lois de la province ou du territoire où a été rendue la sentence ne soit pas encore écoulé;
- b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance dans la province ou le territoire où a été rendue la sentence;
- c) que la sentence n'ait été annulée dans la province ou le territoire où elle a été rendue ou que l'arbitrage n'y fasse l'objet d'une déclaration de nullité;
- d) que l'objet de la sentence ne puisse pas faire l'objet d'un arbitrage aux termes des lois de l'Ontario.

Pending proceeding

(5) If the period for commencing an appeal, application to set the award aside or application for a declaration of invalidity has not yet elapsed, or if such a proceeding is pending, the court may,

(5) Si le délai imparti pour interjeter appel, pour introduire une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité n'est pas encore écoulé, ou si une telle instance est en cours, le tribunal judiciaire peut :

Instance en cours

- (a) enforce the award; or
- (b) order, on such conditions as are just, that enforcement of the award is stayed until the period has elapsed without such a proceeding being commenced, or until the pending proceeding is finally disposed of.

- a) soit exécuter la sentence;
- b) soit ordonner, aux conditions qui sont justes, qu'il soit sursis à l'exécution de la sentence jusqu'à ce que le délai soit écoulé sans qu'une telle instance soit introduite, ou jusqu'à ce que l'instance en cours soit définitivement réglée.

Speedy disposition of pending proceeding

(6) If the court stays the enforcement of an award made in Ontario until a pending

(6) Si le tribunal judiciaire surseoit à l'exécution d'une sentence rendue en Ontario

Règlement rapide de l'instance en cours

proceeding is finally disposed of, it may give directions for the speedy disposition of the proceeding.

(7) If the award gives a remedy that the court does not have jurisdiction to grant or would not grant in a proceeding based on similar circumstances, the court may,

- (a) grant a different remedy requested by the applicant; or
- (b) in the case of an award made in Ontario, remit it to the arbitral tribunal with the court's opinion, in which case the arbitral tribunal may award a different remedy.

(8) The court has the same powers with respect to the enforcement of awards as with respect to the enforcement of its own judgments.

GENERAL

51. This Act binds the Crown.

52.—(1) The law with respect to limitation periods applies to an arbitration as if the arbitration were an action and a claim made in the arbitration were a cause of action.

(2) If the court sets aside an award, terminates an arbitration or declares an arbitration to be invalid, it may order that the period from the commencement of the arbitration to the date of the order shall be excluded from the computation of the time within which an action may be brought on a cause of action that was a claim in the arbitration.

(3) An application for enforcement of an award may not be made more than two years after the day on which the applicant receives the award.

53.—(1) A notice or other document may be served on an individual by leaving it with him or her.

(2) A notice or other document may be served on a corporation by leaving it with an officer, director or agent of the corporation, or at a place of business of the corporation with a person who appears to be in control or management of the place.

(3) A notice or other document may be served by sending it to the addressee by telephone transmission of a facsimile to the number that the addressee specified in the arbitration agreement or has furnished to the arbitral tribunal.

jusqu'à ce que l'instance en cours soit définitivement réglée, il peut donner des directives pour assurer le règlement rapide de l'instance.

(7) Si la sentence accorde un redressement que le tribunal judiciaire n'a pas compétence pour accorder ou n'accorderait pas dans une instance fondée sur des circonstances similaires, le tribunal judiciaire peut :

- a) soit accorder un autre redressement, demandé par le requérant;
- b) soit, dans le cas d'une sentence rendue en Ontario, la renvoyer devant le tribunal arbitral accompagnée de l'avis du tribunal judiciaire, auquel cas le tribunal arbitral peut accorder un redressement différent.

(8) Le tribunal judiciaire a les mêmes pouvoirs en ce qui concerne l'exécution des sentences qu'en ce qui concerne celle de ses propres jugements.

DISPOSITIONS GÉNÉRALES

51 La présente loi lie la Couronne.

52 (1) À l'égard des délais de prescription, la loi s'applique à l'arbitrage comme s'il constituait une action et qu'une demande présentée au cours de l'arbitrage constituait une cause d'action.

(2) Si le tribunal judiciaire annule une sentence, met fin à un arbitrage ou déclare nul l'arbitrage, il peut ordonner que la période allant du début de l'arbitrage à la date de l'ordonnance ne soit pas comprise dans le calcul du délai dans lequel une action peut être intentée pour une cause d'action qui constituait une demande faisant l'objet de l'arbitrage.

(3) Une requête en vue d'obtenir l'exécution d'une sentence ne peut être présentée plus de deux ans après la date à laquelle la sentence est communiquée au requérant.

53 (1) On peut signifier un avis ou autre document à un particulier en le laissant à ce dernier.

(2) On peut signifier un avis ou autre document à une personne morale en le laissant à un dirigeant, à un administrateur ou à un mandataire de cette dernière, ou à une personne qui paraît assumer la direction d'un établissement de la personne morale.

(3) On peut signifier un avis ou autre document en l'envoyant au destinataire par télécopie au numéro que ce dernier a précisé dans la convention d'arbitrage ou fourni au tribunal arbitral.

Unusual remedies

Redressements inhabituels

Powers of court

Pouvoirs du tribunal judiciaire

Crown bound
Limitation periods

Couronne liée

Délais de prescription

Preservation of rights

Protection des droits

Enforcement of award

Exécution de la sentence

Personal service of notice or document on individual

Signification à personne d'un avis ou document dans le cas d'un particulier

Personal service on corporation

Signification à personne dans le cas d'une personne morale

Service by telephone transmission of facsimile

Signification par télécopie

Service by
mail

(4) If a reasonable effort to serve a notice or other document under subsection (1) or (2) is not successful and it is not possible to serve it under subsection (3), it may be sent by prepaid registered mail to the mailing address that the addressee specified in the arbitration agreement or furnished to the arbitral tribunal or, if none was specified or furnished, to the addressee's last-known place of business or residence.

Deemed
time of
receipt

(5) Unless the addressee establishes that the addressee, acting in good faith, through absence, illness or other cause beyond the addressee's control failed to receive the notice or other document until a later date, it shall be deemed to have been received,

- (a) on the day it is given or transmitted, in the case of service under subsection (1), (2) or (3);
- (b) on the fifth day after the day of mailing, in the case of service under subsection (4).

Order for
substituted
service or
dispensing
with service

(6) The court may make an order for substituted service or an order dispensing with service, in the same manner as under the rules of court, if the court is satisfied that it is necessary to serve the notice or other document to commence an arbitration or proceed towards the appointment of an arbitral tribunal and that it is impractical for any reason to effect prompt service under subsection (1), (2), (3) or (4).

Non-
application
to court
proceedings

(7) This section does not apply to the service of documents in respect of court proceedings.

Power to
award costs

54.—(1) An arbitral tribunal may award the costs of an arbitration.

What consti-
tutes costs

(2) The costs of an arbitration consist of the parties' legal expenses, the fees and expenses of the arbitral tribunal and any other expenses related to the arbitration.

Request for
award
dealing with
costs

(3) If the arbitral tribunal does not deal with costs in an award, a party may, within thirty days of receiving the award, request that it make a further award dealing with costs.

Absence of
award
dealing with
costs

(4) In the absence of an award dealing with costs, each party is responsible for the party's own legal expenses and for an equal share of the fees and expenses of the arbitral tribunal and of any other expenses related to the arbitration.

(4) Si des efforts raisonnables pour signifier un avis ou autre document aux termes du paragraphe (1) ou (2) ne donnent pas de résultat et qu'il n'est pas possible de le signifier aux termes du paragraphe (3), l'avis ou autre document peut être envoyé, par courrier affranchi recommandé, à l'adresse postale que le destinataire a indiquée dans la convention d'arbitrage ou, si aucune n'y est indiquée, à son dernier établissement ou dernier domicile connu.

(5) À moins que le destinataire ne démontre qu'en ayant agi de bonne foi, en raison de son absence, d'une maladie ou d'un autre motif indépendant de sa volonté, il n'a reçu l'avis ou autre document qu'à une date ultérieure, l'avis ou autre document est réputé avoir été reçu :

- a) à la date de sa remise ou de sa transmission, dans le cas d'une signification effectuée aux termes du paragraphe (1), (2) ou (3);
- b) le cinquième jour qui suit la date de la mise à la poste, dans le cas d'une signification effectuée aux termes du paragraphe (4).

(6) Le tribunal judiciaire peut rendre une ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification de la même manière qu'aux termes des règles de pratique, s'il est convaincu qu'il est nécessaire de signifier l'avis ou autre document pour engager un arbitrage ou procéder à la désignation d'un tribunal arbitral et qu'il est difficile d'effectuer cette signification promptement, pour quelque motif que ce soit, aux termes du paragraphe (1), (2), (3) ou (4).

(7) Le présent article ne s'applique pas à la signification de documents effectuée dans le cadre d'instances judiciaires.

54 (1) Le tribunal arbitral peut adjuger les dépens d'un arbitrage.

(2) Les dépens de l'arbitrage comprennent les frais d'avocat des parties, les honoraires et frais du tribunal arbitral, ainsi que tous les autres frais reliés à l'arbitrage.

(3) Si le tribunal arbitral ne traite pas des dépens dans sa sentence, une partie peut, dans les trente jours de la date où la sentence lui est communiquée, demander qu'il rende une autre sentence touchant les dépens.

(4) En l'absence de sentence touchant les dépens, chaque partie assume ses propres frais d'avocat ainsi qu'une quote-part égale des honoraires et frais du tribunal arbitral et de tous les autres frais reliés à l'arbitrage.

Signification
par la poste

Date de
réception
réputée

Ordonnance
en vue d'ob-
tenir une
signification
indirecte ou
une dispense
de significa-
tion

Non-
application
aux instances
judiciaires

Pouvoir d'ad-
juger les
dépens

Ce qui consti-
tue les
dépens

Demande
d'une sen-
tence tou-
chant les
dépens

Absence de
sentence tou-
chant les
dépens

Costs consequences of failure to accept offer to settle

(5) If a party makes an offer to another party to settle the dispute or part of the dispute, the offer is not accepted and the arbitral tribunal's award is no more favourable to the second-named party than was the offer, the arbitral tribunal may take the fact into account in awarding costs in respect of the period from the making of the offer to the making of the award.

(5) Si une partie présente à une autre partie une offre de règlement du différend ou d'une partie du différend, que l'offre n'est pas acceptée et que la sentence du tribunal arbitral n'est pas plus favorable à la partie nommée en second lieu que ne l'était l'offre, le tribunal arbitral peut tenir compte de ce fait dans l'adjudication des dépens, en ce qui concerne la période allant de la présentation de l'offre au prononcé de la sentence.

Effet sur les dépens de la non-acceptation d'une offre de règlement

Disclosure of offer to arbitral tribunal

(6) The fact that an offer to settle has been made shall not be communicated to the arbitral tribunal until it has made a final determination of all aspects of the dispute other than costs.

(6) Le fait qu'une offre de règlement a été présentée ne doit pas être communiqué au tribunal arbitral avant qu'il n'ait rendu de décision définitive sur tous les aspects du différend à l'exclusion des dépens.

Communication de l'offre au tribunal arbitral

Arbitrator's fees and expenses

55. The fees and expenses paid to an arbitrator shall not exceed the fair value of the services performed and the necessary and reasonable expenses actually incurred.

55 Les honoraires versés et les frais payés à un arbitre ne doivent pas être supérieurs à la juste valeur des services rendus et aux frais nécessaires et raisonnables effectivement engagés.

Honoraires et frais de l'arbitre

Assessment of fees and expenses

56.—(1) A party to an arbitration may have an arbitrator's account for fees and expenses assessed by an assessment officer in the same manner as a solicitor's bill under the *Solicitors Act*.

56 (1) Une partie à un arbitrage peut faire liquider la note d'honoraires et de frais d'un arbitre par un liquidateur des dépens de la même manière que le mémoire d'un procureur aux termes de la *Loi sur les procureurs*.

Liquidation des honoraires et frais

Assessment of costs

(2) If an arbitral tribunal awards costs and directs that they be assessed, or awards costs without fixing the amount or indicating how it is to be ascertained, a party to the arbitration may have the costs assessed by an assessment officer in the same manner as costs under the rules of court.

(2) Si un tribunal arbitral adjuge les dépens et ordonne leur liquidation, ou adjuge les dépens sans en fixer le montant ou sans indiquer comment ce montant doit être établi, une partie à l'arbitrage peut faire liquider les dépens par un liquidateur des dépens de la même manière que pour les dépens aux termes des règles de pratique.

Liquidation des dépens

Idem

(3) In assessing the part of the costs represented by the fees and expenses of the arbitral tribunal, the assessment officer shall apply the same principles as in the assessment of an account under subsection (1).

(3) En liquidant la partie des dépens que représentent les honoraires et les frais du tribunal arbitral, le liquidateur des dépens met en application les mêmes principes que ceux qui s'appliquent dans le cas de la liquidation d'une note visée au paragraphe (1).

Idem

Account already paid

(4) Subsection (1) applies even if the account has been paid.

(4) Le paragraphe (1) s'applique même si la note a déjà été payée.

Note déjà payée

Review by court

(5) On the application of a party to the arbitration, the court may review an assessment of costs or of an arbitrator's account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.

(5) À la requête d'une partie à l'arbitrage, le tribunal judiciaire peut réviser la liquidation des dépens ou celle de la note d'honoraires et de frais d'un arbitre et peut la confirmer, la modifier, l'annuler ou la renvoyer au liquidateur des dépens en y joignant des directives.

Révision par le tribunal judiciaire

Idem

(6) On the application of an arbitrator, the court may review an assessment of his or her account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.

(6) À la requête d'un arbitre, le tribunal judiciaire peut réviser la liquidation de sa note d'honoraires et de frais et peut la confirmer, la modifier, l'annuler, ou la renvoyer au liquidateur des dépens en y joignant des directives.

Idem

Time for application for review

(7) The application for review may not be made after the period specified in the assessment officer's certificate has elapsed or, if no period is specified, more than thirty days

(7) La requête en révision ne peut être présentée passé le délai précisé dans le certificat du liquidateur des dépens ou, si aucun délai n'y est précisé, plus de trente jours

Délai de présentation de la requête en révision

after the date of the certificate, unless the court orders otherwise.

après la date du certificat, sauf disposition contraire du tribunal judiciaire.

Enforcement

(8) When the time during which an application for review may be made has expired and no application has been made, or when the court has reviewed the assessment and made a final determination, the certificate may be filed with the court and enforced as if it were a judgment of the court.

(8) Lorsque le délai dans lequel une requête en révision peut être présentée expire sans qu'aucune requête soit présentée, ou une fois que le tribunal judiciaire a vérifié la liquidation et a rendu une décision définitive, le certificat peut être déposé auprès du tribunal judiciaire et exécuté comme s'il s'agissait d'un jugement de ce tribunal.

Exécution

Interest

57. Sections 137 to 140 (prejudgment and postjudgment interest) of the *Courts of Justice Act, 1984* apply to an arbitration, with necessary modifications.

57 Les articles 137 à 140 (intérêts antérieurs et postérieurs au jugement) de la *Loi de 1984 sur les tribunaux judiciaires* s'appliquent, avec les adaptations nécessaires, aux arbitrages.

Intérêts

Repeal

58.—(1) The *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, is repealed.

58 (1) La loi intitulée *Arbitrations Act*, qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, est abrogée.

Abrogation

Idem

(2) Section 161 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

(2) L'article 161 de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé.

Idem

Commencement

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

59 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Short title

60. The short title of this Act is the *Arbitration Act, 1991*.

60 Le titre abrégé de la présente loi est *Loi de 1991 sur l'arbitrage*.

Titre abrégé



1st SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 42

An Act to revise the Arbitrations Act

The Hon. H. Hampton
Attorney General

1st Reading March 27th, 1991
2nd Reading November 5th, 1991
3rd Reading
Royal Assent

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

Projet de loi 42

Loi portant révision de la Loi sur l'arbitrage

L'honorable H. Hampton
Procureur général

1^{re} lecture 27 mars 1991
2^e lecture 5 novembre 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le
Comité plénier de l'Assemblée législative)*

EXPLANATORY NOTES

The Bill, which replaces the *Arbitrations Act*, is based on the UNCITRAL model law on international commercial arbitration. It resembles the *Uniform Arbitration Act* recently adopted by the Uniform Law Conference of Canada.

The guiding principles of the new *Arbitration Act* are that the parties to valid arbitration agreements should abide by their agreements, that they should be free to design the process for their own arbitration as they see fit, within the limits of overall fairness, that opportunities for delay should be minimized and, finally, that awards made in arbitrations should be readily enforceable and should be reviewable only for specific defects.

Some of the important features of the Bill are:

1. The Act applies to all arbitrations conducted under arbitration agreements, unless its application is excluded by law or the *International Commercial Arbitration Act, 1988* applies. Arbitrations under existing agreements are also covered if they are commenced after the Act comes into force. (Arbitrations commenced before that time will continue to be governed by the old law.) The Act also applies, with necessary modifications, to arbitrations conducted under other statutes. (Section 2)
2. The parties to an arbitration agreement are free to design their own arbitration process, subject only to a specific list of compulsory provisions. Section 3 in effect constitutes a general permission to vary or exclude everything outside that list. The fact that parties may agree to vary or exclude particular provisions is generally not repeated elsewhere in the Act. (Section 3)
3. Parties who have objections that arise in the course of arbitration must raise them promptly or risk losing the right to do so. (Section 4)
4. Arbitrations are ultimately subject to judicial supervision. However, the Act does not confer broad discretion on the court to intervene in arbitrations; instead, it describes the specific circumstances in which it may act. (Section 6)
5. An arbitrator must be independent and impartial and must disclose to the parties any circumstances that could cast doubt on his or her independence and impartiality. Procedures for challenging and removing arbitrators are provided. (Sections 11 to 15)
6. Objections to jurisdiction are to be made to the arbitral tribunal in the first instance, then to the court if the arbitral tribunal's resolution of the question is not satisfactory. Objections to the arbitral tribunal's jurisdiction to conduct the arbitration must be made by the beginning of the hearing, and objections that it is exceeding its authority must be made as soon as the relevant matter is raised during the arbitration; however, the arbitral tribunal may permit later objections. (Section 17)
7. The rules of natural justice apply to arbitrations, and the arbitral tribunal determines its own procedure. It is required to decide the dispute before it in accordance with law and may apply rules of equity. (Sections 19, 20 and 31)
8. The award of an arbitral tribunal may be appealed to the Ontario Court (General Division), if the arbitration

NOTES EXPLICATIVES

Le projet de loi, qui remplace la loi intitulée *Arbitrations Act*, s'inspire de la loi type de la CNUDCI sur l'arbitrage commercial international. Il ressemble à la *Loi uniforme sur l'arbitrage* récemment adoptée par la Conférence sur l'uniformisation des lois au Canada.

Les principes directeurs de la nouvelle *Loi sur l'arbitrage* sont les suivants : les parties à une convention d'arbitrage sont tenues de respecter leur convention, sauf en cas d'invalidité de celle-ci; les parties doivent pouvoir, à leur gré, concevoir leur propre processus arbitral comme elles le jugent approprié, tout en respectant les principes généraux d'équité; les possibilités de retarder le processus arbitral doivent être réduites au minimum et, enfin, l'exécution des sentences rendues au cours de l'arbitrage doit se faire aisément et leur révision n'être possible que dans le cas de vices précis.

Voici quelques-unes des caractéristiques essentielles du projet de loi :

1. La Loi s'applique à tous les arbitrages effectués en vertu de conventions d'arbitrage, à moins que son application ne soit exclue de par la loi ou que la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique. La Loi vise également les arbitrages effectués en vertu de conventions existantes s'ils ont été engagés après la date où elle entre en vigueur. (Les arbitrages engagés avant cette date continuent d'être régis par l'ancienne loi.) En outre, la Loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués en vertu d'autres lois. (Article 2)
2. Les parties à une convention d'arbitrage peuvent, à leur gré, concevoir leur propre processus arbitral, à condition de respecter une liste précise de dispositions obligatoires. L'article 3 constitue en fait une autorisation générale de modifier ou d'exclure toutes les dispositions qui ne figurent pas sur cette liste. La possibilité qu'ont les parties de convenir de modifier ou d'exclure des dispositions particulières n'est le plus souvent pas répétée ailleurs dans la Loi. (Article 3)
3. Les parties qui ont des objections au cours de l'arbitrage doivent les soulever promptement, sinon elles risquent de perdre leur droit d'objection. (Article 4)
4. Les arbitrages sont fondamentalement soumis au contrôle judiciaire. La Loi ne confère toutefois pas au tribunal judiciaire de vastes pouvoirs en matière d'intervention dans les arbitrages; elle décrit plutôt les circonstances particulières dans lesquelles celui-ci peut agir. (Article 6)
5. Un arbitre doit être indépendant et impartial et doit communiquer aux parties toute circonstance susceptible de mettre en doute son indépendance et son impartialité. Des procédures de récusation et de révocation des arbitres sont prévues. (Articles 11 à 15)
6. Les objections touchant la compétence doivent être présentées au tribunal arbitral en première instance, puis au tribunal judiciaire si la résolution de la question n'est pas satisfaisante. Les objections touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doivent être présentées au plus tard au début de l'audience et celles selon lesquelles il outrepasser ses pouvoirs doivent l'être dès que la question pertinente est soulevée pendant l'arbitrage; le tribunal arbitral peut toutefois autoriser la présentation d'objections tardives. (Article 17)
7. Les règles de justice naturelle s'appliquent aux arbitrages, et il appartient au tribunal arbitral de déterminer sa propre procédure. Il est tenu de trancher le différend conformément à la common law et peut appliquer les principes d'équité. (Articles 19, 20 et 31)
8. La sentence d'un tribunal arbitral est susceptible d'appel devant la Cour de l'Ontario (Division générale), si l'

agreement so permits, or with leave in the case of an appeal on a question of law. It may also be set aside for procedural defects on an application to that court. A party who has not participated in the arbitration has the further remedy of applying to the court, at any stage, for a declaration that the arbitration is invalid. (Sections 45, 46 and 48)

9. Awards made in Ontario or elsewhere in Canada may be enforced by an application to the court. (Section 50)

convention d'arbitrage le permet, ou sur autorisation dans le cas d'un appel sur une question de droit. Elle peut également être annulée en cas de vices de procédure, sur requête présentée à ce tribunal judiciaire. Une partie qui n'a pas participé à l'arbitrage a le droit, comme recours additionnel, à quelque étape que ce soit, de demander, par voie de requête, au tribunal judiciaire de déclarer nul l'arbitrage par jugement déclaratoire. (Articles 45, 46 et 48)

9. Les sentences rendues en Ontario ou ailleurs au Canada peuvent être exécutées sur simple requête présentée au tribunal judiciaire. (Article 50)



An Act to revise the Arbitrations Act

Loi portant révision de la Loi sur l'arbitrage

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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:

INTRODUCTORY MATTERS

1. In this Act,

“arbitration agreement” means an agreement by which two or more persons agree to submit to arbitration a dispute that has arisen or may arise between them; (“convention d'arbitrage”)

“arbitrator” includes an umpire; (“arbitre”)

“court”, except in sections 6 and 7, means the Ontario Court (General Division). (“tribunal judiciaire”)

2.—(1) This Act applies to an arbitration conducted under an arbitration agreement unless,

- (a) the application of this Act is excluded by law; or
- (b) the *International Commercial Arbitration Act, 1988* applies to the arbitration.

(2) This Act applies to an arbitration conducted under an arbitration agreement made before the day this Act comes into force, if the arbitration is commenced after that day.

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit :

QUESTIONS PRÉLIMINAIRES

1 Les définitions qui suivent s'appliquent à la présente loi.

«arbitre» S'entend en outre d'un surarbitre. («arbitrator»)

«convention d'arbitrage» Convention par laquelle plusieurs personnes conviennent de soumettre à l'arbitrage un différend survenu ou susceptible de survenir entre elles. («arbitration agreement»)

«tribunal judiciaire» Sauf aux articles 6 et 7, s'entend de la Cour de l'Ontario (Division générale). («court»)

2 (1) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage à moins que, selon le cas :

- a) l'application de la présente loi ne soit exclue de par la loi;
- b) la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique à l'arbitrage.

(2) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage conclue avant la date où la présente loi entre en vigueur, si l'arbitrage est engagé après cette date.

Definitions

Application of Act to arbitrations conducted under agreements

Transition. existing agreements

Definitions

Application de la Loi à arbitrages effectués en vertu de conventions

Disposition transitoire. convention existantes

Application of Act to arbitrations conducted under statutes

(3) This Act applies, with necessary modifications, to an arbitration conducted in accordance with another Act, unless that Act provides otherwise; however, in the event of conflict between this Act and the other Act or regulations made under the other Act, the other Act or the regulations prevail.

(3) La présente loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués conformément à une autre loi, sauf disposition contraire de cette loi. Toutefois, en cas de conflit entre la présente loi et l'autre loi ou les règlements pris en application de cette dernière, l'autre loi ou les règlements l'emportent.

Application de la Loi aux arbitrages effectués en vertu d'autres lois

Transition, arbitrations already commenced

(4) Despite its repeal by subsection 58 (1), the *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, continues to apply to arbitrations that are commenced before the day this Act comes into force.

(4) Malgré son abrogation par le paragraphe 58 (1), la loi intitulée *Arbitrations Act*, qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, continue de s'appliquer aux arbitrages engagés avant la date où la présente loi entre en vigueur.

Disposition transitoire : arbitrages déjà engagés

Contracting out

3. The parties to an arbitration agreement may agree, expressly or by implication, to vary or exclude any provision of this Act except the following:

3 Les parties à une convention d'arbitrage peuvent convenir, expressément ou implicitement, de modifier ou d'exclure une disposition de la présente loi, à l'exception de celles qui suivent :

Exclusion de dispositions

1. Subsection 5 (4) ("*Scott v. Avery*" clauses).
2. Section 19 (equality and fairness).
3. Section 39 (extension of time limits).
4. Section 46 (setting aside award).
5. Section 48 (declaration of invalidity of arbitration).
6. Section 50 (enforcement of award).

1. Le paragraphe 5 (4) (clauses du type «*Scott c. Avery*»).
2. L'article 19 (égalité et équité).
3. L'article 39 (prorogation du délai).
4. L'article 46 (annulation de la sentence).
5. L'article 48 (déclaration de nullité de l'arbitrage).
6. L'article 50 (exécution de la sentence).

Waiver of right to object

4. A party who participates in an arbitration despite being aware of non-compliance with a provision of this Act, except one mentioned in section 3, or with the arbitration agreement, and does not object to the non-compliance within the time limit provided or, if none is provided, within a reasonable time, shall be deemed to have waived the right to object.

4 Est réputée avoir renoncé à son droit d'objection la partie qui, tout en sachant qu'une disposition de la présente loi, à l'exclusion d'une disposition mentionnée à l'article 3, ou la convention d'arbitrage n'est pas respectée, participe à un arbitrage sans s'opposer à ce non-respect dans le délai prévu ou, s'il n'est pas prévu de délai, dans un délai raisonnable.

Renonciation au droit d'objection

Arbitration agreements

5.—(1) An arbitration agreement may be an independent agreement or part of another agreement.

5 (1) La convention d'arbitrage peut constituer une convention distincte ou faire partie d'une autre convention.

Convention d'arbitrage

Further agreements

(2) If the parties to an arbitration agreement make a further agreement in connection with the arbitration, it shall be deemed to form part of the arbitration agreement.

(2) Si les parties à une convention d'arbitrage concluent une autre convention relativement à l'arbitrage, celle-ci est réputée faire partie de la convention d'arbitrage.

Conventions ultérieures

Oral agreements

(3) An arbitration agreement need not be in writing.

(3) Il n'est pas nécessaire que la convention d'arbitrage soit sous forme écrite.

Convention verbale

"*Scott v. Avery*" clauses

(4) An agreement requiring or having the effect of requiring that a matter be adjudicated by arbitration before it may be dealt with by a court has the same effect as an arbitration agreement.

(4) La convention qui exige ou qui a pour effet d'exiger qu'une question soit tranchée par la voie arbitrale avant de pouvoir être portée devant un tribunal judiciaire a le même effet qu'une convention d'arbitrage.

Clauses du type «*Scott c. Avery*»

Revocation

(5) An arbitration agreement may be revoked only in accordance with the ordinary rules of contract law.

(5) La convention d'arbitrage ne peut être révoquée que conformément aux règles ordinaires du droit des obligations.

Révocation

COURT INTERVENTION

INTERVENTION DU TRIBUNAL JUDICIAIRE

Court inter-
vention
limited

6. No court shall intervene in matters governed by this Act, except for the following purposes, in accordance with this Act:

6 Aucun tribunal judiciaire ne doit intervenir dans les questions régies par la présente loi, sauf dans les cas prévus par celle-ci et pour les objets suivants :

1. To assist the conducting of arbitrations.
2. To ensure that arbitrations are conducted in accordance with arbitration agreements.
3. To prevent unequal or unfair treatment of parties to arbitration agreements.

1. Faciliter la conduite des arbitrages.
2. Veiller à ce que les arbitrages soient effectués conformément aux conventions d'arbitrage.
3. Empêcher que des parties aux conventions d'arbitrage soient traitées autrement que sur un pied d'égalité et avec équité.

4. To enforce awards.

4. Exécuter les sentences.

Stay

7.—(1) If a party to an arbitration agreement commences a proceeding in respect of a matter to be submitted to arbitration under the agreement, the court in which the proceeding is commenced shall, on the motion of another party to the arbitration agreement, stay the proceeding.

7 (1) Si une partie à une convention d'arbitrage introduit une instance à l'égard d'une question que la convention oblige à soumettre à l'arbitrage, le tribunal judiciaire devant lequel l'instance est introduite doit, sur la motion d'une autre partie à la convention d'arbitrage, surseoir à l'instance.

Exceptions

(2) However, the court may refuse to stay the proceeding in any of the following cases:

(2) Cependant, le tribunal judiciaire peut refuser de surseoir à l'instance dans l'un ou l'autre des cas suivants :

1. A party entered into the arbitration agreement while under a legal incapacity.
2. The arbitration agreement is invalid.
3. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
4. The motion was brought with undue delay.
5. The matter is a proper one for default or summary judgment.

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.
2. La convention d'arbitrage est nulle.
3. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
4. La motion a été présentée avec un retard indû.
5. La question est propre à un jugement par défaut ou à un jugement sommaire.

Arbitration
may
continue

(3) An arbitration of the dispute may be commenced and continued while the motion is before the court.

(3) L'arbitrage du différend peut être engagé et poursuivi pendant que la motion est devant le tribunal judiciaire.

Effect of
refusal to
stay

(4) If the court refuses to stay the proceeding,

(4) Si le tribunal judiciaire refuse de surseoir à l'instance :

- (a) no arbitration of the dispute shall be commenced; and
- (b) an arbitration that has been commenced shall not be continued, and anything done in connection with the arbitration before the court made its decision is without effect.

- a) d'une part, aucun arbitrage du différend ne peut être engagé;
- b) d'autre part, l'arbitrage qui a été engagé ne peut être poursuivi, et tout ce qui a été fait dans le cadre de l'arbitrage avant que le tribunal judiciaire ne rende sa décision est sans effet.

Agreement
covering part
of dispute

(5) The court may stay the proceeding with respect to the matters dealt with in the arbitration agreement and allow it to continue with respect to other matters if it finds that,

(5) Le tribunal judiciaire peut surseoir à l'instance en ce qui touche les questions traitées dans la convention d'arbitrage et permettre qu'elle se poursuive en ce qui touche les autres questions, s'il constate :

Intervention
limitée du tri-
bunal judi-
ciaire

Sursis

Exceptions

Poursuite de
l'arbitrageConséquence
du refus de
surseoirConvention
s'appliquant
une partie du
différend

- (a) the agreement deals with only some of the matters in respect of which the proceeding was commenced; and
- (b) it is reasonable to separate the matters dealt with in the agreement from the other matters.

- a) d'une part, que la convention ne traite que de certaines des questions à l'égard desquelles l'instance a été introduite;
- b) d'autre part, qu'il est raisonnable de dissocier les questions traitées dans la convention des autres questions.

(6) There is no appeal from the court's decision.

(6) La décision du tribunal judiciaire n'est pas susceptible d'appel.

Décision sans appel

8.—(1) The court's powers with respect to the detention, preservation and inspection of property, interim injunctions and the appointment of receivers are the same in arbitrations as in court actions.

8 (1) Les pouvoirs du tribunal judiciaire en ce qui concerne la garde, la conservation et l'examen des biens, les injonctions provisoires et la nomination de séquestres sont les mêmes dans le cas d'arbitrages que dans le cas d'actions en justice.

Pouvoirs du tribunal judiciaire

(2) The arbitral tribunal may determine any question of law that arises during the arbitration; the court may do so on the application of the arbitral tribunal, or on a party's application if the other parties or the arbitral tribunal consent.

(2) Le tribunal arbitral peut statuer sur toute question de droit qui est soulevée au cours de l'arbitrage. Le tribunal judiciaire peut également le faire à la requête du tribunal arbitral, ou à la requête d'une partie, si les autres parties ou le tribunal arbitral y consentent.

Questions de droit

(3) The court's determination of a question of law may be appealed to the Court of Appeal, with leave.

(3) La décision du tribunal judiciaire sur une question de droit peut faire l'objet d'un appel devant la Cour d'appel, sur autorisation de celle-ci.

Appel

(4) On the application of all the parties to more than one arbitration the court may order, on such terms as are just,

(4) À la requête de toutes les parties à plusieurs arbitrages, le tribunal judiciaire peut ordonner, selon le cas et aux conditions qui sont justes :

Plusieurs arbitrages

- (a) that the arbitrations be consolidated;
- (b) that the arbitrations be conducted simultaneously or consecutively; or
- (c) that any of the arbitrations be stayed until any of the others are completed.

- a) que les arbitrages soient joints;
- b) que les arbitrages soient effectués simultanément ou consécutivement;
- c) qu'il soit sursis à l'un des arbitrages jusqu'à ce que l'un ou l'autre des arbitrages soit terminé.

(5) When the court orders that arbitrations be consolidated, it may appoint an arbitral tribunal for the consolidated arbitration; if all the parties agree as to the choice of arbitral tribunal, the court shall appoint it.

(5) Si le tribunal judiciaire ordonne la jonction d'arbitrages, il peut désigner un tribunal arbitral pour effectuer les arbitrages joints. Si toutes les parties s'entendent sur le choix du tribunal arbitral, le tribunal judiciaire doit le désigner.

Tribunal arbitral chargé d'effectuer les arbitrages joints

(6) Subsection (4) does not prevent the parties to more than one arbitration from agreeing to consolidate the arbitrations and doing everything necessary to effect the consolidation.

(6) Le paragraphe (4) n'a pas pour effet d'empêcher les parties à plus d'un arbitrage de s'entendre pour joindre les arbitrages et de prendre toutes les mesures nécessaires à cette fin.

Jonction des arbitrages par accord des parties

COMPOSITION OF ARBITRAL TRIBUNAL

COMPOSITION DU TRIBUNAL ARBITRAL

9. If the arbitration agreement does not specify the number of arbitrators who are to form the arbitral tribunal, it shall be composed of one arbitrator.

9 Si la convention d'arbitrage ne précise pas le nombre d'arbitres qui doivent former le tribunal arbitral, celui-ci se compose d'un seul arbitre.

Nombre d'arbitres

10.—(1) The court may appoint the arbitral tribunal, on a party's application, if,

10 (1) Le tribunal judiciaire peut désigner le tribunal arbitral, à la requête d'une partie, dans les cas suivants :

Désignation du tribunal arbitral

No appeal

Powers of court

Questions of law

Appeal

More than one arbitration

Arbitral tribunal for consolidated arbitrations

Consolidation by agreement of parties

Number of arbitrators

Appointment of arbitral tribunal

	(a) the arbitration agreement provides no procedure for appointing the arbitral tribunal; or	a) la convention d'arbitrage ne prévoit aucune procédure de désignation du tribunal arbitral;	
	(b) a person with power to appoint the arbitral tribunal has not done so after a party has given the person seven days notice to do so.	b) une personne investie du pouvoir de désigner le tribunal arbitral n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.	
No appeal	(2) There is no appeal from the court's appointment of the arbitral tribunal.	(2) La désignation du tribunal arbitral par le tribunal judiciaire n'est pas susceptible d'appel.	Désignation sans appel
More than one arbitrator	(3) Subsections (1) and (2) apply, with necessary modifications, to the appointment of individual members of arbitral tribunals that are composed of more than one arbitrator.	(3) Les paragraphes (1) et (2) s'appliquent, avec les adaptations nécessaires, à la désignation de chacun des membres des tribunaux arbitraux qui comprennent plus d'un arbitre.	Cas où il y a plus d'un arbitre
Chair	(4) If the arbitral tribunal is composed of three or more arbitrators, they shall elect a chair from among themselves; if it is composed of two arbitrators, they may do so.	(4) Si le tribunal arbitral se compose d'au moins trois arbitres, ceux-ci doivent élire un président choisi parmi eux. S'il se compose de deux arbitres, ces derniers peuvent le faire.	Président
Duty of arbitrator	11. —(1) An arbitrator shall be independent of the parties and shall act impartially.	11 (1) L'arbitre doit être indépendant des parties et agir en toute impartialité.	Obligations de l'arbitre
Disclosure before accepting appointment	(2) Before accepting an appointment as arbitrator, a person shall disclose to all parties to the arbitration any circumstances of which he or she is aware that may give rise to a reasonable apprehension of bias.	(2) Avant d'accepter sa désignation comme arbitre, la personne désignée doit communiquer à toutes les parties à l'arbitrage toutes les circonstances dont elle a connaissance qui pourraient susciter des craintes raisonnables de partialité.	Divulgence avant l'acceptation de la désignation
Disclosure during arbitration	(3) An arbitrator who, during an arbitration, becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose them to all the parties.	(3) L'arbitre qui, au cours d'un arbitrage, apprend l'existence de circonstances pouvant susciter des craintes raisonnables de partialité les communique promptement à toutes les parties.	Divulgence au cours d'un arbitrage
No revocation	12. A party may not revoke the appointment of an arbitrator.	12 Une partie ne peut révoquer la désignation d'un arbitre.	Révocation impossible
Challenge	13. —(1) A party may challenge an arbitrator only on one of the following grounds:	13 (1) Une partie ne peut récuser un arbitre que pour l'un des motifs suivants :	Récusation
	1. Circumstances exist that may give rise to a reasonable apprehension of bias.	1. Il existe des circonstances qui peuvent susciter des craintes raisonnables de partialité.	
	2. The arbitrator does not possess qualifications that the parties have agreed are necessary.	2. L'arbitre ne possède pas les compétences nécessaires dont sont convenues les parties.	
Idem, arbitrator appointed by party	(2) A party who appointed an arbitrator or participated in his or her appointment may challenge the arbitrator only for grounds of which the party was unaware at the time of the appointment.	(2) Une partie ne peut récuser l'arbitre qu'elle a désigné ou à la désignation duquel elle a participé que pour des motifs dont elle ignorait l'existence au moment de la désignation.	Idem : arbitre désigné par une partie
Procedure for challenge	(3) A party who wishes to challenge an arbitrator shall send the arbitral tribunal a statement of the grounds for the challenge, within fifteen days of becoming aware of them.	(3) La partie qui veut récuser un arbitre envoie au tribunal arbitral un énoncé des motifs de la récusation, dans les quinze jours de la date où elle en a appris l'existence.	Procédure de récusation
Removal or resignation of challenged arbitrator	(4) The other parties may agree to remove the challenged arbitrator, or the arbitrator may resign.	(4) Les autres parties peuvent convenir de révoquer l'arbitre récusé ou ce dernier peut démissionner.	Révocation ou démission de l'arbitre récusé

Decision of arbitral tribunal	(5) If the challenged arbitrator is not removed by the parties and does not resign, the arbitral tribunal, including the challenged arbitrator, shall decide the issue and shall notify the parties of its decision.	(5) Si l'arbitre récusé n'est pas révoqué par les parties et ne démissionne pas, le tribunal arbitral, y compris l'arbitre récusé, tranche le litige et avise les parties de sa décision.	Décision du tribunal arbitral
Application to court	(6) Within ten days of being notified of the arbitral tribunal's decision, a party may make an application to the court to decide the issue and, in the case of the challenging party, to remove the arbitrator.	(6) Dans les dix jours de la date où elle a reçu avis de la décision du tribunal arbitral, une partie peut présenter une requête au tribunal judiciaire pour qu'il tranche le litige et, dans le cas de la partie récusante, pour qu'il révoque l'arbitre.	Requête devant le tribunal judiciaire
Arbitration may continue	(7) While an application is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitration and make an award, unless the court orders otherwise.	(7) En attendant qu'il soit statué sur la requête, le tribunal arbitral, y compris l'arbitre récusé, peut poursuivre l'arbitrage et rendre une sentence, à moins que le tribunal judiciaire n'en ordonne autrement.	Possibilité de poursuivre l'arbitrage
Termination of arbitrator's mandate	14. —(1) An arbitrator's mandate terminates when, (a) the arbitrator resigns or dies; (b) the parties agree to terminate it; (c) the arbitral tribunal upholds a challenge to the arbitrator, ten days elapse after all the parties are notified of the decision and no application is made to the court; or (d) the court removes the arbitrator under subsection 15 (1).	14 (1) Le mandat d'un arbitre prend fin dans les cas suivants : a) l'arbitre démissionne ou décède; b) les parties conviennent d'y mettre fin; c) le tribunal arbitral maintient une récusation de l'arbitre, il s'écoule dix jours après que toutes les parties ont été avisées de la décision et aucune requête n'est présentée au tribunal judiciaire; d) le tribunal judiciaire révoque l'arbitre aux termes du paragraphe 15 (1).	Fin du mandat de l'arbitre
Significance of resignation or agreement to terminate	(2) An arbitrator's resignation or a party's agreement to terminate an arbitrator's mandate does not imply acceptance of the validity of any reason advanced for challenging or removing him or her.	(2) Le fait qu'un arbitre démissionne ou qu'une partie accepte de mettre fin au mandat d'un arbitre n'implique pas que les motifs avancés pour le récuser ou le révoquer sont considérés comme valides.	Portée de la démission ou de l'accord pour mettre fin au mandat
Removal of arbitrator by court	15. —(1) The court may remove an arbitrator on a party's application under subsection 13 (6) (challenge), or may do so on a party's application if the arbitrator becomes unable to perform his or her functions, commits a corrupt or fraudulent act, delays unduly in conducting the arbitration or does not conduct it in accordance with section 19 (equality and fairness).	15 (1) Le tribunal judiciaire peut révoquer un arbitre à la requête d'une partie présentée aux termes du paragraphe 13 (6) (récusation). Il peut également le révoquer à la requête d'une partie si l'arbitre n'est plus en mesure d'exercer ses fonctions, commet un acte vénal ou frauduleux, tarde indûment à effectuer l'arbitrage ou ne l'effectue pas conformément à l'article 19 (égalité et équité).	Révocation de l'arbitre par le tribunal judiciaire
Right of arbitrator	(2) The arbitrator is entitled to be heard by the court if the application is based on an allegation that he or she committed a corrupt or fraudulent act or delayed unduly in conducting the arbitration.	(2) L'arbitre a le droit d'être entendu par le tribunal judiciaire si la requête est fondée sur l'allégation selon laquelle il a commis un acte vénal ou frauduleux, ou a tardé indûment à effectuer l'arbitrage.	Droit de l'arbitre
Directions	(3) When the court removes an arbitrator, it may give directions about the conduct of the arbitration.	(3) Lorsqu'il révoque un arbitre, le tribunal judiciaire peut donner des directives touchant la conduite de l'arbitrage.	Directives
Penalty	(4) If the court removes an arbitrator for a corrupt or fraudulent act or for undue delay, it may order that the arbitrator receive no payment for his or her services and may order that he or she compensate the parties for all or part of the costs, as determined by the court, that they incurred in connection	(4) Si le tribunal judiciaire révoque un arbitre pour avoir commis un acte vénal ou frauduleux, ou pour un retard indû, il peut interdire qu'une rémunération lui soit versée en contrepartie de ses services et lui ordonner de dédommager les parties pour tout ou partie des frais, selon la décision du tribunal	Peine

with the arbitration before his or her removal.

Appeal re
penalty

(5) The arbitrator or a party may, within thirty days after receiving the court's decision, appeal an order made under subsection (4) or the refusal to make such an order to the Court of Appeal, with leave of that court.

No other
appeal

(6) Except as provided in subsection (5), there is no appeal from the court's decision or from its directions.

Appointment
of substitute
arbitrator

16.—(1) When an arbitrator's mandate terminates, a substitute arbitrator shall be appointed, following the procedure that was used in the appointment of the arbitrator being replaced.

Directions

(2) When the arbitrator's mandate terminates, the court may, on a party's application, give directions about the conduct of the arbitration.

Court
appointment

(3) The court may appoint the substitute arbitrator, on a party's application, if,

- (a) the arbitration agreement provides no procedure for appointing the substitute arbitrator; or
- (b) a person with power to appoint the substitute arbitrator has not done so after a party has given the person seven days notice to do so.

No appeal

(4) There is no appeal from the court's decision or from its directions.

Exception

(5) This section does not apply if the arbitration agreement provides that the arbitration is to be conducted only by a named arbitrator.

JURISDICTION OF ARBITRAL TRIBUNAL

Arbitral
tribunal may
rule on own
jurisdiction

17.—(1) An arbitral tribunal may rule on its own jurisdiction to conduct the arbitration and may in that connection rule on objections with respect to the existence or validity of the arbitration agreement.

Independent
agreement

(2) If the arbitration agreement forms part of another agreement, it shall, for the purposes of a ruling on jurisdiction, be treated as an independent agreement that may survive even if the main agreement is found to be invalid.

Time for
objections to
jurisdiction

(3) A party who has an objection to the arbitral tribunal's jurisdiction to conduct the arbitration shall make the objection no later than the beginning of the hearing or, if there is no hearing, no later than the first occasion on which the party submits a statement to the tribunal.

judiciaire, qu'elles ont engagés relativement à l'arbitrage avant sa révocation.

(5) L'arbitre ou une partie peut, dans les trente jours de la date où ils ont reçu la décision du tribunal judiciaire, faire appel devant la Cour d'appel, sur autorisation de celle-ci, d'une ordonnance rendue aux termes du paragraphe (4) ou du refus de rendre une telle ordonnance.

(6) Sauf disposition contraire du paragraphe (5), ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

16 (1) Lorsque le mandat d'un arbitre prend fin, un arbitre remplaçant est désigné selon la procédure qui a été suivie pour la désignation de l'arbitre remplacé.

(2) Lorsque le mandat de l'arbitre prend fin, le tribunal judiciaire peut, à la requête d'une partie, donner des directives touchant la conduite de l'arbitrage.

(3) Le tribunal judiciaire peut désigner l'arbitre remplaçant, à la requête d'une partie, dans les cas suivants :

- a) la convention d'arbitrage ne prévoit aucune procédure de désignation de l'arbitre remplaçant;
- b) la personne investie du pouvoir de désigner l'arbitre remplaçant n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.

(4) Ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

(5) Le présent article ne s'applique pas si la convention d'arbitrage prévoit que l'arbitrage ne doit être effectué que par un arbitre donné.

COMPÉTENCE DU TRIBUNAL ARBITRAL

17 (1) Le tribunal arbitral peut statuer sur sa propre compétence en matière de conduite de l'arbitrage et peut, à cet égard, statuer sur les objections relatives à l'existence ou à la validité de la convention d'arbitrage.

(2) La convention d'arbitrage qui fait partie d'une autre convention est considérée, aux fins d'une décision sur la compétence, comme une convention distincte pouvant subsister même si la convention principale est déclarée nulle.

(3) Une partie qui a une objection touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doit la présenter au plus tard au début de l'audience ou, en l'absence d'audience, au plus tard à la première occasion à laquelle la partie soumet une déclaration au tribunal arbitral.

Appel relatif
à une peine

Aucun autre
appel possible

Désignation
d'un arbitre
remplaçant

Directives

Désignation
par le tribu-
nal judiciaire

Aucun appel
possible

Exception

Possibilité
pour le tribu-
nal arbitral
de statuer sur
sa propre
compétence

Convention
distincte

Délai de
présentation
des objections
touchant la
compétence

Party's appointment of arbitrator no bar to objection	(4) The fact that a party has appointed or participated in the appointment of an arbitrator does not prevent the party from making an objection to jurisdiction.	(4) Le fait qu'une partie ait désigné un arbitre ou participé à sa désignation ne l'empêche pas de présenter une objection touchant sa compétence.	Objections émanant d'une partie qui a désigné l'arbitre
Time for objections that tribunal is exceeding authority	(5) A party who has an objection that the arbitral tribunal is exceeding its authority shall make the objection as soon as the matter alleged to be beyond the tribunal's authority is raised during the arbitration.	(5) Une partie qui a une objection selon laquelle le tribunal arbitral outrepassé ses pouvoirs la présente dès que la question qui est prétendue constituer un abus de pouvoir du tribunal judiciaire est soulevée pendant l'arbitrage.	Délai de présentation d'objections à un abus de pouvoir du tribunal judiciaire
Later objections	(6) Despite section 4, if the arbitral tribunal considers the delay justified, a party may make an objection after the time limit referred to in subsection (3) or (5), as the case may be, has expired.	(6) Malgré l'article 4, une partie peut présenter une objection une fois expiré le délai visé au paragraphe (3) ou (5), selon le cas, si le tribunal arbitral estime le retard justifié.	Objections tardives
Ruling	(7) The arbitral tribunal may rule on an objection as a preliminary question or may deal with it in an award.	(7) Le tribunal arbitral peut statuer sur une objection en la traitant comme une question préalable ou peut en traiter dans une sentence.	Décision
Review by court	(8) If the arbitral tribunal rules on an objection as a preliminary question, a party may, within thirty days after receiving notice of the ruling, make an application to the court to decide the matter.	(8) Si le tribunal arbitral statue sur une objection en la traitant comme une question préalable, une partie peut, dans les trente jours de la date où elle a reçu avis de la décision, présenter une requête au tribunal judiciaire pour qu'il rende une décision sur la question.	Révision par le tribunal judiciaire
No appeal	(9) There is no appeal from the court's decision.	(9) La décision du tribunal judiciaire n'est pas susceptible d'appel.	Aucun appel possible
Arbitration may continue	(10) While an application is pending, the arbitral tribunal may continue the arbitration and make an award.	(10) En attendant qu'il soit statué sur une requête, le tribunal arbitral peut poursuivre l'arbitrage et rendre une sentence.	Poursuite de l'arbitrage
Detention, preservation and inspection of property and documents	18. —(1) On a party's request, an arbitral tribunal may make an order for the detention, preservation or inspection of property and documents that are the subject of the arbitration or as to which a question may arise in the arbitration, and may order a party to provide security in that connection.	18 (1) À la demande d'une partie, le tribunal arbitral peut rendre une ordonnance portant sur la garde, la conservation ou l'examen des biens et des documents qui font l'objet de l'arbitrage ou à l'égard desquels une question peut être soulevée au cours de l'arbitrage. Il peut aussi ordonner à une partie de fournir un cautionnement à cet égard.	Garde, conservation et examen de biens et de documents
Enforcement by court	(2) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.	(2) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.	Exécution par le tribunal judiciaire

CONDUCT OF ARBITRATION

CONDUITE DE L'ARBITRAGE

Equality and fairness	19. —(1) In an arbitration, the parties shall be treated equally and fairly.	19 (1) Au cours de l'arbitrage, les parties sont traitées sur un pied d'égalité et avec équité.	Égalité et équité
Idem	(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.	(2) Chaque partie doit avoir la possibilité de présenter son exposé des faits et de répondre à ceux des autres parties.	Idem
Procedure	20. —(1) The arbitral tribunal may determine the procedure to be followed in the arbitration, in accordance with this Act.	20 (1) Le tribunal arbitral peut déterminer la procédure à suivre au cours de l'arbitrage, conformément à la présente loi.	Procédure
Idem	(2) An arbitral tribunal that is composed of more than one arbitrator may delegate the determination of questions of procedure to the chair.	(2) Le tribunal arbitral qui est composé de plus d'un arbitre peut déléguer au président la détermination des questions de procédure.	Idem

Evidence

21. Sections 14, 15 and 16 (protection of witnesses, evidence at hearings, notice of facts and opinions) of the *Statutory Powers Procedure Act* apply to the arbitration, with necessary modifications.

21 Les articles 14, 15 et 16 (immunité du témoin, preuve aux audiences, connaissance des faits et des opinions) de la *Loi sur l'exercice des compétences légales* s'appliquent à l'arbitrage, avec les adaptations nécessaires.

Preuves

Time and place of arbitration

22.—(1) The arbitral tribunal shall determine the time, date and place of arbitration, taking into consideration the parties' convenience and the other circumstances of the case.

22 (1) Le tribunal arbitral décide de la date, de l'heure et du lieu de l'arbitrage, en tenant compte des convenances des parties et des autres circonstances de l'affaire.

Date, heure et lieu de l'arbitrage

Meetings for special purposes

(2) The arbitral tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or parties, or for inspecting property or documents.

(2) Le tribunal arbitral peut se réunir à tout endroit qu'il juge approprié pour la tenue de consultations entre ses membres, pour l'audition des témoins, des experts ou des parties, ou pour l'examen de biens ou de documents.

Réunions à des fins spéciales

Commencement of arbitration

23.—(1) An arbitration may be commenced in any way recognized by law, including the following:

23 (1) L'arbitrage peut être engagé de quelque manière reconnue par la loi, y compris les suivantes :

Début de l'arbitrage

1. A party to an arbitration agreement serves on the other parties notice to appoint or to participate in the appointment of an arbitrator under the agreement.
2. If the arbitration agreement gives a person who is not a party power to appoint an arbitrator, one party serves notice to exercise that power on the person and serves a copy of the notice on the other parties.
3. A party serves on the other parties a notice demanding arbitration under the agreement.

1. Une partie à une convention d'arbitrage signifie aux autres parties un avis leur enjoignant de désigner un arbitre ou de participer à sa désignation aux termes de la convention.
2. Si la convention d'arbitrage confère à une personne qui n'est pas une partie le pouvoir de désigner un arbitre, une partie signifie à cette personne un avis lui enjoignant d'exercer ce pouvoir et signifie une copie de l'avis aux autres parties.
3. Une partie signifie aux autres parties un avis par lequel elle demande la tenue d'un arbitrage aux termes de la convention.

Exercise of arbitral tribunal's powers

(2) The arbitral tribunal may exercise its powers when every member has accepted appointment.

(2) Le tribunal arbitral peut exercer ses pouvoirs une fois que chacun des membres a accepté sa désignation.

Exercice de ses pouvoirs par le tribunal arbitral

Matters referred to arbitration

24. A notice that commences an arbitration without identifying the dispute shall be deemed to refer to arbitration all disputes that the arbitration agreement entitles the party giving the notice to refer.

24 L'avis qui introduit une procédure d'arbitrage sans préciser la nature du différend est réputé soumettre à l'arbitrage tous les différends que la convention d'arbitrage autorise la partie qui signifie l'avis à soumettre.

Questions soumises à l'arbitrage

Procedural directions

25.—(1) An arbitral tribunal may require that the parties submit their statements within a specified period of time.

25 (1) Le tribunal arbitral peut exiger des parties qu'elles soumettent leur déclaration dans un délai précis.

Directives en matière de procédure

Contents of statements

(2) The parties' statements shall indicate the facts supporting their positions, the points at issue and the relief sought.

(2) Dans leur déclaration, les parties énoncent les faits à l'appui de leur point de vue, les points litigieux et le redressement demandé.

Contenu des déclarations

Documents and other evidence

(3) The parties may submit with their statements the documents they consider relevant, or may refer to the documents or other evidence they intend to submit.

(3) Les parties peuvent soumettre avec leur déclaration les documents qu'elles jugent pertinents ou y faire mention des documents ou autres preuves qu'elles comptent soumettre.

Documents et autres preuves

Changes to statements

(4) The parties may amend or supplement their statements during the arbitration; how-

(4) Les parties peuvent modifier ou compléter leur déclaration au cours de l'arbitrage. Toutefois, le tribunal arbitral peut

Changements apportés aux déclarations

ever, the arbitral tribunal may disallow a change that is unduly delayed.

rejeter tout changement présenté avec un retard indû.

Oral statements

(5) With the arbitral tribunal's permission, the parties may submit their statements orally.

(5) Sur autorisation du tribunal arbitral, les parties peuvent soumettre leur déclaration oralement.

Déclarations orales

Directions of arbitral tribunal

(6) The parties and persons claiming through or under them shall, subject to any legal objection, comply with the arbitral tribunal's directions, including directions to,

(6) Les parties et leurs ayants droit doivent, sous réserve de toute objection légale, se conformer aux directives du tribunal arbitral, y compris celles voulant :

Directives du tribunal arbitral

(a) submit to examination on oath or affirmation with respect to the dispute;

a) qu'elles se soumettent à un interrogatoire sous serment ou sous déclaration solennelle relativement au différend;

(b) produce records and documents that are in their possession or power.

b) qu'elles produisent des dossiers et des documents qui sont en leur possession ou sous leur garde.

Enforcement by court

(7) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.

(7) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.

Exécution par le tribunal judiciaire

Hearings and written proceedings

26.—(1) The arbitral tribunal may conduct the arbitration on the basis of documents or may hold hearings for the presentation of evidence and for oral argument; however, the tribunal shall hold a hearing if a party requests it.

26 (1) Le tribunal arbitral peut effectuer l'arbitrage en se fondant sur des documents ou tenir des audiences aux fins de la production de preuves et de la plaidoirie. Toutefois, si une partie en fait la demande, le tribunal arbitral doit tenir une audience.

Procédure orale et procédure écrite

Notice

(2) The arbitral tribunal shall give the parties sufficient notice of hearings and of meetings of the tribunal for the purpose of inspection of property or documents.

(2) Le tribunal arbitral donne aux parties un préavis suffisant de ses audiences et de ses réunions aux fins de l'examen de biens ou de documents.

Préavis

Communication to parties

(3) A party who submits a statement to the arbitral tribunal or supplies the tribunal with any other information shall also communicate it to the other parties.

(3) Toute partie qui soumet une déclaration au tribunal arbitral ou lui fournit d'autres renseignements les communique également aux autres parties.

Communication aux parties

Idem

(4) The arbitral tribunal shall communicate to the parties any expert reports or other documents on which it may rely in making a decision.

(4) Le tribunal arbitral communique aux parties tous les rapports d'expert ou autres documents sur lesquels il peut s'appuyer pour rendre une décision.

Idem

Failure to submit statement

27.—(1) If the party who commenced the arbitration does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the party offers a satisfactory explanation, make an award dismissing the claim.

27 (1) Si la partie qui a introduit la procédure d'arbitrage ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, rendre une sentence qui rejette la demande.

Défaut de soumettre la déclaration

Idem

(2) If a party other than the one who commenced the arbitration does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration, but shall not treat the failure to submit a statement as an admission of another party's allegations.

(2) Si une partie autre que celle qui a introduit la procédure d'arbitrage ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage. Cependant, il ne doit pas considérer le fait qu'il ne soit pas soumis de déclaration comme une reconnaissance des allégations d'une autre partie.

Idem

Party's failure to appear or produce evidence

(3) If a party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration.

(3) Si une partie ne comparait pas à une audience ou ne produit pas de preuves documentaires, le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage et rendre

Cas où une partie ne comparait pas ou ne produit pas de preuves

tration and make an award on the evidence before it.

Delay

(4) In the case of delay by the party who commenced the arbitration, the arbitral tribunal may make an award dismissing the claim or give directions for the speedy determination of the arbitration, and may impose conditions on its decision.

Jointly commenced arbitration

(5) If the arbitration was commenced jointly by all the parties, subsections (2) and (3) apply, with necessary modifications, but subsections (1) and (4) do not.

Counterclaim

(6) This section applies in respect of a counterclaim as if the party making it were the party who commenced the arbitration.

Appointment of expert

28.—(1) An arbitral tribunal may appoint an expert to report to it on specific issues.

Information and documents

(2) The arbitral tribunal may require parties to give the expert any relevant information or to allow him or her to inspect property or documents.

Hearing

(3) At the request of a party or of the arbitral tribunal, the expert shall, after making the report, participate in a hearing in which the parties may question the expert and present the testimony of another expert on the subject-matter of the report.

Notice to witness

29.—(1) A party may serve a person with a notice, issued by the arbitral tribunal, requiring the person to attend and give evidence at the arbitration at the time and place named in the notice.

Service of notice

(2) The notice has the same effect as a notice in a court proceeding requiring a witness to attend at a hearing or produce documents, and shall be served in the same way.

Power of arbitral tribunal

(3) An arbitral tribunal has power to administer an oath or affirmation and power to require a witness to testify under oath or affirmation.

Court orders and directions

(4) On the application of a party or of the arbitral tribunal, the court may make orders and give directions with respect to the taking of evidence for an arbitration as if it were a court proceeding.

Restriction

30. No person shall be compelled to produce information, property or documents or to give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

une sentence en se fondant sur les preuves dont il dispose.

(4) En cas de retard de la partie qui a introduit la procédure d'arbitrage, le tribunal arbitral peut rendre une sentence qui rejette la demande ou donner des directives en vue d'une résolution expéditive de l'arbitrage, et peut assortir sa décision de conditions.

(5) Si la procédure d'arbitrage a été introduite conjointement par toutes les parties, les paragraphes (2) et (3) s'appliquent, avec les adaptations nécessaires, mais les paragraphes (1) et (4) ne s'appliquent pas.

(6) Le présent article s'applique à l'égard d'une demande reconventionnelle comme si la partie qui la présente était la partie qui a introduit la procédure d'arbitrage.

28 (1) Le tribunal arbitral peut nommer un expert chargé de lui faire rapport sur des questions précises.

(2) Le tribunal arbitral peut exiger des parties qu'elles fournissent à l'expert tous renseignements pertinents ou qu'elles permettent à ce dernier d'examiner des biens ou des documents.

(3) À la demande d'une partie ou du tribunal arbitral, l'expert, après avoir préparé son rapport, participe à une audience au cours de laquelle les parties peuvent l'interroger et présenter le témoignage d'un autre expert sur l'objet du rapport.

29 (1) Une partie peut signifier à une personne un avis, délivré par le tribunal arbitral, exigeant que la personne compareisse à l'arbitrage et qu'elle y témoigne aux date, heure et lieu indiqués dans l'avis.

(2) L'avis a la même valeur qu'un avis donné dans une instance judiciaire qui exige d'un témoin qu'il compareisse à une audience ou produise des documents, et est signifié de la même manière.

(3) Un tribunal arbitral a le pouvoir de faire prêter serment ou de recevoir des déclarations solennelles et celui d'exiger d'un témoin qu'il témoigne sous serment ou sous déclaration solennelle.

(4) À la requête d'une partie ou du tribunal arbitral, le tribunal judiciaire peut rendre des ordonnances et donner des directives concernant l'obtention de preuves dans le cadre d'un arbitrage, comme si l'arbitrage constituait une instance judiciaire.

30 Nul ne doit être contraint, au cours d'un arbitrage, de fournir ou de produire des renseignements, des biens, des documents ou un témoignage qu'il ne pourrait être contraint de fournir ou de produire dans une instance judiciaire.

Retard

Arbitrage introduit conjointement

Demande reconventionnelle

Nomination d'un expert

Renseignements et documents

Audience

Avis signifié au témoin

Signification de l'avis

Pouvoir du tribunal arbitral

Ordonnance et directives du tribunal judiciaire

Restriction

AWARDS AND TERMINATION OF
ARBITRATION

SENTENCES ET CLÔTURE DE L'ARBITRAGE

Application
of law and
equity

31. An arbitral tribunal shall decide a dispute in accordance with law, including equity, and may order specific performance, injunctions and other equitable remedies.

31 Le tribunal arbitral tranche le différend conformément à la loi, et notamment selon l'équité, et peut ordonner des exécutions en nature, prononcer des injonctions et ordonner d'autres redressements reconnus en équité.

Application
de la loi et
de l'équitéConflict of
laws

32.—(1) In deciding a dispute, an arbitral tribunal shall apply the rules of law designated by the parties or, if none are designated, the rules of law it considers appropriate in the circumstances.

32 (1) Pour trancher un différend, le tribunal arbitral applique les règles de droit désignées par les parties ou, si elles n'en ont pas désigné, les règles de droit qu'il juge appropriées dans les circonstances.

Conflit de
loisDesignation
by parties

(2) A designation by the parties of the law of a jurisdiction refers to the jurisdiction's substantive law and not to its conflict of laws rules, unless the parties expressly indicate that the designation includes them.

(2) Toute désignation de la loi d'une autorité législative par les parties vise ses règles juridiques de fond et non ses règles de conflit de lois, à moins que les parties n'indiquent expressément que la désignation les comprend également.

Désignation
par les partiesApplication
of arbitration
agreement,
contract and
usages of
trade

33. The arbitral tribunal shall decide the dispute in accordance with the arbitration agreement and the contract, if any, under which the dispute arose, and may also take into account any applicable usages of trade.

33 Le tribunal arbitral tranche le différend conformément à la convention d'arbitrage et au contrat, s'il en est, dans le cadre desquels le différend est survenu. Il peut également tenir compte de tout usage du commerce applicable.

Application
de la conven-
tion d'arbi-
trage, du
contrat et des
usages du
commerceDecision of
arbitral
tribunal

34. If an arbitral tribunal is composed of more than one member, a decision of a majority of the members is the arbitral tribunal's decision; however, if there is no majority decision or unanimous decision, the chair's decision governs.

34 Si le tribunal arbitral comporte plus d'un membre, une décision prise à la majorité des membres constitue la décision du tribunal arbitral. Toutefois, s'il n'y a pas de décision prise à la majorité ou de décision unanime, c'est la décision du président qui l'emporte.

Decision du
tribunal arbi-
tralMediation
and concilia-
tion

35. The members of an arbitral tribunal shall not conduct any part of the arbitration as a mediation or conciliation process or other similar process that might compromise or appear to compromise the arbitral tribunal's ability to decide the dispute impartially.

35 Les membres du tribunal arbitral ne doivent pas effectuer l'arbitrage, même en partie, comme s'il s'agissait d'une procédure de médiation ou de conciliation ou d'une autre procédure semblable qui pourrait compromettre ou sembler compromettre le pouvoir du tribunal de trancher le différend en toute impartialité.

Médiation et
conciliation

Settlement

36. If the parties settle the dispute during arbitration, the arbitral tribunal shall terminate the arbitration and, if a party so requests, may record the settlement in the form of an award.

36 Si les parties règlent le différend durant l'arbitrage, le tribunal arbitral met fin à l'arbitrage et, si une partie en fait la demande, peut constater le règlement par une sentence.

Règlement

Binding
nature of
award

37. An award binds the parties, unless it is set aside or varied under section 45 or 46 (appeal, setting aside award).

37 La sentence lie les parties, à moins qu'elle ne soit annulée ou modifiée en vertu de l'article 45 ou 46 (appel, annulation d'une sentence).

Caractère
obligatoire de
la sentenceForm of
award

38.—(1) An award shall be made in writing and, except in the case of an award made on consent, shall state the reasons on which it is based.

38 (1) La sentence est rendue sous forme écrite et, sauf s'il s'agit d'une sentence rendue par accord des parties, est motivée.

Forme de la
sentence

dem

(2) The award shall indicate the place where and the date on which it is made.

(2) La sentence indique le lieu et la date où elle a été rendue.

Idem

Modalities
of execution

(3) The award shall be dated and shall be signed by all the members of the arbitral tribunal, or by a majority of them if an expla-

(3) La sentence est datée et signée par tous les membres du tribunal arbitral, ou par la majorité d'entre eux à condition que soit

Modalités
d'exécution

Idem

(5) The court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal with the court's opinion on the question of law, in the case of an appeal on a question of law, and give directions about the conduct of the arbitration.

(5) Le tribunal judiciaire peut confirmer, modifier ou annuler la sentence ou la renvoyer devant le tribunal arbitral, accompagnée de l'avis du tribunal judiciaire sur la question de droit, dans le cas d'un appel sur une question de droit, et donner des directives touchant la conduite de l'arbitrage.

Idem

Setting aside award

46.—(1) On a party's application, the court may set aside an award on any of the following grounds:

46 (1) À la requête d'une partie, le tribunal judiciaire peut annuler une sentence pour l'un des motifs suivants :

Annulation de la sentence

1. A party entered into the arbitration agreement while under a legal incapacity.
2. The arbitration agreement is invalid or has ceased to exist.
3. The award deals with a dispute that the arbitration agreement does not cover or contains a decision on a matter that is beyond the scope of the agreement.
4. The composition of the tribunal was not in accordance with the arbitration agreement or, if the agreement did not deal with that matter, was not in accordance with this Act.
5. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
6. The applicant was not treated equally and fairly, was not given an opportunity to present a case or to respond to another party's case, or was not given proper notice of the arbitration or of the appointment of an arbitrator.
7. The procedures followed in the arbitration did not comply with this Act.
8. An arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias.
9. The award was obtained by fraud.

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.
2. La convention d'arbitrage est nulle ou a cessé d'exister.
3. La sentence porte sur un différend que la convention d'arbitrage ne prévoit pas, ou comporte une décision sur une question qui dépasse les termes de la convention.
4. La composition du tribunal judiciaire n'était pas conforme à la convention d'arbitrage ou, si la convention ne traitait pas de cette question, n'était pas conforme à la présente loi.
5. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
6. Le requérant n'a pas été traité sur un pied d'égalité et avec équité, n'a pas eu la possibilité de présenter son exposé des faits ou de répliquer à celui d'une autre partie, ou n'a pas été avisé en bonne et due forme de la tenue de l'arbitrage ou de la désignation d'un arbitre.
7. Les procédures suivies au cours de l'arbitrage n'étaient pas conformes à la présente loi.
8. Un arbitre a commis un acte vénel ou frauduleux, ou il existe des craintes raisonnables de partialité.
9. La sentence a été obtenue frauduleusement.

Severable parts of award

(2) If paragraph 3 of subsection (1) applies and it is reasonable to separate the decisions on matters covered by the arbitration agreement from the impugned ones, the court shall set aside the impugned decisions and allow the others to stand.

(2) Si la disposition 3 du paragraphe (1) s'applique et qu'il est raisonnable de dissocier les décisions portant sur des questions prévues par la convention d'arbitrage de celles qui sont attaquées, le tribunal judiciaire annule les décisions attaquées, les autres restant valides.

Parties de la sentence dissociables

Restriction

(3) The court shall not set aside an award on grounds referred to in paragraph 3 of subsection (1) if the party has agreed to the inclusion of the dispute or matter, waived the right to object to its inclusion or agreed that the arbitral tribunal has power to decide what disputes have been referred to it.

(3) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 3 du paragraphe (1) si la partie a donné son accord à l'inclusion du différend ou de la question dans l'arbitrage, a renoncé à son droit de s'opposer à son inclusion ou a convenu que le tribunal arbitral avait le pou-

Restriction

Idem

(4) The court shall not set aside an award on grounds referred to in paragraph 8 of subsection (1) if the party had an opportunity to challenge the arbitrator on those grounds under section 13 before the award was made and did not do so, or if those grounds were the subject of an unsuccessful challenge.

Deemed waiver

(5) The court shall not set aside an award on a ground to which the applicant is deemed under section 4 to have waived the right to object.

Exception

(6) If the ground alleged for setting aside the award could have been raised as an objection to the arbitral tribunal's jurisdiction to conduct the arbitration or as an objection that the arbitral tribunal was exceeding its authority, the court may set the award aside on that ground if it considers the applicant's failure to make an objection in accordance with section 17 justified.

Connected matters

(7) When the court sets aside an award, it may remove the arbitral tribunal or an arbitrator and may give directions about the conduct of the arbitration.

Court may remit award to arbitral tribunal

(8) Instead of setting aside an award, the court may remit it to the arbitral tribunal and give directions about the conduct of the arbitration.

Time limit

47.—(1) An appeal of an award or an application to set aside an award shall be commenced within thirty days after the appellant or applicant receives the award, correction, explanation, change or statement of reasons on which the appeal or application is based.

Exception

(2) Subsection (1) does not apply if the appellant or applicant alleges corruption or fraud.

Declaration of invalidity of arbitration

48.—(1) At any stage during or after an arbitration, on the application of a party who has not participated in the arbitration, the court may grant a declaration that the arbitration is invalid because,

- (a) a party entered into the arbitration agreement while under a legal incapacity;
- (b) the arbitration agreement is invalid or has ceased to exist;
- (c) the subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law; or

voir de déterminer les différends qui lui ont été soumis.

(4) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 8 du paragraphe (1) si la partie avait la possibilité de récuser l'arbitre pour ces motifs en vertu de l'article 13 avant le prononcé de la sentence et s'en est abstenue, ou si ces motifs ont fait l'objet d'une récusation déboutée.

(5) Le tribunal judiciaire ne doit pas annuler une sentence pour un motif au sujet duquel, le requérant est réputé avoir renoncé à son droit d'objection aux termes de l'article 4.

(6) Si le motif allégué pour annuler la sentence avait pu être soulevé à titre d'objection à la compétence du tribunal arbitral en matière de conduite de l'arbitrage ou à titre d'objection selon laquelle le tribunal arbitral a outrepassé ses pouvoirs, le tribunal judiciaire peut annuler la sentence pour ce motif s'il estime justifié que le requérant n'ait pas présenté d'objection conformément à l'article 17.

(7) Lorsque le tribunal judiciaire annule une sentence, il peut révoquer le tribunal arbitral ou un arbitre et donner des directives touchant la conduite de l'arbitrage.

(8) Plutôt que d'annuler une sentence, le tribunal judiciaire peut la renvoyer devant le tribunal arbitral et donner des directives touchant la conduite de l'arbitrage.

47 (1) L'appel d'une sentence ou l'appel relatif à une question de droit doit être interjeté, ou la requête en annulation d'une sentence doit être introduite, dans les trente jours de la date où la sentence, la correction, les explications, le changement ou l'énoncé des motifs sur lesquels porte l'appel ou la requête sont communiqués à l'appelant ou au requérant.

(2) Le paragraphe (1) ne s'applique pas en cas d'allégations par l'appelant ou par le requérant de corruption ou de fraude.

48 (1) À quelque étape que ce soit durant ou après un arbitrage, à la requête d'une partie qui n'a pas participé à l'arbitrage, le tribunal judiciaire peut, par jugement déclaratoire, déclarer nul l'arbitrage pour l'un des motifs suivants :

- a) une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique;
- b) la convention d'arbitrage est nulle ou a cessé d'exister;
- c) l'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario;

Idem

Renonciation réputée

Exception

Questions connexes

Renvoi de la sentence devant le tribunal arbitral par le tribunal judiciaire

Délai

Exception

Déclaration de nullité de l'arbitrage

	(d) the arbitration agreement does not apply to the dispute.	d) la convention d'arbitrage ne s'applique pas au différend.	
Injunction	(2) When the court grants the declaration, it may also grant an injunction against the commencement or continuation of the arbitration.	(2) Lorsque le tribunal judiciaire rend le jugement déclaratoire, il peut également accorder une injonction interdisant l'engagement ou la poursuite de l'arbitrage.	Injonction
Further appeal	49. An appeal from the court's decision in an appeal of an award, an application to set aside an award or an application for a declaration of invalidity may be made to the Court of Appeal, with leave of that court.	49 Il peut être interjeté appel devant la Cour d'appel, sur autorisation de celle-ci, de la décision du tribunal judiciaire rendue à l'égard de l'appel d'une sentence, de la requête en annulation d'une sentence ou de la requête en vue d'obtenir une déclaration de nullité.	Nouvel appel
Application for enforcement of award	50.—(1) A person who is entitled to enforcement of an award made in Ontario or elsewhere in Canada may make an application to the court to that effect.	50 (1) Quiconque a droit à l'exécution d'une sentence rendue en Ontario ou ailleurs au Canada peut présenter une requête à cet effet au tribunal judiciaire.	Requête pour obtenir l'exécution de la sentence
Formalities	(2) The application shall be made on notice to the person against whom enforcement is sought, in accordance with the rules of court, and shall be supported by the original award or a certified copy.	(2) La requête doit être présentée avec préavis à la personne contre laquelle l'exécution est demandée, conformément aux règles de pratique, et être appuyée par l'original ou par une copie certifiée conforme de la sentence.	Formalités
Duty of court, award made in Ontario	(3) The court shall give a judgment enforcing an award made in Ontario unless,	(3) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue en Ontario à moins, selon le cas :	Obligation du tribunal judiciaire : sentence rendue en Ontario
	(a) the thirty-day period for commencing an appeal or an application to set the award aside has not yet elapsed;	a) que le délai de trente jours imparti pour interjeter appel ou introduire une requête en annulation de la sentence ne soit pas encore écoulé;	
	(b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity; or	b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance;	
	(c) the award has been set aside or the arbitration is the subject of a declaration of invalidity.	c) que la sentence n'ait été annulée ou que l'arbitrage ne fasse l'objet d'une déclaration de nullité.	
Duty of court, award made elsewhere in Canada	(4) The court shall give a judgment enforcing an award made elsewhere in Canada unless,	(4) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue ailleurs au Canada à moins, selon le cas :	Obligation du tribunal judiciaire : sentence rendue ailleurs au Canada
	(a) the period for commencing an appeal or an application to set the award aside provided by the laws of the province or territory where the award was made has not yet elapsed;	a) que le délai pour interjeter appel ou introduire une requête en annulation de la sentence prévu par les lois de la province ou du territoire où a été rendue la sentence ne soit pas encore écoulé;	
	(b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity in the province or territory where the award was made;	b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance dans la province ou le territoire où a été rendue la sentence;	
	(c) the award has been set aside in the province or territory where it was made or the arbitration is the subject of a declaration of invalidity granted there; or	c) que la sentence n'ait été annulée dans la province ou le territoire où elle a été rendue ou que l'arbitrage n'y fasse l'objet d'une déclaration de nullité;	

(d) the subject-matter of the award is not capable of being the subject of arbitration under Ontario law.

d) que l'objet de la sentence ne puisse pas faire l'objet d'un arbitrage aux termes des lois de l'Ontario.

Pending proceeding

(5) If the period for commencing an appeal, application to set the award aside or application for a declaration of invalidity has not yet elapsed, or if such a proceeding is pending, the court may,

(5) Si le délai imparti pour interjeter appel, pour introduire une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité n'est pas encore écoulé, ou si une telle instance est en cours, le tribunal judiciaire peut :

Instance en cours

(a) enforce the award; or

a) soit exécuter la sentence;

(b) order, on such conditions as are just, that enforcement of the award is stayed until the period has elapsed without such a proceeding being commenced, or until the pending proceeding is finally disposed of.

b) soit ordonner, aux conditions qui sont justes, qu'il soit sursis à l'exécution de la sentence jusqu'à ce que le délai soit écoulé sans qu'une telle instance soit introduite, ou jusqu'à ce que l'instance en cours soit définitivement réglée.

Speedy disposition of pending proceeding

(6) If the court stays the enforcement of an award made in Ontario until a pending proceeding is finally disposed of, it may give directions for the speedy disposition of the proceeding.

(6) Si le tribunal judiciaire surseoit à l'exécution d'une sentence rendue en Ontario jusqu'à ce que l'instance en cours soit définitivement réglée, il peut donner des directives pour assurer le règlement rapide de l'instance.

Règlement rapide de l'instance en cours

Unusual remedies

(7) If the award gives a remedy that the court does not have jurisdiction to grant or would not grant in a proceeding based on similar circumstances, the court may,

(7) Si la sentence accorde un redressement que le tribunal judiciaire n'a pas compétence pour accorder ou n'accorderait pas dans une instance fondée sur des circonstances similaires, le tribunal judiciaire peut :

Redressements inhabituels

(a) grant a different remedy requested by the applicant; or

a) soit accorder un autre redressement, demandé par le requérant;

(b) in the case of an award made in Ontario, remit it to the arbitral tribunal with the court's opinion, in which case the arbitral tribunal may award a different remedy.

b) soit, dans le cas d'une sentence rendue en Ontario, la renvoyer devant le tribunal arbitral accompagnée de l'avis du tribunal judiciaire, auquel cas le tribunal arbitral peut accorder un redressement différent.

Powers of court

(8) The court has the same powers with respect to the enforcement of awards as with respect to the enforcement of its own judgments.

(8) Le tribunal judiciaire a les mêmes pouvoirs en ce qui concerne l'exécution des sentences qu'en ce qui concerne celle de ses propres jugements.

Pouvoirs du tribunal judiciaire

GENERAL

51. This Act binds the Crown.

DISPOSITIONS GÉNÉRALES

51 La présente loi lie la Couronne.

Couronne liée

Crown bound

Limitation periods

52.—(1) The law with respect to limitation periods applies to an arbitration as if the arbitration were an action and a claim made in the arbitration were a cause of action.

52 (1) À l'égard des délais de prescription, la loi s'applique à l'arbitrage comme s'il constituait une action et qu'une demande présentée au cours de l'arbitrage constituait une cause d'action.

Délais de prescription

Preservation of rights

(2) If the court sets aside an award, terminates an arbitration or declares an arbitration to be invalid, it may order that the period from the commencement of the arbitration to the date of the order shall be excluded from the computation of the time within which an action may be brought on a cause of action that was a claim in the arbitration.

(2) Si le tribunal judiciaire annule une sentence, met fin à un arbitrage ou déclare nul l'arbitrage, il peut ordonner que la période allant du début de l'arbitrage à la date de l'ordonnance ne soit pas comprise dans le calcul du délai dans lequel une action peut être intentée pour une cause d'action qui constituait une demande faisant l'objet de l'arbitrage.

Protection des droits

Enforcement of award

(3) An application for enforcement of an award may not be made more than two years

(3) Une requête en vue d'obtenir l'exécution d'une sentence ne peut être présentée

Exécution de la sentence

after the day on which the applicant receives the award.

Personal service of notice or document on individual

53.—(1) A notice or other document may be served on an individual by leaving it with him or her.

Personal service on corporation

(2) A notice or other document may be served on a corporation by leaving it with an officer, director or agent of the corporation, or at a place of business of the corporation with a person who appears to be in control or management of the place.

Service by telephone transmission or facsimile

(3) A notice or other document may be served by sending it to the addressee by telephone transmission of a facsimile to the number that the addressee specified in the arbitration agreement or has furnished to the arbitral tribunal.

Service by mail

(4) If a reasonable effort to serve a notice or other document under subsection (1) or (2) is not successful and it is not possible to serve it under subsection (3), it may be sent by prepaid registered mail to the mailing address that the addressee specified in the arbitration agreement or furnished to the arbitral tribunal or, if none was specified or furnished, to the addressee's last-known place of business or residence.

Deemed time of receipt

(5) Unless the addressee establishes that the addressee, acting in good faith, through absence, illness or other cause beyond the addressee's control failed to receive the notice or other document until a later date, it shall be deemed to have been received,

- (a) on the day it is given or transmitted, in the case of service under subsection (1), (2) or (3);
- (b) on the fifth day after the day of mailing, in the case of service under subsection (4).

Order for substituted service or dispensing with service

(6) The court may make an order for substituted service or an order dispensing with service, in the same manner as under the rules of court, if the court is satisfied that it is necessary to serve the notice or other document to commence an arbitration or proceed towards the appointment of an arbitral tribunal and that it is impractical for any reason to effect prompt service under subsection (1), (2), (3) or (4).

Non-application to court proceedings

(7) This section does not apply to the service of documents in respect of court proceedings.

plus de deux ans après la date à laquelle la sentence est communiquée au requérant.

53 (1) On peut signifier un avis ou autre document à un particulier en le laissant à ce dernier.

Signification à personne d'un avis ou document dans le cas d'un particulier

(2) On peut signifier un avis ou autre document à une personne morale en le laissant à un dirigeant, à un administrateur ou à un mandataire de cette dernière, ou à une personne qui paraît assumer la direction d'un établissement de la personne morale.

Signification à personne dans le cas d'une personne morale

(3) On peut signifier un avis ou autre document en l'envoyant au destinataire par télécopie au numéro que ce dernier a précisé dans la convention d'arbitrage ou fourni au tribunal arbitral.

Signification par télécopie

(4) Si des efforts raisonnables pour signifier un avis ou autre document aux termes du paragraphe (1) ou (2) ne donnent pas de résultat et qu'il n'est pas possible de le signifier aux termes du paragraphe (3), l'avis ou autre document peut être envoyé, par courrier affranchi recommandé, à l'adresse postale que le destinataire a indiquée dans la convention d'arbitrage ou, si aucune n'y est indiquée, à son dernier établissement ou dernier domicile connu.

Signification par la poste

(5) À moins que le destinataire ne démontre qu'en ayant agi de bonne foi, en raison de son absence, d'une maladie ou d'un autre motif indépendant de sa volonté, il n'a reçu l'avis ou autre document qu'à une date ultérieure, l'avis ou autre document est réputé avoir été reçu :

Date de réception réputée

- a) à la date de sa remise ou de sa transmission, dans le cas d'une signification effectuée aux termes du paragraphe (1), (2) ou (3);
- b) le cinquième jour qui suit la date de la mise à la poste, dans le cas d'une signification effectuée aux termes du paragraphe (4).

(6) Le tribunal judiciaire peut rendre une ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification de la même manière qu'aux termes des règles de pratique, s'il est convaincu qu'il est nécessaire de signifier l'avis ou autre document pour engager un arbitrage ou procéder à la désignation d'un tribunal arbitral et qu'il est difficile d'effectuer cette signification promptement, pour quelque motif que ce soit, aux termes du paragraphe (1), (2), (3) ou (4).

Ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification

(7) Le présent article ne s'applique pas à la signification de documents effectuée dans le cadre d'instances judiciaires.

Non-application aux instances judiciaires

Power to award costs	54.—(1) An arbitral tribunal may award the costs of an arbitration.	54 (1) Le tribunal arbitral peut adjuger les dépens d'un arbitrage.	Pouvoir d'ad-juger les dépens
What constitutes costs	(2) The costs of an arbitration consist of the parties' legal expenses, the fees and expenses of the arbitral tribunal and any other expenses related to the arbitration.	(2) Les dépens de l'arbitrage comprennent les frais d'avocat des parties, les honoraires et frais du tribunal arbitral, ainsi que tous les autres frais reliés à l'arbitrage.	Ce qui constitue les dépens
Request for award dealing with costs	(3) If the arbitral tribunal does not deal with costs in an award, a party may, within thirty days of receiving the award, request that it make a further award dealing with costs.	(3) Si le tribunal arbitral ne traite pas des dépens dans sa sentence, une partie peut, dans les trente jours de la date où la sentence lui est communiquée, demander qu'il rende une autre sentence touchant les dépens.	Demande d'une sentence touchant les dépens
Absence of award dealing with costs	(4) In the absence of an award dealing with costs, each party is responsible for the party's own legal expenses and for an equal share of the fees and expenses of the arbitral tribunal and of any other expenses related to the arbitration.	(4) En l'absence de sentence touchant les dépens, chaque partie assume ses propres frais d'avocat ainsi qu'une quote-part égale des honoraires et frais du tribunal arbitral et de tous les autres frais reliés à l'arbitrage.	Absence de sentence touchant les dépens
Costs consequences of failure to accept offer to settle	(5) If a party makes an offer to another party to settle the dispute or part of the dispute, the offer is not accepted and the arbitral tribunal's award is no more favourable to the second-named party than was the offer, the arbitral tribunal may take the fact into account in awarding costs in respect of the period from the making of the offer to the making of the award.	(5) Si une partie présente à une autre partie une offre de règlement du différend ou d'une partie du différend, que l'offre n'est pas acceptée et que la sentence du tribunal arbitral n'est pas plus favorable à la partie nommée en second lieu que ne l'était l'offre, le tribunal arbitral peut tenir compte de ce fait dans l'adjudication des dépens, en ce qui concerne la période allant de la présentation de l'offre au prononcé de la sentence.	Effet sur les dépens de la non-acceptation d'une offre de règlement
Disclosure of offer to arbitral tribunal	(6) The fact that an offer to settle has been made shall not be communicated to the arbitral tribunal until it has made a final determination of all aspects of the dispute other than costs.	(6) Le fait qu'une offre de règlement a été présentée ne doit pas être communiqué au tribunal arbitral avant qu'il n'ait rendu de décision définitive sur tous les aspects du différend à l'exclusion des dépens.	Communication de l'offre au tribunal arbitral
Arbitrator's fees and expenses	55. The fees and expenses paid to an arbitrator shall not exceed the fair value of the services performed and the necessary and reasonable expenses actually incurred.	55 Les honoraires versés et les frais payés à un arbitre ne doivent pas être supérieurs à la juste valeur des services rendus et aux frais nécessaires et raisonnables effectivement engagés.	Honoraires et frais de l'arbitre
Assessment of fees and expenses	56.—(1) A party to an arbitration may have an arbitrator's account for fees and expenses assessed by an assessment officer in the same manner as a solicitor's bill under the <i>Solicitors Act</i> .	56 (1) Une partie à un arbitrage peut faire liquider la note d'honoraires et de frais d'un arbitre par un liquidateur des dépens de la même manière que le mémoire d'un procureur aux termes de la <i>Loi sur les procureurs</i> .	Liquidation des honoraires et frais
Assessment of costs	(2) If an arbitral tribunal awards costs and directs that they be assessed, or awards costs without fixing the amount or indicating how it is to be ascertained, a party to the arbitration may have the costs assessed by an assessment officer in the same manner as costs under the rules of court.	(2) Si un tribunal arbitral adjuge les dépens et ordonne leur liquidation, ou adjuge les dépens sans en fixer le montant ou sans indiquer comment ce montant doit être établi, une partie à l'arbitrage peut faire liquider les dépens par un liquidateur des dépens de la même manière que pour les dépens aux termes des règles de pratique.	Liquidation des dépens
Idem	(3) In assessing the part of the costs represented by the fees and expenses of the arbitral tribunal, the assessment officer shall apply the same principles as in the assessment of an account under subsection (1).	(3) En liquidant la partie des dépens que représentent les honoraires et les frais du tribunal arbitral, le liquidateur des dépens met en application les mêmes principes que ceux qui s'appliquent dans le cas de la liquidation d'une note visée au paragraphe (1).	Idem

Account already paid	(4) Subsection (1) applies even if the account has been paid.	(4) Le paragraphe (1) s'applique même si la note a déjà été payée.	Note déjà payée
Review by court	(5) On the application of a party to the arbitration, the court may review an assessment of costs or of an arbitrator's account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.	(5) À la requête d'une partie à l'arbitrage, le tribunal judiciaire peut réviser la liquidation des dépens ou celle de la note d'honoraires et de frais d'un arbitre et peut la confirmer, la modifier, l'annuler ou la renvoyer au liquidateur des dépens en y joignant des directives.	Révision par le tribunal judiciaire
Idem	(6) On the application of an arbitrator, the court may review an assessment of his or her account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.	(6) À la requête d'un arbitre, le tribunal judiciaire peut réviser la liquidation de sa note d'honoraires et de frais et peut la confirmer, la modifier, l'annuler, ou la renvoyer au liquidateur des dépens en y joignant des directives.	Idem
Time for application for review	(7) The application for review may not be made after the period specified in the assessment officer's certificate has elapsed or, if no period is specified, more than thirty days after the date of the certificate, unless the court orders otherwise.	(7) La requête en révision ne peut être présentée passé le délai précisé dans le certificat du liquidateur des dépens ou, si aucun délai n'y est précisé, plus de trente jours après la date du certificat, sauf disposition contraire du tribunal judiciaire.	Délai de présentation de la requête en révision
Enforcement	(8) When the time during which an application for review may be made has expired and no application has been made, or when the court has reviewed the assessment and made a final determination, the certificate may be filed with the court and enforced as if it were a judgment of the court.	(8) Lorsque le délai dans lequel une requête en révision peut être présentée expire sans qu'aucune requête soit présentée, ou une fois que le tribunal judiciaire a vérifié la liquidation et a rendu une décision définitive, le certificat peut être déposé auprès du tribunal judiciaire et exécuté comme s'il s'agissait d'un jugement de ce tribunal.	Exécution
Interest	57. Sections 137 to 140 (prejudgment and postjudgment interest) of the <i>Courts of Justice Act, 1984</i> apply to an arbitration, with necessary modifications.	57 Les articles 137 à 140 (intérêts antérieurs et postérieurs au jugement) de la <i>Loi de 1984 sur les tribunaux judiciaires</i> s'appliquent, avec les adaptations nécessaires, aux arbitrages.	Intérêts
Repeal	58.—(1) The <i>Arbitrations Act</i> , being chapter 25 of the Revised Statutes of Ontario, 1980, is repealed.	58 (1) La loi intitulée <i>Arbitrations Act</i> , qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, est abrogée.	Abrogation
Idem	(2) Section 161 of the <i>Courts of Justice Act, 1984</i> , being chapter 11, is repealed.	(2) L'article 161 de la <i>Loi de 1984 sur les tribunaux judiciaires</i> , qui constitue le chapitre 11, est abrogé.	Idem
Commencement	59. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.	59 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Short title	60. The short title of this Act is the <i>Arbitration Act, 1991</i> .	60 Le titre abrégé de la présente loi est <i>Loi de 1991 sur l'arbitrage</i> .	Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 42

*(Chapter 17
Statutes of Ontario, 1991)*

An Act to revise the Arbitrations Act

The Hon. H. Hampton
Attorney General

1st Reading	March 27th, 1991
2nd Reading	November 5th, 1991
3rd Reading	November 20th, 1991
Royal Assent	November 25th, 1991

Projet de loi 42

*(Chapitre 17
Lois de l'Ontario de 1991)*

Loi portant révision de la Loi sur l'arbitrage

L'honorable H. Hampton
Procureur général

1 ^{re} lecture	27 mars 1991
2 ^e lecture	5 novembre 1991
3 ^e lecture	20 novembre 1991
sanction royale	25 novembre 1991

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An Act to revise the Arbitrations Act

Loi portant révision de la Loi sur l'arbitrage

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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:

INTRODUCTORY MATTERS

Definitions

1. In this Act,

“arbitration agreement” means an agreement by which two or more persons agree to submit to arbitration a dispute that has arisen or may arise between them; (“convention d'arbitrage”)

“arbitrator” includes an umpire; (“arbitre”)

“court”, except in sections 6 and 7, means the Ontario Court (General Division). (“tribunal judiciaire”)

Application of Act to arbitrations conducted under agreements

2.—(1) This Act applies to an arbitration conducted under an arbitration agreement unless,

- (a) the application of this Act is excluded by law; or
- (b) the *International Commercial Arbitration Act, 1988* applies to the arbitration.

Transition, existing agreements

(2) This Act applies to an arbitration conducted under an arbitration agreement made before the day this Act comes into force, if the arbitration is commenced after that day.

Application of Act to arbitrations conducted under statutes

(3) This Act applies, with necessary modifications, to an arbitration conducted in accordance with another Act, unless that Act

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit :

QUESTIONS PRÉLIMINAIRES

Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

«arbitre» S'entend en outre d'un surarbitre. («arbitrator»)

«convention d'arbitrage» Convention par laquelle plusieurs personnes conviennent de soumettre à l'arbitrage un différend survenu ou susceptible de survenir entre elles. («arbitration agreement»)

«tribunal judiciaire» Sauf aux articles 6 et 7, s'entend de la Cour de l'Ontario (Division générale). («court»)

2 (1) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage à moins que, selon le cas :

- a) l'application de la présente loi ne soit exclue de par la loi;
- b) la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique à l'arbitrage.

Application de la Loi aux arbitrages effectués en vertu de conventions

(2) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage conclue avant la date où la présente loi entre en vigueur, si l'arbitrage est engagé après cette date.

Dispositif transitoire convention existantes

(3) La présente loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués conformément à une autre loi, sauf dis-

Application de la Loi aux arbitrages effectués en vertu d'autres lois

provides otherwise; however, in the event of conflict between this Act and the other Act or regulations made under the other Act, the other Act or the regulations prevail.

(4) Despite its repeal by subsection 58 (1), the *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, continues to apply to arbitrations that are commenced before the day this Act comes into force.

3. The parties to an arbitration agreement may agree, expressly or by implication, to vary or exclude any provision of this Act except the following:

1. Subsection 5 (4) ("*Scott v. Avery*" clauses).
2. Section 19 (equality and fairness).
3. Section 39 (extension of time limits).
4. Section 46 (setting aside award).
5. Section 48 (declaration of invalidity of arbitration).
6. Section 50 (enforcement of award).

4. A party who participates in an arbitration despite being aware of non-compliance with a provision of this Act, except one mentioned in section 3, or with the arbitration agreement, and does not object to the non-compliance within the time limit provided or, if none is provided, within a reasonable time, shall be deemed to have waived the right to object.

5.—(1) An arbitration agreement may be an independent agreement or part of another agreement.

(2) If the parties to an arbitration agreement make a further agreement in connection with the arbitration, it shall be deemed to form part of the arbitration agreement.

(3) An arbitration agreement need not be in writing.

(4) An agreement requiring or having the effect of requiring that a matter be adjudicated by arbitration before it may be dealt with by a court has the same effect as an arbitration agreement.

(5) An arbitration agreement may be revoked only in accordance with the ordinary rules of contract law.

COURT INTERVENTION

6. No court shall intervene in matters governed by this Act, except for the following purposes, in accordance with this Act:

position contraire de cette loi. Toutefois, en cas de conflit entre la présente loi et l'autre loi ou les règlements pris en application de cette dernière, l'autre loi ou les règlements l'emportent.

(4) Malgré son abrogation par le paragraphe 58 (1), la loi intitulée *Arbitrations Act*, qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, continue de s'appliquer aux arbitrages engagés avant la date où la présente loi entre en vigueur.

3 Les parties à une convention d'arbitrage peuvent convenir, expressément ou implicitement, de modifier ou d'exclure une disposition de la présente loi, à l'exception de celles qui suivent :

1. Le paragraphe 5 (4) (clauses du type «*Scott c. Avery*»).
2. L'article 19 (égalité et équité).
3. L'article 39 (prorogation du délai).
4. L'article 46 (annulation de la sentence).
5. L'article 48 (déclaration de nullité de l'arbitrage).
6. L'article 50 (exécution de la sentence).

4 Est réputée avoir renoncé à son droit d'objection la partie qui, tout en sachant qu'une disposition de la présente loi, à l'exclusion d'une disposition mentionnée à l'article 3, ou la convention d'arbitrage n'est pas respectée, participe à un arbitrage sans s'opposer à ce non-respect dans le délai prévu ou, s'il n'est pas prévu de délai, dans un délai raisonnable.

5 (1) La convention d'arbitrage peut constituer une convention distincte ou faire partie d'une autre convention.

(2) Si les parties à une convention d'arbitrage concluent une autre convention relativement à l'arbitrage, celle-ci est réputée faire partie de la convention d'arbitrage.

(3) Il n'est pas nécessaire que la convention d'arbitrage soit sous forme écrite.

(4) La convention qui exige ou qui a pour effet d'exiger qu'une question soit tranchée par la voie arbitrale avant de pouvoir être portée devant un tribunal judiciaire a le même effet qu'une convention d'arbitrage.

(5) La convention d'arbitrage ne peut être révoquée que conformément aux règles ordinaires du droit des obligations.

INTERVENTION DU TRIBUNAL JUDICIAIRE

6 Aucun tribunal judiciaire ne doit intervenir dans les questions régies par la présente loi, sauf dans les cas prévus par celle-ci et pour les objets suivants :

Disposition transitoire : arbitrages déjà engagés

Exclusion de dispositions

Renonciation au droit d'objection

Convention d'arbitrage

Conventions ultérieures

Convention verbale

Clauses du type «*Scott c. Avery*»

Révocation

Intervention limitée du tribunal judiciaire

Transition, arbitrations already commenced

Contracting out

Waiver of right to object

Arbitration agreements

Further agreements

Oral agreements

"*Scott v. Avery*" clauses

Revocation

Court intervention limited

1. To assist the conducting of arbitrations.
2. To ensure that arbitrations are conducted in accordance with arbitration agreements.
3. To prevent unequal or unfair treatment of parties to arbitration agreements.
4. To enforce awards.

1. Faciliter la conduite des arbitrages.
2. Veiller à ce que les arbitrages soient effectués conformément aux conventions d'arbitrage.
3. Empêcher que des parties aux conventions d'arbitrage soient traitées autrement que sur un pied d'égalité et avec équité.
4. Exécuter les sentences.

Stay

7.—(1) If a party to an arbitration agreement commences a proceeding in respect of a matter to be submitted to arbitration under the agreement, the court in which the proceeding is commenced shall, on the motion of another party to the arbitration agreement, stay the proceeding.

7 (1) Si une partie à une convention d'arbitrage introduit une instance à l'égard d'une question que la convention oblige à soumettre à l'arbitrage, le tribunal judiciaire devant lequel l'instance est introduite doit, sur la motion d'une autre partie à la convention d'arbitrage, surseoir à l'instance.

Sursis

Exceptions

(2) However, the court may refuse to stay the proceeding in any of the following cases:

(2) Cependant, le tribunal judiciaire peut refuser de surseoir à l'instance dans l'un ou l'autre des cas suivants :

Exceptions

1. A party entered into the arbitration agreement while under a legal incapacity.
2. The arbitration agreement is invalid.
3. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
4. The motion was brought with undue delay.
5. The matter is a proper one for default or summary judgment.

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.
2. La convention d'arbitrage est nulle.
3. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
4. La motion a été présentée avec un retard indû.
5. La question est propre à un jugement par défaut ou à un jugement sommaire.

Arbitration may continue

(3) An arbitration of the dispute may be commenced and continued while the motion is before the court.

(3) L'arbitrage du différend peut être engagé et poursuivi pendant que la motion est devant le tribunal judiciaire.

Poursuite de l'arbitrage

Effect of refusal to stay

(4) If the court refuses to stay the proceeding,

(4) Si le tribunal judiciaire refuse de surseoir à l'instance :

Conséquence du refus de surseoir

- (a) no arbitration of the dispute shall be commenced; and
- (b) an arbitration that has been commenced shall not be continued, and anything done in connection with the arbitration before the court made its decision is without effect.

- a) d'une part, aucun arbitrage du différend ne peut être engagé;
- b) d'autre part, l'arbitrage qui a été engagé ne peut être poursuivi, et tout ce qui a été fait dans le cadre de l'arbitrage avant que le tribunal judiciaire ne rende sa décision est sans effet.

Agreement covering part of dispute

(5) The court may stay the proceeding with respect to the matters dealt with in the arbitration agreement and allow it to continue with respect to other matters if it finds that,

(5) Le tribunal judiciaire peut surseoir à l'instance en ce qui touche les questions traitées dans la convention d'arbitrage et permettre qu'elle se poursuive en ce qui touche les autres questions, s'il constate :

Convention s'appliquant, une partie d'un différend

- (a) the agreement deals with only some of the matters in respect of which the proceeding was commenced; and
- (b) it is reasonable to separate the matters dealt with in the agreement from the other matters.

- a) d'une part, que la convention ne traite que de certaines des questions à l'égard desquelles l'instance a été introduite;
- b) d'autre part, qu'il est raisonnable de dissocier les questions traitées dans la convention des autres questions.

No appeal (6) There is no appeal from the court's decision.

(6) La décision du tribunal judiciaire n'est pas susceptible d'appel.

Décision sans appel

Powers of court 8.—(1) The court's powers with respect to the detention, preservation and inspection of property, interim injunctions and the appointment of receivers are the same in arbitrations as in court actions.

8 (1) Les pouvoirs du tribunal judiciaire en ce qui concerne la garde, la conservation et l'examen des biens, les injonctions provisoires et la nomination de séquestres sont les mêmes dans le cas d'arbitrages que dans le cas d'actions en justice.

Pouvoirs du tribunal judiciaire

Questions of law (2) The arbitral tribunal may determine any question of law that arises during the arbitration; the court may do so on the application of the arbitral tribunal, or on a party's application if the other parties or the arbitral tribunal consent.

(2) Le tribunal arbitral peut statuer sur toute question de droit qui est soulevée au cours de l'arbitrage. Le tribunal judiciaire peut également le faire à la requête du tribunal arbitral, ou à la requête d'une partie, si les autres parties ou le tribunal arbitral y consentent.

Questions de droit

Appeal (3) The court's determination of a question of law may be appealed to the Court of Appeal, with leave.

(3) La décision du tribunal judiciaire sur une question de droit peut faire l'objet d'un appel devant la Cour d'appel, sur autorisation de celle-ci.

Appel

More than one arbitration (4) On the application of all the parties to more than one arbitration the court may order, on such terms as are just,

(4) À la requête de toutes les parties à plusieurs arbitrages, le tribunal judiciaire peut ordonner, selon le cas et aux conditions qui sont justes :

Plusieurs arbitrages

- (a) that the arbitrations be consolidated;
- (b) that the arbitrations be conducted simultaneously or consecutively; or
- (c) that any of the arbitrations be stayed until any of the others are completed.

- a) que les arbitrages soient joints;
- b) que les arbitrages soient effectués simultanément ou consécutivement;
- c) qu'il soit sursis à l'un des arbitrages jusqu'à ce que l'un ou l'autre des arbitrages soit terminé.

Arbitral tribunal for consolidated arbitrations (5) When the court orders that arbitrations be consolidated, it may appoint an arbitral tribunal for the consolidated arbitration; if all the parties agree as to the choice of arbitral tribunal, the court shall appoint it.

(5) Si le tribunal judiciaire ordonne la jonction d'arbitrages, il peut désigner un tribunal arbitral pour effectuer les arbitrages joints. Si toutes les parties s'entendent sur le choix du tribunal arbitral, le tribunal judiciaire doit le désigner.

Tribunal arbitral chargé d'effectuer les arbitrages joints

Consolidation by agreement of parties (6) Subsection (4) does not prevent the parties to more than one arbitration from agreeing to consolidate the arbitrations and doing everything necessary to effect the consolidation.

(6) Le paragraphe (4) n'a pas pour effet d'empêcher les parties à plus d'un arbitrage de s'entendre pour joindre les arbitrages et de prendre toutes les mesures nécessaires à cette fin.

Jonction des arbitrages par accord des parties

COMPOSITION OF ARBITRAL TRIBUNAL

COMPOSITION DU TRIBUNAL ARBITRAL

Number of arbitrators 9. If the arbitration agreement does not specify the number of arbitrators who are to form the arbitral tribunal, it shall be composed of one arbitrator.

9 Si la convention d'arbitrage ne précise pas le nombre d'arbitres qui doivent former le tribunal arbitral, celui-ci se compose d'un seul arbitre.

Nombre d'arbitres

Appointment of arbitral tribunal 10.—(1) The court may appoint the arbitral tribunal, on a party's application, if,

10 (1) Le tribunal judiciaire peut désigner le tribunal arbitral, à la requête d'une partie, dans les cas suivants :

Désignation du tribunal arbitral

- (a) the arbitration agreement provides no procedure for appointing the arbitral tribunal; or
- (b) a person with power to appoint the arbitral tribunal has not done so after a party has given the person seven days notice to do so.

- a) la convention d'arbitrage ne prévoit aucune procédure de désignation du tribunal arbitral;
- b) une personne investie du pouvoir de désigner le tribunal arbitral n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.

No appeal	(2) There is no appeal from the court's appointment of the arbitral tribunal.	(2) La désignation du tribunal arbitral par le tribunal judiciaire n'est pas susceptible d'appel.	Désignation sans appel
More than one arbitrator	(3) Subsections (1) and (2) apply, with necessary modifications, to the appointment of individual members of arbitral tribunals that are composed of more than one arbitrator.	(3) Les paragraphes (1) et (2) s'appliquent, avec les adaptations nécessaires, à la désignation de chacun des membres des tribunaux arbitraux qui comprennent plus d'un arbitre.	Cas où il y a plus d'un arbitre
Chair	(4) If the arbitral tribunal is composed of three or more arbitrators, they shall elect a chair from among themselves; if it is composed of two arbitrators, they may do so.	(4) Si le tribunal arbitral se compose de au moins trois arbitres, ceux-ci doivent élire un président choisi parmi eux. S'il se compose de deux arbitres, ces derniers peuvent le faire.	Président
Duty of arbitrator	11. —(1) An arbitrator shall be independent of the parties and shall act impartially.	11 (1) L'arbitre doit être indépendant des parties et agir en toute impartialité.	Obligations de l'arbitre
Disclosure before accepting appointment	(2) Before accepting an appointment as arbitrator, a person shall disclose to all parties to the arbitration any circumstances of which he or she is aware that may give rise to a reasonable apprehension of bias.	(2) Avant d'accepter sa désignation comme arbitre, la personne désignée doit communiquer à toutes les parties à l'arbitrage toutes les circonstances dont elle a connaissance qui pourraient susciter des craintes raisonnables de partialité.	Divulgence avant l'acceptation de la désignation
Disclosure during arbitration	(3) An arbitrator who, during an arbitration, becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose them to all the parties.	(3) L'arbitre qui, au cours d'un arbitrage, apprend l'existence de circonstances pouvant susciter des craintes raisonnables de partialité les communique promptement à toutes les parties.	Divulgence au cours d'un arbitrage
No revocation	12. A party may not revoke the appointment of an arbitrator.	12 Une partie ne peut révoquer la désignation d'un arbitre.	Révocation impossible
Challenge	13. —(1) A party may challenge an arbitrator only on one of the following grounds:	13 (1) Une partie ne peut récuser un arbitre que pour l'un des motifs suivants :	Récusation
	1. Circumstances exist that may give rise to a reasonable apprehension of bias.	1. Il existe des circonstances qui peuvent susciter des craintes raisonnables de partialité.	
	2. The arbitrator does not possess qualifications that the parties have agreed are necessary.	2. L'arbitre ne possède pas les compétences nécessaires dont sont convenues les parties.	
Idem, arbitrator appointed by party	(2) A party who appointed an arbitrator or participated in his or her appointment may challenge the arbitrator only for grounds of which the party was unaware at the time of the appointment.	(2) Une partie ne peut récuser l'arbitre qu'elle a désigné ou à la désignation duquel elle a participé que pour des motifs dont elle ignorait l'existence au moment de la désignation.	Idem : arbitre désigné par une partie
Procedure for challenge	(3) A party who wishes to challenge an arbitrator shall send the arbitral tribunal a statement of the grounds for the challenge, within fifteen days of becoming aware of them.	(3) La partie qui veut récuser un arbitre envoie au tribunal arbitral un énoncé des motifs de la récusation, dans les quinze jours de la date où elle en a appris l'existence.	Procédure de récusation
Removal or resignation of challenged arbitrator	(4) The other parties may agree to remove the challenged arbitrator, or the arbitrator may resign.	(4) Les autres parties peuvent convenir de révoquer l'arbitre récusé ou ce dernier peut démissionner.	Révocation ou démission de l'arbitre récusé
Decision of arbitral tribunal	(5) If the challenged arbitrator is not removed by the parties and does not resign, the arbitral tribunal, including the challenged arbitrator, shall decide the issue and shall notify the parties of its decision.	(5) Si l'arbitre récusé n'est pas révoqué par les parties et ne démissionne pas, le tribunal arbitral, y compris l'arbitre récusé, tranche le litige et avise les parties de sa décision.	Décision du tribunal arbitral
Application to court	(6) Within ten days of being notified of the arbitral tribunal's decision, a party may make an application to the court to decide	(6) Dans les dix jours de la date où elle a reçu avis de la décision du tribunal arbitral, une partie peut présenter une requête au tribunal judiciaire pour qu'il tranche le litige et,	Requête devant le tribunal judiciaire

the issue and, in the case of the challenging party, to remove the arbitrator.

(7) While an application is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitration and make an award, unless the court orders otherwise.

14.—(1) An arbitrator's mandate terminates when,

- (a) the arbitrator resigns or dies;
- (b) the parties agree to terminate it;
- (c) the arbitral tribunal upholds a challenge to the arbitrator, ten days elapse after all the parties are notified of the decision and no application is made to the court; or
- (d) the court removes the arbitrator under subsection 15 (1).

(2) An arbitrator's resignation or a party's agreement to terminate an arbitrator's mandate does not imply acceptance of the validity of any reason advanced for challenging or removing him or her.

15.—(1) The court may remove an arbitrator on a party's application under subsection 13 (6) (challenge), or may do so on a party's application if the arbitrator becomes unable to perform his or her functions, commits a corrupt or fraudulent act, delays unduly in conducting the arbitration or does not conduct it in accordance with section 19 (equality and fairness).

(2) The arbitrator is entitled to be heard by the court if the application is based on an allegation that he or she committed a corrupt or fraudulent act or delayed unduly in conducting the arbitration.

(3) When the court removes an arbitrator, it may give directions about the conduct of the arbitration.

(4) If the court removes an arbitrator for a corrupt or fraudulent act or for undue delay, it may order that the arbitrator receive no payment for his or her services and may order that he or she compensate the parties for all or part of the costs, as determined by the court, that they incurred in connection with the arbitration before his or her removal.

(5) The arbitrator or a party may, within thirty days after receiving the court's decision, appeal an order made under subsection (4) or the refusal to make such an order to the Court of Appeal, with leave of that court.

dans le cas de la partie récusante, pour qu'il révoque l'arbitre.

(7) En attendant qu'il soit statué sur la requête, le tribunal arbitral, y compris l'arbitre récusé, peut poursuivre l'arbitrage et rendre une sentence, à moins que le tribunal judiciaire n'en ordonne autrement.

14 (1) Le mandat d'un arbitre prend fin dans les cas suivants :

- a) l'arbitre démissionne ou décède;
- b) les parties conviennent d'y mettre fin;
- c) le tribunal arbitral maintient une récusation de l'arbitre, il s'écoule dix jours après que toutes les parties ont été avisées de la décision et aucune requête n'est présentée au tribunal judiciaire;
- d) le tribunal judiciaire révoque l'arbitre aux termes du paragraphe 15 (1).

(2) Le fait qu'un arbitre démissionne ou qu'une partie accepte de mettre fin au mandat d'un arbitre n'implique pas que les motifs avancés pour le récuser ou le révoquer sont considérés comme valides.

15 (1) Le tribunal judiciaire peut révoquer un arbitre à la requête d'une partie présentée aux termes du paragraphe 13 (6) (récusation). Il peut également le révoquer à la requête d'une partie si l'arbitre n'est plus en mesure d'exercer ses fonctions, commet un acte vénal ou frauduleux, tarde indûment à effectuer l'arbitrage ou ne l'effectue pas conformément à l'article 19 (égalité et équité).

(2) L'arbitre a le droit d'être entendu par le tribunal judiciaire si la requête est fondée sur l'allégation selon laquelle il a commis un acte vénal ou frauduleux, ou a tardé indûment à effectuer l'arbitrage.

(3) Lorsqu'il révoque un arbitre, le tribunal judiciaire peut donner des directives touchant la conduite de l'arbitrage.

(4) Si le tribunal judiciaire révoque un arbitre pour avoir commis un acte vénal ou frauduleux, ou pour un retard indû, il peut interdire qu'une rémunération lui soit versée en contrepartie de ses services et lui ordonner de dédommager les parties pour tout ou partie des frais, selon la décision du tribunal judiciaire, qu'elles ont engagés relativement à l'arbitrage avant sa révocation.

(5) L'arbitre ou une partie peut, dans les trente jours de la date où ils ont reçu la décision du tribunal judiciaire, faire appel devant la Cour d'appel, sur autorisation de celle-ci, d'une ordonnance rendue aux termes du paragraphe (4) ou du refus de rendre une telle ordonnance.

Possibilité de poursuivre l'arbitrage

Fin du mandat de l'arbitre

Portée de la démission ou de l'accord pour mettre fin au mandat

Révocation de l'arbitre par le tribunal judiciaire

Droit de l'arbitre

Directives

Peine

Appel relatif à une peine

Arbitration may continue

Termination of arbitrator's mandate

Significance of resignation or agreement to terminate

Removal of arbitrator by court

Right of arbitrator

Directions

Penalty

Appeal re penalty

No other appeal

(6) Except as provided in subsection (5), there is no appeal from the court's decision or from its directions.

(6) Sauf disposition contraire du paragraphe (5), ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

Aucun autre appel possible

Appointment of substitute arbitrator

16.—(1) When an arbitrator's mandate terminates, a substitute arbitrator shall be appointed, following the procedure that was used in the appointment of the arbitrator being replaced.

16 (1) Lorsque le mandat d'un arbitre prend fin, un arbitre remplaçant est désigné selon la procédure qui a été suivie pour la désignation de l'arbitre remplacé.

Désignation d'un arbitre remplaçant

Directions

(2) When the arbitrator's mandate terminates, the court may, on a party's application, give directions about the conduct of the arbitration.

(2) Lorsque le mandat de l'arbitre prend fin, le tribunal judiciaire peut, à la requête d'une partie, donner des directives touchant la conduite de l'arbitrage.

Directives

Court appointment

(3) The court may appoint the substitute arbitrator, on a party's application, if,

(3) Le tribunal judiciaire peut désigner l'arbitre remplaçant, à la requête d'une partie, dans les cas suivants :

Désignation par le tribunal judiciaire

- (a) the arbitration agreement provides no procedure for appointing the substitute arbitrator; or
- (b) a person with power to appoint the substitute arbitrator has not done so after a party has given the person seven days notice to do so.

- a) la convention d'arbitrage ne prévoit aucune procédure de désignation de l'arbitre remplaçant;
- b) la personne investie du pouvoir de désigner l'arbitre remplaçant n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.

No appeal

(4) There is no appeal from the court's decision or from its directions.

(4) Ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

Aucun appel possible

Exception

(5) This section does not apply if the arbitration agreement provides that the arbitration is to be conducted only by a named arbitrator.

(5) Le présent article ne s'applique pas si la convention d'arbitrage prévoit que l'arbitrage ne doit être effectué que par un arbitre donné.

Exception

JURISDICTION OF ARBITRAL TRIBUNAL

COMPÉTENCE DU TRIBUNAL ARBITRAL

Arbitral tribunal may rule on own jurisdiction

17.—(1) An arbitral tribunal may rule on its own jurisdiction to conduct the arbitration and may in that connection rule on objections with respect to the existence or validity of the arbitration agreement.

17 (1) Le tribunal arbitral peut statuer sur sa propre compétence en matière de conduite de l'arbitrage et peut, à cet égard, statuer sur les objections relatives à l'existence ou à la validité de la convention d'arbitrage.

Possibilité pour le tribunal arbitral de statuer sur sa propre compétence

Independent agreement

(2) If the arbitration agreement forms part of another agreement, it shall, for the purposes of a ruling on jurisdiction, be treated as an independent agreement that may survive even if the main agreement is found to be invalid.

(2) La convention d'arbitrage qui fait partie d'une autre convention est considérée, aux fins d'une décision sur la compétence, comme une convention distincte pouvant subsister même si la convention principale est déclarée nulle.

Convention distincte

Time for objections to jurisdiction

(3) A party who has an objection to the arbitral tribunal's jurisdiction to conduct the arbitration shall make the objection no later than the beginning of the hearing or, if there is no hearing, no later than the first occasion on which the party submits a statement to the tribunal.

(3) Une partie qui a une objection touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doit la présenter au plus tard au début de l'audience ou, en l'absence d'audience, au plus tard à la première occasion à laquelle la partie soumet une déclaration au tribunal arbitral.

Délai de présentation des objections touchant la compétence

Party's appointment of arbitrator no bar to objection

(4) The fact that a party has appointed or participated in the appointment of an arbitrator does not prevent the party from making an objection to jurisdiction.

(4) Le fait qu'une partie ait désigné un arbitre ou participé à sa désignation ne l'empêche pas de présenter une objection touchant sa compétence.

Objections émanant d'une partie qui a désigné l'arbitre

Time for objections that tribunal is exceeding authority

(5) A party who has an objection that the arbitral tribunal is exceeding its authority shall make the objection as soon as the matter alleged to be beyond the tribunal's authority is raised during the arbitration.

(5) Une partie qui a une objection selon laquelle le tribunal arbitral outrepassé ses pouvoirs la présente dès que la question qui est prétendue constituer un abus de pouvoir du tribunal judiciaire est soulevée pendant l'arbitrage.

Délai de présentation d'objections un abus de pouvoir du tribunal judiciaire

Later objections	(6) Despite section 4, if the arbitral tribunal considers the delay justified, a party may make an objection after the time limit referred to in subsection (3) or (5), as the case may be, has expired.	(6) Malgré l'article 4, une partie peut présenter une objection une fois expiré le délai visé au paragraphe (3) ou (5), selon le cas, si le tribunal arbitral estime le retard justifié.	Objections tardives
Ruling	(7) The arbitral tribunal may rule on an objection as a preliminary question or may deal with it in an award.	(7) Le tribunal arbitral peut statuer sur une objection en la traitant comme une question préalable ou peut en traiter dans une sentence.	Décision
Review by court	(8) If the arbitral tribunal rules on an objection as a preliminary question, a party may, within thirty days after receiving notice of the ruling, make an application to the court to decide the matter.	(8) Si le tribunal arbitral statue sur une objection en la traitant comme une question préalable, une partie peut, dans les trente jours de la date où elle a reçu avis de la décision, présenter une requête au tribunal judiciaire pour qu'il rende une décision sur la question.	Révision par le tribunal judiciaire
No appeal	(9) There is no appeal from the court's decision.	(9) La décision du tribunal judiciaire n'est pas susceptible d'appel.	Aucun appel possible
Arbitration may continue	(10) While an application is pending, the arbitral tribunal may continue the arbitration and make an award.	(10) En attendant qu'il soit statué sur une requête, le tribunal arbitral peut poursuivre l'arbitrage et rendre une sentence.	Poursuite de l'arbitrage
Detention, preservation and inspection of property and documents	18. —(1) On a party's request, an arbitral tribunal may make an order for the detention, preservation or inspection of property and documents that are the subject of the arbitration or as to which a question may arise in the arbitration, and may order a party to provide security in that connection.	18 (1) À la demande d'une partie, le tribunal arbitral peut rendre une ordonnance portant sur la garde, la conservation ou l'examen des biens et des documents qui font l'objet de l'arbitrage ou à l'égard desquels une question peut être soulevée au cours de l'arbitrage. Il peut aussi ordonner à une partie de fournir un cautionnement à cet égard.	Garde, conservation et examen de biens et de documents
Enforcement by court	(2) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.	(2) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.	Exécution par le tribunal judiciaire

CONDUCT OF ARBITRATION

CONDUITE DE L'ARBITRAGE

Equality and fairness	19. —(1) In an arbitration, the parties shall be treated equally and fairly.	19 (1) Au cours de l'arbitrage, les parties sont traitées sur un pied d'égalité et avec équité.	Égalité et équité
Idem	(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.	(2) Chaque partie doit avoir la possibilité de présenter son exposé des faits et de répondre à ceux des autres parties.	Idem
Procedure	20. —(1) The arbitral tribunal may determine the procedure to be followed in the arbitration, in accordance with this Act.	20 (1) Le tribunal arbitral peut déterminer la procédure à suivre au cours de l'arbitrage, conformément à la présente loi.	Procédure
Idem	(2) An arbitral tribunal that is composed of more than one arbitrator may delegate the determination of questions of procedure to the chair.	(2) Le tribunal arbitral qui est composé de plus d'un arbitre peut déléguer au président la détermination des questions de procédure.	Idem
Evidence	21. Sections 14, 15 and 16 (protection of witnesses, evidence at hearings, notice of facts and opinions) of the <i>Statutory Powers Procedure Act</i> apply to the arbitration, with necessary modifications.	21 Les articles 14, 15 et 16 (immunité du témoin, preuve aux audiences, connaissance des faits et des opinions) de la <i>Loi sur l'exercice des compétences légales</i> s'appliquent à l'arbitrage, avec les adaptations nécessaires.	Preuves
Time and place of arbitration	22. —(1) The arbitral tribunal shall determine the time, date and place of arbitration, taking into consideration the parties' convenience and the other circumstances of the case.	22 (1) Le tribunal arbitral décide de la date, de l'heure et du lieu de l'arbitrage, en tenant compte des convenances des parties et des autres circonstances de l'affaire.	Date, heure et lieu de l'arbitrage

Meetings for special purposes

(2) The arbitral tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or parties, or for inspecting property or documents.

(2) Le tribunal arbitral peut se réunir à tout endroit qu'il juge approprié pour la tenue de consultations entre ses membres, pour l'audition des témoins, des experts ou des parties, ou pour l'examen de biens ou de documents.

Réunions à des fins spéciales

Commencement of arbitration

23.—(1) An arbitration may be commenced in any way recognized by law, including the following:

23 (1) L'arbitrage peut être engagé de quelque manière reconnue par la loi, y compris les suivantes :

Début de l'arbitrage

1. A party to an arbitration agreement serves on the other parties notice to appoint or to participate in the appointment of an arbitrator under the agreement.
2. If the arbitration agreement gives a person who is not a party power to appoint an arbitrator, one party serves notice to exercise that power on the person and serves a copy of the notice on the other parties.
3. A party serves on the other parties a notice demanding arbitration under the agreement.

1. Une partie à une convention d'arbitrage signifie aux autres parties un avis leur enjoignant de désigner un arbitre ou de participer à sa désignation aux termes de la convention.
2. Si la convention d'arbitrage confère à une personne qui n'est pas une partie le pouvoir de désigner un arbitre, une partie signifie à cette personne un avis lui enjoignant d'exercer ce pouvoir et signifie une copie de l'avis aux autres parties.
3. Une partie signifie aux autres parties un avis par lequel elle demande la tenue d'un arbitrage aux termes de la convention.

Exercise of arbitral tribunal's powers

(2) The arbitral tribunal may exercise its powers when every member has accepted appointment.

(2) Le tribunal arbitral peut exercer ses pouvoirs une fois que chacun des membres a accepté sa désignation.

Exercice de ses pouvoirs par le tribunal arbitral

Matters referred to arbitration

24. A notice that commences an arbitration without identifying the dispute shall be deemed to refer to arbitration all disputes that the arbitration agreement entitles the party giving the notice to refer.

24 L'avis qui introduit une procédure d'arbitrage sans préciser la nature du différend est réputé soumettre à l'arbitrage tous les différends que la convention d'arbitrage autorise la partie qui signifie l'avis à soumettre.

Questions soumises à l'arbitrage

Procedural directions

25.—(1) An arbitral tribunal may require that the parties submit their statements within a specified period of time.

25 (1) Le tribunal arbitral peut exiger des parties qu'elles soumettent leur déclaration dans un délai précis.

Directives en matière de procédure

Contents of statements

(2) The parties' statements shall indicate the facts supporting their positions, the points at issue and the relief sought.

(2) Dans leur déclaration, les parties énoncent les faits à l'appui de leur point de vue, les points litigieux et le redressement demandé.

Contenu des déclarations

Documents and other evidence

(3) The parties may submit with their statements the documents they consider relevant, or may refer to the documents or other evidence they intend to submit.

(3) Les parties peuvent soumettre avec leur déclaration les documents qu'elles jugent pertinents ou y faire mention des documents ou autres preuves qu'elles comptent soumettre.

Documents et autres preuves

Changes to statements

(4) The parties may amend or supplement their statements during the arbitration; however, the arbitral tribunal may disallow a change that is unduly delayed.

(4) Les parties peuvent modifier ou compléter leur déclaration au cours de l'arbitrage. Toutefois, le tribunal arbitral peut rejeter tout changement présenté avec un retard indû.

Changement apportés aux déclarations

Oral statements

(5) With the arbitral tribunal's permission, the parties may submit their statements orally.

(5) Sur autorisation du tribunal arbitral, les parties peuvent soumettre leur déclaration oralement.

Déclarations orales

Directions of arbitral tribunal

(6) The parties and persons claiming through or under them shall, subject to any legal objection, comply with the arbitral tribunal's directions, including directions to,

(6) Les parties et leurs ayants droit doivent, sous réserve de toute objection légale, se conformer aux directives du tribunal arbitral, y compris celles voulant :

Directives du tribunal arbitral

- (a) submit to examination on oath or affirmation with respect to the dispute;
- (b) produce records and documents that are in their possession or power.

- a) qu'elles se soumettent à un interrogatoire sous serment ou sous déclaration solennelle relativement au différend;
- b) qu'elles produisent des dossiers et des documents qui sont en leur possession ou sous leur garde.

(7) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.

(7) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.

Exécution par le tribunal judiciaire

26.—(1) The arbitral tribunal may conduct the arbitration on the basis of documents or may hold hearings for the presentation of evidence and for oral argument; however, the tribunal shall hold a hearing if a party requests it.

26 (1) Le tribunal arbitral peut effectuer l'arbitrage en se fondant sur des documents ou tenir des audiences aux fins de la production de preuves et de la plaidoirie. Toutefois, si une partie en fait la demande, le tribunal arbitral doit tenir une audience.

Procédure orale et procédure écrite

(2) The arbitral tribunal shall give the parties sufficient notice of hearings and of meetings of the tribunal for the purpose of inspection of property or documents.

(2) Le tribunal arbitral donne aux parties un préavis suffisant de ses audiences et de ses réunions aux fins de l'examen de biens ou de documents.

Préavis

(3) A party who submits a statement to the arbitral tribunal or supplies the tribunal with any other information shall also communicate it to the other parties.

(3) Toute partie qui soumet une déclaration au tribunal arbitral ou lui fournit d'autres renseignements les communique également aux autres parties.

Communication aux parties

(4) The arbitral tribunal shall communicate to the parties any expert reports or other documents on which it may rely in making a decision.

(4) Le tribunal arbitral communique aux parties tous les rapports d'expert ou autres documents sur lesquels il peut s'appuyer pour rendre une décision.

Idem

27.—(1) If the party who commenced the arbitration does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the party offers a satisfactory explanation, make an award dismissing the claim.

27 (1) Si la partie qui a introduit la procédure d'arbitrage ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, rendre une sentence qui rejette la demande.

Défaut de soumettre la déclaration

(2) If a party other than the one who commenced the arbitration does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration, but shall not treat the failure to submit a statement as an admission of another party's allegations.

(2) Si une partie autre que celle qui a introduit la procédure d'arbitrage ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage. Cependant, il ne doit pas considérer le fait qu'il ne soit pas soumis de déclaration comme une reconnaissance des allégations d'une autre partie.

Idem

(3) If a party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration and make an award on the evidence before it.

(3) Si une partie ne comparait pas à une audience ou ne produit pas de preuves documentaires, le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage et rendre une sentence en se fondant sur les preuves dont il dispose.

Cas où une partie ne comparait pas ou ne produit pas de preuves

(4) In the case of delay by the party who commenced the arbitration, the arbitral tribunal may make an award dismissing the claim or give directions for the speedy determination of the arbitration, and may impose conditions on its decision.

(4) En cas de retard de la partie qui a introduit la procédure d'arbitrage, le tribunal arbitral peut rendre une sentence qui rejette la demande ou donner des directives en vue d'une résolution expéditive de l'arbitrage, et peut assortir sa décision de conditions.

Retard

Enforcement by court

Hearings and written proceedings

Notice

Communication to parties

Idem

Failure to submit statement

Idem

Party's failure to appear or produce evidence

Delay

Jointly commenced arbitration

(5) If the arbitration was commenced jointly by all the parties, subsections (2) and (3) apply, with necessary modifications, but subsections (1) and (4) do not.

(5) Si la procédure d'arbitrage a été introduite conjointement par toutes les parties, les paragraphes (2) et (3) s'appliquent, avec les adaptations nécessaires, mais les paragraphes (1) et (4) ne s'appliquent pas.

Arbitrage introduit conjointement

Counterclaim

(6) This section applies in respect of a counterclaim as if the party making it were the party who commenced the arbitration.

(6) Le présent article s'applique à l'égard d'une demande reconventionnelle comme si la partie qui la présente était la partie qui a introduit la procédure d'arbitrage.

Demande reconventionnelle

Appointment of expert

28.—(1) An arbitral tribunal may appoint an expert to report to it on specific issues.

28 (1) Le tribunal arbitral peut nommer un expert chargé de lui faire rapport sur des questions précises.

Nomination d'un expert

Information and documents

(2) The arbitral tribunal may require parties to give the expert any relevant information or to allow him or her to inspect property or documents.

(2) Le tribunal arbitral peut exiger des parties qu'elles fournissent à l'expert tous renseignements pertinents ou qu'elles permettent à ce dernier d'examiner des biens ou des documents.

Renseignements et documents

Hearing

(3) At the request of a party or of the arbitral tribunal, the expert shall, after making the report, participate in a hearing in which the parties may question the expert and present the testimony of another expert on the subject-matter of the report.

(3) À la demande d'une partie ou du tribunal arbitral, l'expert, après avoir préparé son rapport, participe à une audience au cours de laquelle les parties peuvent l'interroger et présenter le témoignage d'un autre expert sur l'objet du rapport.

Audience

Notice to witness

29.—(1) A party may serve a person with a notice, issued by the arbitral tribunal, requiring the person to attend and give evidence at the arbitration at the time and place named in the notice.

29 (1) Une partie peut signifier à une personne un avis, délivré par le tribunal arbitral, exigeant que la personne comparaisse à l'arbitrage et qu'elle y témoigne aux date, heure et lieu indiqués dans l'avis.

Avis signifié au témoin

Service of notice

(2) The notice has the same effect as a notice in a court proceeding requiring a witness to attend at a hearing or produce documents, and shall be served in the same way.

(2) L'avis a la même valeur qu'un avis donné dans une instance judiciaire qui exige d'un témoin qu'il comparaisse à une audience ou produise des documents, et est signifié de la même manière.

Signification de l'avis

Power of arbitral tribunal

(3) An arbitral tribunal has power to administer an oath or affirmation and power to require a witness to testify under oath or affirmation.

(3) Un tribunal arbitral a le pouvoir de faire prêter serment ou de recevoir des déclarations solennelles et celui d'exiger d'un témoin qu'il témoigne sous serment ou sous déclaration solennelle.

Pouvoir du tribunal arbitral

Court orders and directions

(4) On the application of a party or of the arbitral tribunal, the court may make orders and give directions with respect to the taking of evidence for an arbitration as if it were a court proceeding.

(4) À la requête d'une partie ou du tribunal arbitral, le tribunal judiciaire peut rendre des ordonnances et donner des directives concernant l'obtention de preuves dans le cadre d'un arbitrage, comme si l'arbitrage constituait une instance judiciaire.

Ordonnances et directives du tribunal judiciaire

Restriction

30. No person shall be compelled to produce information, property or documents or to give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

30 Nul ne doit être contraint, au cours d'un arbitrage, de fournir ou de produire des renseignements, des biens, des documents ou un témoignage qu'il ne pourrait être contraint de fournir ou de produire dans une instance judiciaire.

Restriction

AWARDS AND TERMINATION OF ARBITRATION

SENTENCES ET CLÔTURE DE L'ARBITRAGE

Application of law and equity

31. An arbitral tribunal shall decide a dispute in accordance with law, including equity, and may order specific performance, injunctions and other equitable remedies.

31 Le tribunal arbitral tranche le différend conformément à la loi, et notamment selon l'équité, et peut ordonner des exécutions en nature, prononcer des injonctions et ordonner d'autres redressements reconnus en équité.

Application de la loi et de l'équité

Conflict of laws

32.—(1) In deciding a dispute, an arbitral tribunal shall apply the rules of law designated by the parties or, if none are designated, the rules of law it considers appropriate in the circumstances.

32 (1) Pour trancher un différend, le tribunal arbitral applique les règles de droit désignées par les parties ou, si elles n'en ont pas désigné, les règles de droit qu'il juge appropriées dans les circonstances.

Conflit de lois

Designation by parties

(2) A designation by the parties of the law of a jurisdiction refers to the jurisdiction's substantive law and not to its conflict of laws rules, unless the parties expressly indicate that the designation includes them.

(2) Toute désignation de la loi d'une autorité législative par les parties vise ses règles juridiques de fond et non ses règles de conflit de lois, à moins que les parties n'indiquent expressément que la désignation les comprend également.

Désignation par les parties

Application of arbitration agreement, contract and usages of trade

33. The arbitral tribunal shall decide the dispute in accordance with the arbitration agreement and the contract, if any, under which the dispute arose, and may also take into account any applicable usages of trade.

33 Le tribunal arbitral tranche le différend conformément à la convention d'arbitrage et au contrat, s'il en est, dans le cadre desquels le différend est survenu. Il peut également tenir compte de tout usage du commerce applicable.

Application de la convention d'arbitrage, du contrat et des usages du commerce

Decision of arbitral tribunal

34. If an arbitral tribunal is composed of more than one member, a decision of a majority of the members is the arbitral tribunal's decision; however, if there is no majority decision or unanimous decision, the chair's decision governs.

34 Si le tribunal arbitral comporte plus d'un membre, une décision prise à la majorité des membres constitue la décision du tribunal arbitral. Toutefois, s'il n'y a pas de décision prise à la majorité ou de décision unanime, c'est la décision du président qui l'emporte.

Décision du tribunal arbitral

Mediation and conciliation

35. The members of an arbitral tribunal shall not conduct any part of the arbitration as a mediation or conciliation process or other similar process that might compromise or appear to compromise the arbitral tribunal's ability to decide the dispute impartially.

35 Les membres du tribunal arbitral ne doivent pas effectuer l'arbitrage, même en partie, comme s'il s'agissait d'une procédure de médiation ou de conciliation ou d'une autre procédure semblable qui pourrait compromettre ou sembler compromettre le pouvoir du tribunal de trancher le différend en toute impartialité.

Médiation et conciliation

Settlement

36. If the parties settle the dispute during arbitration, the arbitral tribunal shall terminate the arbitration and, if a party so requests, may record the settlement in the form of an award.

36 Si les parties règlent le différend durant l'arbitrage, le tribunal arbitral met fin à l'arbitrage et, si une partie en fait la demande, peut constater le règlement par une sentence.

Règlement

Binding nature of award

37. An award binds the parties, unless it is set aside or varied under section 45 or 46 (appeal, setting aside award).

37 La sentence lie les parties, à moins qu'elle ne soit annulée ou modifiée en vertu de l'article 45 ou 46 (appel, annulation d'une sentence).

Caractère obligatoire de la sentence

Form of award

38.—(1) An award shall be made in writing and, except in the case of an award made on consent, shall state the reasons on which it is based.

38 (1) La sentence est rendue sous forme écrite et, sauf s'il s'agit d'une sentence rendue par accord des parties, est motivée.

Forme de la sentence

Idem

(2) The award shall indicate the place where and the date on which it is made.

(2) La sentence indique le lieu et la date où elle a été rendue.

Idem

Formalities of execution

(3) The award shall be dated and shall be signed by all the members of the arbitral tribunal, or by a majority of them if an explanation of the omission of the other signatures is included.

(3) La sentence est datée et signée par tous les membres du tribunal arbitral, ou par la majorité d'entre eux à condition que soit fournie la raison de l'omission des autres signatures.

Modalités d'exécution

Copies

(4) A copy of the award shall be delivered to each party.

(4) Une copie de la sentence est remise à chaque partie.

Copies

Extension of time limits

39. The court may extend the time within which the arbitral tribunal is required to make an award, even if the time has expired.

39 Le tribunal judiciaire peut proroger le délai dans lequel le tribunal arbitral est tenu de rendre une sentence, même si ce délai a expiré.

Prorogation du délai

Explanation	40. —(1) A party may, within thirty days after receiving an award, request that the arbitral tribunal explain any matter.	40 (1) Une partie peut, dans les trente jours de la date où une sentence lui a été communiquée, demander que le tribunal arbitral donne des explications sur un point quelconque.	Explications
Court order	(2) If the arbitral tribunal does not give an explanation within fifteen days after receiving the request, the court may, on the party's application, order it to do so.	(2) Si le tribunal arbitral ne donne pas d'explications dans les quinze jours de la réception de la demande, le tribunal judiciaire peut, à la requête de la partie, lui ordonner de le faire.	Ordonnance judiciaire
Interim awards	41. The arbitral tribunal may make one or more interim awards.	41 Le tribunal arbitral peut rendre une ou plusieurs sentences provisoires.	Sentences provisoires
More than one final award	42. The arbitral tribunal may make more than one final award, disposing of one or more matters referred to arbitration in each award.	42 Le tribunal arbitral peut rendre plus d'une sentence définitive et trancher une ou plusieurs questions soumises à l'arbitrage dans chaque sentence.	Plus d'une sentence définitive
Termination of arbitration	43. —(1) An arbitration is terminated when,	43 (1) L'arbitrage prend fin dans les circonstances suivantes :	Clôture de l'arbitrage
	<ul style="list-style-type: none"> (a) the arbitral tribunal makes a final award in accordance with this Act, disposing of all matters referred to arbitration; (b) the arbitral tribunal terminates the arbitration under subsection (2), (3), 27 (1) (claimant's failure to submit statement) or 27 (4) (delay); or (c) an arbitrator's mandate is terminated, if the arbitration agreement provides that the arbitration shall be conducted only by that arbitrator. 	<ul style="list-style-type: none"> a) le tribunal arbitral rend une sentence définitive conformément à la présente loi, par laquelle sont tranchées toutes les questions soumises à l'arbitrage; b) le tribunal arbitral met fin à l'arbitrage aux termes du paragraphe (2), (3), 27 (1) (cas où le demandeur ne soumet pas de déclaration) ou 27 (4) (retard); c) le mandat d'un arbitre prend fin, si la convention d'arbitrage prévoit que l'arbitrage ne doit être effectué que par cet arbitre. 	
Order by arbitral tribunal	(2) An arbitral tribunal shall make an order terminating the arbitration if the claimant withdraws the claim, unless the respondent objects to the termination and the arbitral tribunal agrees that the respondent is entitled to obtain a final settlement of the dispute.	(2) Le tribunal arbitral rend une ordonnance mettant fin à l'arbitrage si le demandeur retire sa demande, à moins que le défendeur ne s'oppose à la clôture de l'arbitrage et que le tribunal arbitral ne convienne que le défendeur a droit à un règlement définitif du différend.	Ordonnance du tribunal arbitral
Idem	(3) An arbitral tribunal shall make an order terminating the arbitration if,	(3) Le tribunal arbitral rend une ordonnance qui met fin à l'arbitrage dans les cas suivants :	Idem
	<ul style="list-style-type: none"> (a) the parties agree that the arbitration should be terminated; or (b) the arbitral tribunal finds that continuation of the arbitration has become unnecessary or impossible. 	<ul style="list-style-type: none"> a) les parties conviennent qu'il faut clore l'arbitrage; b) le tribunal arbitral estime que la poursuite de l'arbitrage s'avère superflue ou impossible. 	
Revival	(4) The arbitration may be revived for the purposes of section 44 (corrections) or subsection 45 (5) (appeal), 46 (7), 46 (8) (setting aside award) or 54 (3) (costs).	(4) L'arbitrage peut être repris pour l'application de l'article 44 (corrections) ou du paragraphe 45 (5) (appel), 46 (7), 46 (8) (annulation d'une sentence) ou 54 (3) (dépens).	Reprise
Death	(5) A party's death terminates the arbitration only with respect to claims that are extinguished as a result of the death.	(5) Le décès d'une partie ne met fin à l'arbitrage qu'en ce qui concerne les demandes qui s'éteignent par suite du décès.	Décès
Correction of errors	44. —(1) An arbitral tribunal may, on its own initiative within thirty days after making an award or at a party's request made within thirty days after receiving the award,	44 (1) Le tribunal arbitral peut, de son propre chef, dans les trente jours suivant le prononcé de la sentence ou à la demande d'une partie présentée dans les trente jours	Correction d'erreurs

- (a) correct typographical errors, errors of calculation and similar errors in the award; or
- (b) amend the award so as to correct an injustice caused by an oversight on the part of the arbitral tribunal.

de la date où la sentence lui est communiquée :

- a) corriger dans le texte de la sentence des erreurs de typographie, des erreurs de calcul et d'autres erreurs de ce genre;
- b) modifier la sentence de façon à réparer une injustice qu'il aurait causée par inadvertance.

Idem

(2) The arbitral tribunal may, on its own initiative at any time or at a party's request made within thirty days after receiving the award, make an additional award to deal with a claim that was presented in the arbitration but omitted from the earlier award.

(2) Le tribunal arbitral peut, de son propre chef en tout temps ou à la demande d'une partie présentée dans les trente jours de la date où la sentence lui est communiquée, rendre une sentence additionnelle pour donner suite à une demande qui a été présentée au cours de l'arbitrage, mais omise dans la sentence précédente.

Idem

No hearing necessary

(3) The arbitral tribunal need not hold a hearing or meeting before rejecting a request made under this section.

(3) Il n'est pas nécessaire que le tribunal arbitral tienne une audience ou une réunion avant de rejeter une demande présentée aux termes du présent article.

Aucune audience nécessaire

REMEDIES

RECOURS

Appeal on question of law

45.—(1) If the arbitration agreement does not deal with appeals on questions of law, a party may appeal an award to the court on a question of law with leave, which the court shall grant only if it is satisfied that,

45 (1) Si la convention d'arbitrage ne traite pas des appels interjetés relativement aux questions de droit, une partie peut faire appel d'une sentence devant le tribunal judiciaire relativement à une question de droit, sur autorisation de ce tribunal. Il n'accorde son autorisation que s'il est convaincu :

Appel sur une question de droit

- (a) the importance to the parties of the matters at stake in the arbitration justifies an appeal; and
- (b) determination of the question of law at issue will significantly affect the rights of the parties.

- a) d'une part, que l'importance pour les parties des questions en cause dans l'arbitrage justifie un appel;
- b) d'autre part, que le règlement de la question de droit en litige aura une incidence importante sur les droits des parties.

Idem

(2) If the arbitration agreement so provides, a party may appeal an award to the court on a question of law.

(2) Si la convention d'arbitrage le prévoit, une partie peut faire appel devant le tribunal judiciaire d'une sentence relativement à une question de droit.

Idem

Appeal on question of fact or mixed fact and law

(3) If the arbitration agreement so provides, a party may appeal an award to the court on a question of fact or on a question of mixed fact and law.

(3) Si la convention d'arbitrage le prévoit, une partie peut faire appel devant le tribunal judiciaire d'une sentence relativement à une question de droit ou à une question mixte de fait et de droit.

Appel sur une question de fait ou une question mixte de droit et de fait

Powers of court

(4) The court may require the arbitral tribunal to explain any matter.

(4) Le tribunal judiciaire peut exiger du tribunal arbitral qu'il donne des explications sur un point quelconque.

Pouvoir du tribunal judiciaire

Idem

(5) The court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal with the court's opinion on the question of law, in the case of an appeal on a question of law, and give directions about the conduct of the arbitration.

(5) Le tribunal judiciaire peut confirmer, modifier ou annuler la sentence ou la renvoyer devant le tribunal arbitral, accompagnée de l'avis du tribunal judiciaire sur la question de droit, dans le cas d'un appel sur une question de droit, et donner des directives touchant la conduite de l'arbitrage.

Idem

Setting aside award

46.—(1) On a party's application, the court may set aside an award on any of the following grounds:

46 (1) À la requête d'une partie, le tribunal judiciaire peut annuler une sentence pour l'un des motifs suivants :

Annulation de la sentence

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. A party entered into the arbitration agreement while under a legal incapacity. 2. The arbitration agreement is invalid or has ceased to exist. 3. The award deals with a dispute that the arbitration agreement does not cover or contains a decision on a matter that is beyond the scope of the agreement. 4. The composition of the tribunal was not in accordance with the arbitration agreement or, if the agreement did not deal with that matter, was not in accordance with this Act. 5. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law. 6. The applicant was not treated equally and fairly, was not given an opportunity to present a case or to respond to another party's case, or was not given proper notice of the arbitration or of the appointment of an arbitrator. 7. The procedures followed in the arbitration did not comply with this Act. 8. An arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias. 9. The award was obtained by fraud. | <ol style="list-style-type: none"> 1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique. 2. La convention d'arbitrage est nulle ou a cessé d'exister. 3. La sentence porte sur un différend que la convention d'arbitrage ne prévoit pas, ou comporte une décision sur une question qui dépasse les termes de la convention. 4. La composition du tribunal judiciaire n'était pas conforme à la convention d'arbitrage ou, si la convention ne traitait pas de cette question, n'était pas conforme à la présente loi. 5. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario. 6. Le requérant n'a pas été traité sur un pied d'égalité et avec équité, n'a pas eu la possibilité de présenter son exposé des faits ou de répliquer à celui d'une autre partie, ou n'a pas été avisé en bonne et due forme de la tenue de l'arbitrage ou de la désignation d'un arbitre. 7. Les procédures suivies au cours de l'arbitrage n'étaient pas conformes à la présente loi. 8. Un arbitre a commis un acte vénel ou frauduleux, ou il existe des craintes raisonnables de partialité. 9. La sentence a été obtenue frauduleusement. |
|--|--|

Severable parts of award

(2) If paragraph 3 of subsection (1) applies and it is reasonable to separate the decisions on matters covered by the arbitration agreement from the impugned ones, the court shall set aside the impugned decisions and allow the others to stand.

Restriction

(3) The court shall not set aside an award on grounds referred to in paragraph 3 of subsection (1) if the party has agreed to the inclusion of the dispute or matter, waived the right to object to its inclusion or agreed that the arbitral tribunal has power to decide what disputes have been referred to it.

Idem

(4) The court shall not set aside an award on grounds referred to in paragraph 8 of subsection (1) if the party had an opportunity to challenge the arbitrator on those grounds under section 13 before the award was made and did not do so, or if those grounds were the subject of an unsuccessful challenge.

(2) Si la disposition 3 du paragraphe (1) s'applique et qu'il est raisonnable de dissocier les décisions portant sur des questions prévues par la convention d'arbitrage de celles qui sont attaquées, le tribunal judiciaire annule les décisions attaquées, les autres restant valides.

(3) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 3 du paragraphe (1) si la partie a donné son accord à l'inclusion du différend ou de la question dans l'arbitrage, a renoncé à son droit de s'opposer à son inclusion ou a convenu que le tribunal arbitral avait le pouvoir de déterminer les différends qui lui ont été soumis.

(4) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 8 du paragraphe (1) si la partie avait la possibilité de récuser l'arbitre pour ces motifs en vertu de l'article 13 avant le prononcé de la sentence et s'en est abstenue, ou si ces motifs ont fait l'objet d'une récusation déboutée.

Parties de la sentence dissociables

Restriction

Idem

Deemed
waiver

(5) The court shall not set aside an award on a ground to which the applicant is deemed under section 4 to have waived the right to object.

(5) Le tribunal judiciaire ne doit pas annuler une sentence pour un motif au sujet duquel, le requérant est réputé avoir renoncé à son droit d'objection aux termes de l'article 4.

Renonciation
réputée

Exception

(6) If the ground alleged for setting aside the award could have been raised as an objection to the arbitral tribunal's jurisdiction to conduct the arbitration or as an objection that the arbitral tribunal was exceeding its authority, the court may set the award aside on that ground if it considers the applicant's failure to make an objection in accordance with section 17 justified.

(6) Si le motif allégué pour annuler la sentence avait pu être soulevé à titre d'objection à la compétence du tribunal arbitral en matière de conduite de l'arbitrage ou à titre d'objection selon laquelle le tribunal arbitral a outrepassé ses pouvoirs, le tribunal judiciaire peut annuler la sentence pour ce motif s'il estime justifié que le requérant n'ait pas présenté d'objection conformément à l'article 17.

Exception

Connected
matters

(7) When the court sets aside an award, it may remove the arbitral tribunal or an arbitrator and may give directions about the conduct of the arbitration.

(7) Lorsque le tribunal judiciaire annule une sentence, il peut révoquer le tribunal arbitral ou un arbitre et donner des directives touchant la conduite de l'arbitrage.

Questions
connexesCourt may
remit award
to arbitral
tribunal

(8) Instead of setting aside an award, the court may remit it to the arbitral tribunal and give directions about the conduct of the arbitration.

(8) Plutôt que d'annuler une sentence, le tribunal judiciaire peut la renvoyer devant le tribunal arbitral et donner des directives touchant la conduite de l'arbitrage.

Renvoi de la
sentence
devant le tri-
bunal arbitral
par le tribu-
nal judiciaire

Time limit

47.—(1) An appeal of an award or an application to set aside an award shall be commenced within thirty days after the appellant or applicant receives the award, correction, explanation, change or statement of reasons on which the appeal or application is based.

47 (1) L'appel d'une sentence ou l'appel relatif à une question de droit doit être interjeté, ou la requête en annulation d'une sentence doit être introduite, dans les trente jours de la date où la sentence, la correction, les explications, le changement ou l'énoncé des motifs sur lesquels porte l'appel ou la requête sont communiqués à l'appelant ou au requérant.

Délai

Exception

(2) Subsection (1) does not apply if the appellant or applicant alleges corruption or fraud.

(2) Le paragraphe (1) ne s'applique pas en cas d'allégations par l'appelant ou par le requérant de corruption ou de fraude.

Exception

Declaration
of invalidity
of arbitration

48.—(1) At any stage during or after an arbitration, on the application of a party who has not participated in the arbitration, the court may grant a declaration that the arbitration is invalid because,

48 (1) À quelque étape que ce soit durant ou après un arbitrage, à la requête d'une partie qui n'a pas participé à l'arbitrage, le tribunal judiciaire peut, par jugement déclaratoire, déclarer nul l'arbitrage pour l'un des motifs suivants :

Déclaration
de nullité de
l'arbitrage

- (a) a party entered into the arbitration agreement while under a legal incapacity;
- (b) the arbitration agreement is invalid or has ceased to exist;
- (c) the subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law; or
- (d) the arbitration agreement does not apply to the dispute.

- a) une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique;
- b) la convention d'arbitrage est nulle ou a cessé d'exister;
- c) l'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario;
- d) la convention d'arbitrage ne s'applique pas au différend.

Injunction

(2) When the court grants the declaration, it may also grant an injunction against the commencement or continuation of the arbitration.

(2) Lorsque le tribunal judiciaire rend le jugement déclaratoire, il peut également accorder une injonction interdisant l'engagement ou la poursuite de l'arbitrage.

Injonction

Further
appeal

49. An appeal from the court's decision in an appeal of an award, an application to set aside an award or an application for a

49 Il peut être interjeté appel devant la Cour d'appel, sur autorisation de celle-ci, de la décision du tribunal judiciaire rendue à

Nouvel appel

declaration of invalidity may be made to the Court of Appeal, with leave of that court.

l'égard de l'appel d'une sentence, de la requête en annulation d'une sentence ou de la requête en vue d'obtenir une déclaration de nullité.

Application for enforcement of award

50.—(1) A person who is entitled to enforcement of an award made in Ontario or elsewhere in Canada may make an application to the court to that effect.

50 (1) Quiconque a droit à l'exécution d'une sentence rendue en Ontario ou ailleurs au Canada peut présenter une requête à cet effet au tribunal judiciaire.

Formalities

(2) The application shall be made on notice to the person against whom enforcement is sought, in accordance with the rules of court, and shall be supported by the original award or a certified copy.

(2) La requête doit être présentée avec préavis à la personne contre laquelle l'exécution est demandée, conformément aux règles de pratique, et être appuyée par l'original ou par une copie certifiée conforme de la sentence.

Duty of court, award made in Ontario

(3) The court shall give a judgment enforcing an award made in Ontario unless,

(3) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue en Ontario à moins, selon le cas :

- (a) the thirty-day period for commencing an appeal or an application to set the award aside has not yet elapsed;
- (b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity; or
- (c) the award has been set aside or the arbitration is the subject of a declaration of invalidity.

- a) que le délai de trente jours imparti pour interjeter appel ou introduire une requête en annulation de la sentence ne soit pas encore écoulé;
- b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance;
- c) que la sentence n'ait été annulée ou que l'arbitrage ne fasse l'objet d'une déclaration de nullité.

Duty of court, award made elsewhere in Canada

(4) The court shall give a judgment enforcing an award made elsewhere in Canada unless,

(4) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue ailleurs au Canada à moins, selon le cas :

- (a) the period for commencing an appeal or an application to set the award aside provided by the laws of the province or territory where the award was made has not yet elapsed;
- (b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity in the province or territory where the award was made;
- (c) the award has been set aside in the province or territory where it was made or the arbitration is the subject of a declaration of invalidity granted there; or
- (d) the subject-matter of the award is not capable of being the subject of arbitration under Ontario law.

- a) que le délai pour interjeter appel ou introduire une requête en annulation de la sentence prévu par les lois de la province ou du territoire où a été rendue la sentence ne soit pas encore écoulé;
- b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance dans la province ou le territoire où a été rendue la sentence;
- c) que la sentence n'ait été annulée dans la province ou le territoire où elle a été rendue ou que l'arbitrage n'y fasse l'objet d'une déclaration de nullité;
- d) que l'objet de la sentence ne puisse pas faire l'objet d'un arbitrage aux termes des lois de l'Ontario.

Pending proceeding

(5) If the period for commencing an appeal, application to set the award aside or application for a declaration of invalidity has not yet elapsed, or if such a proceeding is pending, the court may,

(5) Si le délai imparti pour interjeter appel, pour introduire une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité n'est pas encore écoulé, ou si une telle instance est en cours, le tribunal judiciaire peut :

- (a) enforce the award; or

- a) soit exécuter la sentence;

Requête pour obtenir l'exécution de la sentence

Formalités

Obligation du tribunal judiciaire : sentence rendue en Ontario

Obligation du tribunal judiciaire : sentence rendue ailleurs au Canada

Instance en cours

(b) order, on such conditions as are just, that enforcement of the award is stayed until the period has elapsed without such a proceeding being commenced, or until the pending proceeding is finally disposed of.

(6) If the court stays the enforcement of an award made in Ontario until a pending proceeding is finally disposed of, it may give directions for the speedy disposition of the proceeding.

(7) If the award gives a remedy that the court does not have jurisdiction to grant or would not grant in a proceeding based on similar circumstances, the court may,

(a) grant a different remedy requested by the applicant; or

(b) in the case of an award made in Ontario, remit it to the arbitral tribunal with the court's opinion, in which case the arbitral tribunal may award a different remedy.

(8) The court has the same powers with respect to the enforcement of awards as with respect to the enforcement of its own judgments.

GENERAL

51. This Act binds the Crown.

52.—(1) The law with respect to limitation periods applies to an arbitration as if the arbitration were an action and a claim made in the arbitration were a cause of action.

(2) If the court sets aside an award, terminates an arbitration or declares an arbitration to be invalid, it may order that the period from the commencement of the arbitration to the date of the order shall be excluded from the computation of the time within which an action may be brought on a cause of action that was a claim in the arbitration.

(3) An application for enforcement of an award may not be made more than two years after the day on which the applicant receives the award.

53.—(1) A notice or other document may be served on an individual by leaving it with him or her.

(2) A notice or other document may be served on a corporation by leaving it with an officer, director or agent of the corporation, or at a place of business of the corporation

b) soit ordonner, aux conditions qui sont justes, qu'il soit sursis à l'exécution de la sentence jusqu'à ce que le délai soit écoulé sans qu'une telle instance soit introduite, ou jusqu'à ce que l'instance en cours soit définitivement réglée.

(6) Si le tribunal judiciaire surseoit à l'exécution d'une sentence rendue en Ontario jusqu'à ce que l'instance en cours soit définitivement réglée, il peut donner des directives pour assurer le règlement rapide de l'instance.

(7) Si la sentence accorde un redressement que le tribunal judiciaire n'a pas compétence pour accorder ou n'accorderait pas dans une instance fondée sur des circonstances similaires, le tribunal judiciaire peut :

a) soit accorder un autre redressement, demandé par le requérant;

b) soit, dans le cas d'une sentence rendue en Ontario, la renvoyer devant le tribunal arbitral accompagnée de l'avis du tribunal judiciaire, auquel cas le tribunal arbitral peut accorder un redressement différent.

(8) Le tribunal judiciaire a les mêmes pouvoirs en ce qui concerne l'exécution des sentences qu'en ce qui concerne celle de ses propres jugements.

DISPOSITIONS GÉNÉRALES

51 La présente loi lie la Couronne.

52 (1) À l'égard des délais de prescription, la loi s'applique à l'arbitrage comme s'il constituait une action et qu'une demande présentée au cours de l'arbitrage constituait une cause d'action.

(2) Si le tribunal judiciaire annule une sentence, met fin à un arbitrage ou déclare nul l'arbitrage, il peut ordonner que la période allant du début de l'arbitrage à la date de l'ordonnance ne soit pas comprise dans le calcul du délai dans lequel une action peut être intentée pour une cause d'action qui constituait une demande faisant l'objet de l'arbitrage.

(3) Une requête en vue d'obtenir l'exécution d'une sentence ne peut être présentée plus de deux ans après la date à laquelle la sentence est communiquée au requérant.

53 (1) On peut signifier un avis ou autre document à un particulier en le laissant à ce dernier.

(2) On peut signifier un avis ou autre document à une personne morale en le laissant à un dirigeant, à un administrateur ou à un mandataire de cette dernière, ou à une

Règlement rapide de l'instance en cours

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Personal service of notice or document on individual

Personal service on corporation

with a person who appears to be in control or management of the place.

Service by telephone transmission of facsimile

(3) A notice or other document may be served by sending it to the addressee by telephone transmission of a facsimile to the number that the addressee specified in the arbitration agreement or has furnished to the arbitral tribunal.

Service by mail

(4) If a reasonable effort to serve a notice or other document under subsection (1) or (2) is not successful and it is not possible to serve it under subsection (3), it may be sent by prepaid registered mail to the mailing address that the addressee specified in the arbitration agreement or furnished to the arbitral tribunal or, if none was specified or furnished, to the addressee's last-known place of business or residence.

Deemed time of receipt

(5) Unless the addressee establishes that the addressee, acting in good faith, through absence, illness or other cause beyond the addressee's control failed to receive the notice or other document until a later date, it shall be deemed to have been received,

- (a) on the day it is given or transmitted, in the case of service under subsection (1), (2) or (3);
- (b) on the fifth day after the day of mailing, in the case of service under subsection (4).

Order for substituted service or dispensing with service

(6) The court may make an order for substituted service or an order dispensing with service, in the same manner as under the rules of court, if the court is satisfied that it is necessary to serve the notice or other document to commence an arbitration or proceed towards the appointment of an arbitral tribunal and that it is impractical for any reason to effect prompt service under subsection (1), (2), (3) or (4).

Non-application to court proceedings

(7) This section does not apply to the service of documents in respect of court proceedings.

Power to award costs

54.—(1) An arbitral tribunal may award the costs of an arbitration.

What constitutes costs

(2) The costs of an arbitration consist of the parties' legal expenses, the fees and expenses of the arbitral tribunal and any other expenses related to the arbitration.

Request for award dealing with costs

(3) If the arbitral tribunal does not deal with costs in an award, a party may, within thirty days of receiving the award, request

personne qui paraît assumer la direction d'un établissement de la personne morale.

(3) On peut signifier un avis ou autre document en l'envoyant au destinataire par télécopie au numéro que ce dernier a précisé dans la convention d'arbitrage ou fourni au tribunal arbitral.

Signification par télécopie

(4) Si des efforts raisonnables pour signifier un avis ou autre document aux termes du paragraphe (1) ou (2) ne donnent pas de résultat et qu'il n'est pas possible de le signifier aux termes du paragraphe (3), l'avis ou autre document peut être envoyé, par courrier affranchi recommandé, à l'adresse postale que le destinataire a indiquée dans la convention d'arbitrage ou, si aucune n'y est indiquée, à son dernier établissement ou dernier domicile connu.

Signification par la poste

(5) À moins que le destinataire ne démontre qu'en ayant agi de bonne foi, en raison de son absence, d'une maladie ou d'un autre motif indépendant de sa volonté, il n'a reçu l'avis ou autre document qu'à une date ultérieure, l'avis ou autre document est réputé avoir été reçu :

Date de réception réputée

- a) à la date de sa remise ou de sa transmission, dans le cas d'une signification effectuée aux termes du paragraphe (1), (2) ou (3);
- b) le cinquième jour qui suit la date de la mise à la poste, dans le cas d'une signification effectuée aux termes du paragraphe (4).

(6) Le tribunal judiciaire peut rendre une ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification de la même manière qu'aux termes des règles de pratique, s'il est convaincu qu'il est nécessaire de signifier l'avis ou autre document pour engager un arbitrage ou procéder à la désignation d'un tribunal arbitral et qu'il est difficile d'effectuer cette signification promptement, pour quelque motif que ce soit, aux termes du paragraphe (1), (2), (3) ou (4).

Ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification

(7) Le présent article ne s'applique pas à la signification de documents effectuée dans le cadre d'instances judiciaires.

Non-application aux instances judiciaires

54 (1) Le tribunal arbitral peut adjuger les dépens d'un arbitrage.

Pouvoir d'adjuger les dépens

(2) Les dépens de l'arbitrage comprennent les frais d'avocat des parties, les honoraires et frais du tribunal arbitral, ainsi que tous les autres frais reliés à l'arbitrage.

Ce qui constitue les dépens

(3) Si le tribunal arbitral ne traite pas des dépens dans sa sentence, une partie peut, dans les trente jours de la date où la sentence lui est communiquée, demander qu'il

Demande d'une sentence touchant les dépens

that it make a further award dealing with costs.

Absence of award dealing with costs

(4) In the absence of an award dealing with costs, each party is responsible for the party's own legal expenses and for an equal share of the fees and expenses of the arbitral tribunal and of any other expenses related to the arbitration.

Costs consequences of failure to accept offer to settle

(5) If a party makes an offer to another party to settle the dispute or part of the dispute, the offer is not accepted and the arbitral tribunal's award is no more favourable to the second-named party than was the offer, the arbitral tribunal may take the fact into account in awarding costs in respect of the period from the making of the offer to the making of the award.

Disclosure of offer to arbitral tribunal

(6) The fact that an offer to settle has been made shall not be communicated to the arbitral tribunal until it has made a final determination of all aspects of the dispute other than costs.

Arbitrator's fees and expenses

55. The fees and expenses paid to an arbitrator shall not exceed the fair value of the services performed and the necessary and reasonable expenses actually incurred.

Assessment of fees and expenses

56.—(1) A party to an arbitration may have an arbitrator's account for fees and expenses assessed by an assessment officer in the same manner as a solicitor's bill under the *Solicitors Act*.

Assessment of costs

(2) If an arbitral tribunal awards costs and directs that they be assessed, or awards costs without fixing the amount or indicating how it is to be ascertained, a party to the arbitration may have the costs assessed by an assessment officer in the same manner as costs under the rules of court.

Idem

(3) In assessing the part of the costs represented by the fees and expenses of the arbitral tribunal, the assessment officer shall apply the same principles as in the assessment of an account under subsection (1).

Account already paid

(4) Subsection (1) applies even if the account has been paid.

Review by court

(5) On the application of a party to the arbitration, the court may review an assessment of costs or of an arbitrator's account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.

Idem

(6) On the application of an arbitrator, the court may review an assessment of his or her account for fees and expenses and may

rende une autre sentence touchant les dépens.

(4) En l'absence de sentence touchant les dépens, chaque partie assume ses propres frais d'avocat ainsi qu'une quote-part égale des honoraires et frais du tribunal arbitral et de tous les autres frais reliés à l'arbitrage.

(5) Si une partie présente à une autre partie une offre de règlement du différend ou d'une partie du différend, que l'offre n'est pas acceptée et que la sentence du tribunal arbitral n'est pas plus favorable à la partie nommée en second lieu que ne l'était l'offre, le tribunal arbitral peut tenir compte de ce fait dans l'adjudication des dépens, en ce qui concerne la période allant de la présentation de l'offre au prononcé de la sentence.

(6) Le fait qu'une offre de règlement a été présentée ne doit pas être communiqué au tribunal arbitral avant qu'il n'ait rendu de décision définitive sur tous les aspects du différend à l'exclusion des dépens.

55 Les honoraires versés et les frais payés à un arbitre ne doivent pas être supérieurs à la juste valeur des services rendus et aux frais nécessaires et raisonnables effectivement engagés.

56 (1) Une partie à un arbitrage peut faire liquider la note d'honoraires et de frais d'un arbitre par un liquidateur des dépens de la même manière que le mémoire d'un procureur aux termes de la *Loi sur les procureurs*.

(2) Si un tribunal arbitral adjuge les dépens et ordonne leur liquidation, ou adjuge les dépens sans en fixer le montant ou sans indiquer comment ce montant doit être établi, une partie à l'arbitrage peut faire liquider les dépens par un liquidateur des dépens de la même manière que pour les dépens aux termes des règles de pratique.

(3) En liquidant la partie des dépens que représentent les honoraires et les frais du tribunal arbitral, le liquidateur des dépens met en application les mêmes principes que ceux qui s'appliquent dans le cas de la liquidation d'une note visée au paragraphe (1).

(4) Le paragraphe (1) s'applique même si la note a déjà été payée.

(5) À la requête d'une partie à l'arbitrage, le tribunal judiciaire peut réviser la liquidation des dépens ou celle de la note d'honoraires et de frais d'un arbitre et peut la confirmer, la modifier, l'annuler ou la renvoyer au liquidateur des dépens en y joignant des directives.

(6) À la requête d'un arbitre, le tribunal judiciaire peut réviser la liquidation de sa note d'honoraires et de frais et peut la confir-

Absence de sentence touchant les dépens

Effet sur les dépens de la non-acceptation d'une offre de règlement

Communication de l'offre au tribunal arbitral

Honoraires et frais de l'arbitre

Liquidation des honoraires et frais

Liquidation des dépens

Idem

Note déjà payée

Révision par le tribunal judiciaire

Idem

confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.

mer, la modifier, l'annuler, ou la renvoyer au liquidateur des dépens en y joignant des directives.

Time for application for review

(7) The application for review may not be made after the period specified in the assessment officer's certificate has elapsed or, if no period is specified, more than thirty days after the date of the certificate, unless the court orders otherwise.

(7) La requête en révision ne peut être présentée passé le délai précisé dans le certificat du liquidateur des dépens ou, si aucun délai n'y est précisé, plus de trente jours après la date du certificat, sauf disposition contraire du tribunal judiciaire.

Délai de présentation de la requête en révision

Enforcement

(8) When the time during which an application for review may be made has expired and no application has been made, or when the court has reviewed the assessment and made a final determination, the certificate may be filed with the court and enforced as if it were a judgment of the court.

(8) Lorsque le délai dans lequel une requête en révision peut être présentée expire sans qu'aucune requête soit présentée, ou une fois que le tribunal judiciaire a vérifié la liquidation et a rendu une décision définitive, le certificat peut être déposé auprès du tribunal judiciaire et exécuté comme s'il s'agissait d'un jugement de ce tribunal.

Exécution

Interest

57. Sections 137 to 140 (prejudgment and postjudgment interest) of the *Courts of Justice Act, 1984* apply to an arbitration, with necessary modifications.

57 Les articles 137 à 140 (intérêts antérieurs et postérieurs au jugement) de la *Loi de 1984 sur les tribunaux judiciaires* s'appliquent, avec les adaptations nécessaires, aux arbitrages.

Intérêts

Repeal

58.—(1) The *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, is repealed.

58 (1) La loi intitulée *Arbitrations Act*, qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, est abrogée.

Abrogation

Idem

(2) Section 161 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

(2) L'article 161 de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé.

Idem

Commencement

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

59 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Short title

60. The short title of this Act is the *Arbitration Act, 1991*.

60 Le titre abrégé de la présente loi est *Loi de 1991 sur l'arbitrage*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 43

**An Act respecting the regulation
of Health Professions and other
matters concerning Health
Professions**

The Hon. E. Gigantes
Minister of Health

Projet de loi 43

**Loi concernant la réglementation des
professions de la santé et d'autres
questions relatives aux professions
de la santé**

L'honorable E. Gigantes
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of health professions and the delivery of health care services.

The health professions to be regulated are set out in Schedule 1 together with the health profession Acts specific to each profession. Each profession will have a College which will govern the profession in accordance with its health profession Act and the Health Professions Procedural Code set out in Schedule 2. The Health Professions Board is continued and serves as a body to hear appeals and review decisions made by committees of the Colleges. The Bill provides for an Advisory Council to advise the Minister on matters relating to the regulation of health professions.

The delivery of health care services is regulated by a scheme that controls certain acts when they are done in the course of providing health care services. The controlled acts are set out in subsection 26 (2). In the course of providing health care services only members of health professions that are authorized to perform these controlled acts may do so. Some exceptions to this restriction are set out and further exceptions can be prescribed by regulation. The controlled acts that each health profession is authorized to perform will be set out in its health profession Act.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation des professions de la santé et la prestation des soins médicaux.

Les professions de la santé qui seront réglementées sont énoncées à l'annexe 1 avec les lois sur les professions de la santé qui leur correspondent. Chaque profession aura un ordre qui la régira conformément à la loi sur la profession de la santé qui lui correspond et au Code des professions de la santé énoncé à l'annexe 2. La Commission des professions de la santé est maintenue et constitue un organisme chargé d'entendre les appels et de réexaminer les décisions rendues par les comités des ordres. Le projet de loi prévoit la création d'un Conseil consultatif chargé de conseiller le ministre sur des questions relatives à la réglementation des professions de la santé.

La prestation des soins médicaux est réglementée par un système qui gouverne certains actes lorsqu'ils sont accomplis dans le cadre de la prestation de soins médicaux. Les actes autorisés sont énoncés au paragraphe 26 (2). Dans le cadre de la prestation de soins de santé, seuls les membres des professions de la santé qui sont habilités à accomplir ces actes autorisés peuvent le faire. Les actes autorisés que chaque profession de la santé est habilitée à accomplir seront énoncés par la loi sur la profession de la santé. Quelques exceptions à cette restriction sont énoncées et d'autres peuvent être prescrites par règlement. Les actes autorisés que les membres des professions de la santé sont habilités à accomplir sont énoncés dans la loi sur une profession de la santé pertinente.

**An Act respecting the regulation
of Health Professions and other
matters concerning Health
Professions**

**Loi concernant la réglementation des
professions de la santé et d'autres
questions relatives aux professions
de la santé**

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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:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Definitions

1.—(1) In this Act,

“Advisory Council” means the Health Professions Regulatory Advisory Council; (“Conseil consultatif”)

“Board” means the Health Professions Board; (“Commission”)

“Code” means the Health Professions Procedural Code in Schedule 2; (“Code”)

“College” means the College of a health profession or group of health professions established or continued under a health profession Act; (“ordre”)

“Council” means the Council of a College; (“conseil”)

“health profession” means a health profession set out in Schedule 1; (“profession de la santé”)

“health profession Act” means an Act named in Schedule 1; (“loi sur une profession de la santé”)

“member” means a member of a College; (“membre”)

“Minister” means the Minister of Health. (“ministre”)

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

«Code» Le Code des professions de la santé, qui constitue l'annexe 2. («Code»)

«Commission» La Commission des professions de la santé. («Board»)

«conseil» Le conseil d'un ordre. («Council»)

«Conseil consultatif» Le Conseil consultatif de réglementation des professions de la santé. («Advisory Council»)

«loi sur une profession de la santé» Loi mentionnée à l'annexe 1. («health profession Act»)

«membre» Membre d'un ordre. («member»)

«ministre» Le ministre de la Santé. («Minister»)

«ordre» Ordre d'une profession de la santé ou d'un groupe de professions de la santé, créé ou maintenu en vertu d'une loi sur une profession de la santé. («College»)

«profession de la santé» Profession de la santé mentionnée à l'annexe 1. («health profession»)

Définitions

Hearing not required unless referred to

(2) Nothing in this Act shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act* unless the holding of a hearing is specifically referred to.

(2) Aucune des dispositions de la présente loi ne doit s'interpréter comme exigeant la tenue d'une audience au sens de la loi intitulée *Statutory Powers Procedure Act* («*Loi sur l'exercice des compétences légales*»), à moins qu'il ne soit fait explicitement mention de la tenue d'une audience.

Audience not required unless mention on traire

Administration of Act

2. The Minister is responsible for the administration of this Act.

2 Le ministre est chargé de l'application de la présente loi.

Application de la Loi

Duty of Minister

3. It is the duty of the Minister to ensure that the health professions are regulated and co-ordinated in the public interest, that appropriate standards of practice are developed and maintained and that individuals have access to services provided by the health professions of their choice.

3 Il incombe au ministre de garantir la réglementation et la coordination des professions de la santé dans l'intérêt public, l'établissement et le respect de normes d'exercice appropriées ainsi que la possibilité pour les particuliers d'avoir accès aux services des professions de la santé de leur choix.

Fonction du ministre

Code

4. The Code shall be deemed to be part of each health profession Act.

4 Le Code est réputé faire partie de chaque loi sur une profession de la santé.

Code

Powers of Minister

5.—(1) The Minister may,

5 (1) Le ministre peut :

Pouvoirs du ministre

- (a) inquire into or require a Council to inquire into the state of practice of a health profession in a locality or institution;
- (b) review a Council's activities and require the Council to provide reports and information;
- (c) require a Council to make, amend or revoke a regulation under a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (d) require a Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act, the health profession Acts or the *Drug and Pharmacies Regulation Act*.

- a) faire enquête ou exiger d'un conseil qu'il fasse enquête sur l'exercice d'une profession de la santé dans une localité ou un établissement;
- b) exercer un contrôle sur les activités d'un conseil et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- c) exiger d'un conseil qu'il prenne, modifie ou abroge un règlement pris en application d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»);
- d) exiger d'un conseil qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi, des lois sur les professions de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»).

(2) If the Minister requires a Council to do anything under subsection (1), the Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(2) Si le ministre exige d'un conseil qu'il prenne l'une ou l'autre mesure prévue au paragraphe (1), le conseil doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil de satisfaire à l'exigence du ministre

(3) If the Minister requires a Council to make, amend or revoke a regulation under clause (1) (c) and the Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(3) Si le ministre exige d'un conseil qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (1) c) et que le conseil n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(4) Subsection (3) does not give the Lieutenant Governor in Council authority to do anything that the Council does not have authority to do.

(4) Le paragraphe (3) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil n'est pas habilité à faire.

Idem

(5) The Minister may pay a College for expenses incurred in complying with a requirement under subsection (1).

(5) Le ministre peut rembourser un ordre des frais engagés pour satisfaire à une exigence prévue au paragraphe (1).

Frais des ordres

6.—(1) Each College, the Advisory Council and the Board shall report annually to the Minister on its activities and financial affairs.

6 (1) Chacun des ordres, le Conseil consultatif et la Commission présentent chaque année au ministre un rapport sur leurs activités et leur situation financière respectives.

Rapport annuel

(2) The Minister shall submit the reports of the Colleges, the Advisory Council and the Board to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next session.

(2) Le ministre présente les rapports des ordres, du Conseil consultatif et de la Commission au lieutenant-gouverneur en conseil et les dépose ensuite devant l'Assemblée législative si elle siège. Si celle-ci ne siège pas, il les dépose à la session suivante.

Présentation des rapports devant la Législature

ADVISORY COUNCIL

CONSEIL CONSULTATIF

7.—(1) The Advisory Council is established under the name Health Professions Regulatory Advisory Council in English and Conseil consultatif de réglementation des professions de la santé in French.

7 (1) Le Conseil consultatif est créé et porte le nom de Conseil consultatif de réglementation des professions de la santé en français et de Health Professions Regulatory Advisory Council en anglais.

Conseil consultatif

Council to comply with Minister's request

Regulations

Idem

Expenses of Colleges

Annual report

Report before Legislature

Advisory Council

Composition	(2) The Advisory Council shall be composed of at least five and no more than seven persons who shall be appointed by the Lieutenant Governor in Council on the Minister's recommendation.	(2) Le Conseil consultatif se compose d'au moins cinq et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil, sur la recommandation du ministre.	Composition
Chair and vice-chair	(3) The Lieutenant Governor in Council shall designate one member of the Advisory Council to be the chair and one to be the vice-chair.	(3) Le lieutenant-gouverneur en conseil désigne un des membres du Conseil consultatif à la présidence et un autre à la vice-présidence.	Président et vice-président
Qualification of members	8. A person may not be appointed as a member of the Advisory Council if the person,	8 Ne peut être nommée membre du Conseil consultatif la personne qui :	Restrictions s'appliquant aux membres
	(a) is employed in the public service of Ontario or by a Crown agency as defined in the <i>Crown Agency Act</i> ; or	a) est un employé de la fonction publique de l'Ontario ou d'un organisme de la Couronne tel que le définit la loi intitulée <i>Crown Agency Act</i> (« <i>Loi sur les organismes de la Couronne</i> »);	
	(b) is or has been a member of a Council or College.	b) est ou a été membre d'un conseil ou d'un ordre.	
Terms of members	9. —(1) Members of the Advisory Council shall be appointed for terms of two years.	9 (1) Les membres du Conseil consultatif sont nommés pour deux ans.	Mandat des membres
Replacement members	(2) A person appointed to replace a member of the Advisory Council before the member's term expires shall hold office for the remainder of the term.	(2) Quiconque est nommé pour remplacer un membre du Conseil consultatif avant l'expiration du mandat de ce dernier reste en fonction jusqu'à la fin du mandat.	Membres suppléants
Reappointments	(3) Members of the Advisory Council are eligible for reappointment.	(3) Le mandat des membres du Conseil consultatif peut être reconduit.	Reconduction de mandat
Initial members	(4) The initial members of the Advisory Council may be appointed for terms of one, two or three years.	(4) Les premiers membres du Conseil consultatif peuvent être nommés pour un, deux ou trois ans.	Premiers membres
Remuneration and expenses	10. The members of the Advisory Council shall be paid the remuneration and expenses the Lieutenant Governor in Council determines.	10 Les membres du Conseil consultatif reçoivent la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.	Rémunération et indemnité
Duties of Advisory Council	11. The Advisory Council's duties are to advise the Minister on,	11 Le Conseil consultatif a pour fonctions de conseiller le ministre sur les questions suivantes :	Fonctions du Conseil consultatif
	(a) whether unregulated professions should be regulated;	a) la nécessité de réglementer les professions non réglementées;	
	(b) whether regulated professions should no longer be regulated;	b) la nécessité de cesser de réglementer les professions déjà réglementées;	
	(c) suggested amendments to this Act, a health profession Act or a regulation under any of those Acts and suggested regulations under any of those Acts;	c) les propositions de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, et les propositions de règlements pris en application de ces lois;	
	(d) matters concerning the quality assurance programs undertaken by Colleges; and	d) les questions concernant les programmes d'assurance de la qualité mis sur pied par les ordres;	
	(e) any matter the Minister refers to the Advisory Council relating to the regulation of the health professions, including any matter described in clauses (a) to (d).	e) toute question relative à la réglementation des professions de la santé que le ministre soumet au Conseil consultatif, y compris toute question visée aux alinéas a) à d).	
Referrals to the Advisory Council	12. The Minister shall refer to the Advisory Council any issue within the matters	12 À la demande d'un conseil ou d'une personne, le ministre soumet au Conseil con-	Présentation de question au Conseil consultatif

described in clauses 11 (a) to (d) that a Council or person requests the Minister to refer to the Advisory Council unless, in the Minister's opinion, the request is not made in good faith or is frivolous or vexatious.

13.—(1) If the Minister refers a suggested amendment to this Act, a health profession Act or a regulation under any of those Acts or a suggested regulation under any of those Acts to the Advisory Council, the Minister shall give notice of the suggestion to the Council of every College within ten days after referring it.

(2) A Council may make written submissions to the Advisory Council with respect to a suggestion within forty-five days after receiving the Minister's notice of the suggestion or within any longer period the Advisory Council may specify.

14.—(1) The Advisory Council shall sit in Ontario where and when the chair designates.

(2) The Advisory Council shall conduct its proceedings in the manner it considers appropriate.

15.—(1) The Advisory Council may employ, under the *Public Service Act*, persons it considers necessary to carry out its duties.

(2) The Advisory Council may engage experts or professional advisors to assist it.

16.—(1) The Advisory Council shall appoint one of its employees as the Secretary.

(2) The Secretary's duties are,

- (a) to keep a record of matters that the Minister has referred to the Advisory Council;
- (b) to have the custody and care of the records and documents of the Advisory Council;
- (c) to give written notice of suggested amendments to this Act, a health profession Act or a regulation under any of those Acts and suggested regulations under any of those Acts that have been referred to the Advisory Council to persons who have filed, with the Secretary, a request to be notified; and
- (d) to carry out the functions and duties assigned by the Minister or the Advisory Council.

sultatif toute question en litige faisant partie des questions visées aux alinéas 11 a) à d), à moins qu'à son avis, la demande ne soit pas faite de bonne foi ou soit frivole ou vexatoire.

13 (1) Le ministre qui soumet au Conseil consultatif une proposition de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, ou qui soumet une proposition de règlement pris en application de ces lois, en avise le conseil de chaque ordre dans les dix jours qui suivent.

(2) Les conseils peuvent présenter au Conseil consultatif des observations par écrit à l'égard d'une proposition, dans les quarante-cinq jours suivant la réception de l'avis de proposition du ministre ou dans tout autre délai plus long que peut fixer le Conseil consultatif.

14 (1) Le Conseil consultatif siège en Ontario aux dates, heures et lieux que fixe le président.

(2) Le Conseil consultatif mène ses travaux de la manière qu'il juge appropriée.

15 (1) Le Conseil consultatif peut employer, aux termes de la loi intitulée *Public Service Act* («*Loi sur la fonction publique*»), le personnel qu'il juge nécessaire pour s'acquitter de ses fonctions.

(2) Le Conseil consultatif peut engager des experts ou des conseillers professionnels pour l'aider.

16 (1) Le Conseil consultatif nomme secrétaire un de ses employés.

(2) Les fonctions du secrétaire sont les suivantes :

- a) conserver un dossier des questions que le ministre a soumises au Conseil consultatif;
- b) veiller à la conservation des dossiers et documents du Conseil consultatif;
- c) aviser par écrit des propositions de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, ainsi que des propositions de règlements pris en application de ces lois, qui ont été soumises au Conseil consultatif, les personnes ayant déposé auprès du secrétaire une demande à cet effet;
- d) remplir les fonctions et les obligations assignées par le ministre ou le Conseil consultatif.

Notice of amendments to Councils

Submissions to Advisory Council

Procedure

Idem

Employees

Experts

Secretary

Duties

Avis de modification adressé aux conseils

Présentation d'observations au Conseil consultatif

Procédure

Idem

Employés

Experts

Secrétaire

Fonctions

HEALTH PROFESSIONS BOARD

COMMISSION DES PROFESSIONS DE LA
SANTÉ

Health Professions Board	17. —(1) The Health Disciplines Board is continued under the name Health Professions Board in English and Commission des professions de la santé in French.	17 (1) Le Conseil des sciences de la santé est maintenu sous le nom de Commission des professions de la santé en français et sous le nom de Health Professions Board en anglais.	Commission des professions de la santé
Composition	(2) The Board shall be composed of at least twelve and no more than twenty members who shall be appointed by the Lieutenant Governor in Council on the Minister's recommendation.	(2) La Commission se compose d'au moins douze et d'au plus vingt membres que nomme le lieutenant-gouverneur en conseil, sur la recommandation du ministre.	Composition
Chair and vice-chair	(3) The Lieutenant Governor in Council shall designate one member of the Board to be the chair and one to be the vice-chair.	(3) Le lieutenant-gouverneur en conseil désigne un des membres de la Commission à la présidence et un autre à la vice-présidence.	Président et vice-président
Additional vice-chairs	(4) The chair may from time to time designate additional members to be vice-chairs.	(4) Le président peut, de temps à autre, désigner des membres supplémentaires à la vice-présidence.	Autres vice-présidents
Qualifications of members	18. A person may not be appointed as a member of the Board if the person, (a) is employed in the public service of Ontario or by a Crown agency as defined in the <i>Crown Agency Act</i> ; or (b) is or has been a member of a Council or College.	18 Ne peut être nommée membre de la Commission la personne qui : a) est un employé de la fonction publique de l'Ontario ou d'un organisme de la Couronne tel que le définit la loi intitulée <i>Crown Agency Act</i> (« <i>Loi sur les organismes de la Couronne</i> »); b) est ou a été membre d'un conseil ou d'un ordre.	Restrictions s'appliquant aux membres
Terms of members	19. —(1) Members of the Board shall be appointed for terms not exceeding three years.	19 (1) Les membres de la Commission sont nommés pour une période maximale de trois ans.	Mandat des membres
Replacement members	(2) A person appointed to replace a member of the Board before the member's term expires shall hold office for the remainder of the term.	(2) Quiconque est nommé pour remplacer un membre de la Commission avant l'expiration du mandat de ce dernier reste en fonction jusqu'à la fin du mandat.	Membres suppléants
Reappointments	(3) Members of the Board are eligible for reappointment.	(3) Le mandat des membres de la Commission peut être reconduit.	Reconduction de mandat
Remuneration and expenses	20. The members of the Board shall be paid the remuneration and expenses the Lieutenant Governor in Council determines.	20 Les membres de la Commission reçoivent la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.	Rémunération et indemnité
Seal	21. The Board may adopt a seal.	21 La Commission peut adopter un sceau.	Sceau
Duties	22. The Board's duties are to conduct the hearings and reviews and to perform the duties that are assigned to it under this or any other Act.	22 La Commission a pour fonctions de tenir des audiences, de procéder à des réexamens de décisions et d'exercer les fonctions qui lui sont assignées aux termes de la présente loi ou de toute autre loi.	Fonctions
Employees	23. —(1) The Board may employ, under the <i>Public Service Act</i> , persons it considers necessary to carry out its duties.	23 (1) La Commission peut employer, aux termes de la loi intitulée <i>Public Service Act</i> (« <i>Loi sur la fonction publique</i> »), le personnel qu'elle juge nécessaire pour s'acquitter de ses fonctions.	Employés
Investigators	(2) The Board may engage persons who are not employed in the public service of Ontario to carry out investigations under subsection 27 (3) of the Code.	(2) La Commission peut employer des personnes qui ne sont pas des employés de la fonction publique de l'Ontario pour mener des enquêtes aux termes du paragraphe 27 (3) du Code.	Enquêteurs
Experts	(3) The Board may engage persons who are not employed in the public service of	(3) La Commission peut engager des personnes qui ne sont pas des employés de la	Experts

Ontario to provide expert or professional advice in connection with a registration hearing, complaint review or registration review.

(4) A person engaged under subsection (3) shall be independent of the parties and, in the case of a complaint review, of the Complaints Committee.

(5) The nature of any advice, including legal advice, given by a person engaged under subsection (3) shall be made known to the parties and, in the case of a complaint review, to the Complaints Committee and they may make submissions with respect to the advice.

24.—(1) A proceeding before the Board shall be considered and determined by a panel of the Board selected by the chair.

(2) A panel shall be composed of at least three members, one of whom shall be the chair or a vice-chair of the Board.

(3) A panel shall have an uneven number of members.

(4) Three members of a panel constitute a quorum.

(5) If a member of a panel is unable to continue to serve on the panel after a proceeding before the panel has commenced, the panel may continue the proceeding despite subsections (2), (3) and (4).

25.—(1) If the Board is satisfied that no person will be unduly prejudiced, it may, on reasonable grounds, extend any time limit with respect to,

(a) the obligation, under subsection 27 (1) of the Code, of a panel of a Complaints Committee to dispose of a complaint against a member;

(b) a Registrar's obligation to give to the Board, under subsection 31 (1) of the Code, a record of an investigation of a complaint against a member and the documents and things upon which a decision was made with respect to the complaint;

(c) a requirement, under subsection 20 (1) of the Code, for a review or hearing by the Board; or

(d) a request, under subsection 28 (2) of the Code, for a review by the Board.

fonction publique de l'Ontario pour fournir des avis d'experts ou de professionnels dans le cadre d'audiences relatives à des inscriptions, d'examen de plaintes ou d'examen d'inscriptions.

(4) Toute personne engagée en vertu du paragraphe (3) est indépendante des parties et, dans le cas de l'examen d'une plainte, du comité des plaintes.

(5) La teneur de tout avis, notamment d'un avis juridique, que donne une personne engagée en vertu du paragraphe (3) est communiquée aux parties et, dans le cas de l'examen d'une plainte, au comité des plaintes. Les parties et le comité des plaintes peuvent présenter des observations sur cet avis.

24 (1) Une instance introduite devant la Commission est instruite et tranchée par un sous-comité de la Commission choisi par le président.

(2) Le sous-comité se compose d'au moins trois membres, dont l'un est le président ou un vice-président de la Commission.

(3) Le sous-comité se compose d'un nombre impair de membres.

(4) Trois membres constituent le quorum d'un sous-comité.

(5) Si un membre d'un sous-comité est dans l'impossibilité de continuer à y siéger après qu'une instance a été introduite devant le sous-comité, ce dernier peut poursuivre l'instruction de l'instance malgré les paragraphes (2), (3) et (4).

25 (1) Si la Commission est convaincue que nul ne sera indûment lésé, elle peut, en se fondant sur des motifs raisonnables, proroger les délais relatifs :

a) à l'obligation d'un sous-comité d'un comité des plaintes, prévue au paragraphe 27 (1) du Code, de statuer sur une plainte déposée contre un membre;

b) à l'obligation du registraire, prévue au paragraphe 31 (1) du Code, de remettre à la Commission un compte rendu d'enquête sur toute plainte déposée contre un membre, ainsi que les documents et objets sur lesquels a été fondée une décision relative à la plainte;

c) à l'exigence, prévue au paragraphe 20 (1) du Code, quant à l'examen d'une demande ou la tenue d'une audience par la Commission;

d) à une demande de révision de décision par la Commission, prévue au paragraphe 28 (2) du Code.

Independence of experts

Advice disclosed

Panels

Composition

Idem

Quorum

Exception

Extension of time limits

Indépendance des experts

Divulgence des avis

Sous-comités

Composition

Idem

Quorum

Exception

Prorogation des délais

Limitation

(2) The Board shall not extend the time limit set out in subsection 28 (3) of the Code for more than sixty days.

PROHIBITIONS

Controlled acts restricted

26.—(1) No person shall perform a controlled act set out in subsection (2) in the course of providing health care services to an individual unless,

- (a) the person is a member authorized by a health profession Act to perform the controlled act; or
- (b) the performance of the controlled act has been delegated in accordance with section 27 to the person by a member described in clause (a).

Controlled acts

(2) A "controlled act" is any one of the following done with respect to an individual:

1. Communicating to the individual or his or her personal representative a conclusion identifying a disease, disorder or dysfunction as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the conclusion.
2. Performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth.
3. Setting or casting a fracture of a bone or a dislocation of a joint.
4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
5. Administering a substance by injection or inhalation.
6. Putting an instrument, hand or finger,
 - i. beyond the external ear canal,
 - ii. beyond the opening of the nostrils,
 - iii. beyond the larynx,
 - iv. beyond the opening of the urethra,
 - v. beyond the labia majora,
 - vi. beyond the anal verge, or
 - vii. into an artificial opening into the body.

(2) La Commission ne proroge pas le délai fixé au paragraphe 28 (3) du Code pour plus de soixante jours.

Restriction

INTERDICTIONS

26 (1) Lorsqu'il donne des soins médicaux à un particulier, nul ne doit accomplir un des actes autorisés visés au paragraphe (2) sauf dans les cas suivants :

Restrictions relatives aux actes autorisés

- a) il est membre autorisé à accomplir cet acte par une loi sur une profession de la santé;
- b) l'exécution de l'acte autorisé lui a été déléguée conformément à l'article 27 par un membre visé à l'alinéa a).

(2) Par «acte autorisé», on entend l'un ou l'autre des actes suivants accomplis à l'égard d'un particulier :

Actes autorisés

1. La communication à un particulier, ou à son représentant, d'une conclusion attribuant ses symptômes à tels maladies, troubles ou dysfonctions, lorsque les circonstances laissent raisonnablement prévoir que le particulier ou son représentant s'appuiera sur cette conclusion.
2. La pratique d'interventions sur le tissu situé sous le derme, sous la surface des muqueuses, à la surface de la cornée ou des dents, ou au-delà, y compris le détartrage des dents.
3. L'immobilisation plâtrée des fractures ou des luxations articulaires, ou leur consolidation ou réduction.
4. La manipulation des articulations de la colonne vertébrale au-delà de l'arc de mouvement physiologique habituel d'un particulier au moyen d'impulsions rapides de faible amplitude.
5. L'administration de substances par voie d'injection ou d'inhalation.
6. L'introduction d'un instrument, d'une main ou d'un doigt :
 - i. au-delà du conduit auditif externe,
 - ii. au-delà des narines,
 - iii. au-delà du larynx,
 - iv. au-delà du méat urinaire,
 - v. au-delà des grandes lèvres,
 - vi. au-delà de la marge de l'anus,
 - vii. dans une ouverture artificielle dans le corps.

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| <p>7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.</p> <p>8. Prescribing, dispensing, selling or compounding a drug as defined in clause 113 (1) (d) of the <i>Drug and Pharmacies Regulation Act</i>, or supervising the part of a pharmacy where such drugs are kept.</p> <p>9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.</p> <p>10. Prescribing a hearing aid for a hearing impaired person.</p> <p>11. Fitting or dispensing a dental prosthesis, orthodontic appliance or a device used inside the mouth to protect teeth from abnormal functioning.</p> <p>12. Managing labour or conducting the delivery of a baby.</p> <p>13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response.</p> | <p>7. L'application des formes d'énergie prescrites par les règlements pris en application de la présente loi ou le fait d'en ordonner l'application.</p> <p>8. La prescription, la délivrance, la vente ou la composition de médicaments au sens de la définition qu'en donne le paragraphe 113 (1) de la loi intitulée <i>Drug and Pharmacies Regulation Act</i> («<i>Loi sur la réglementation des médicaments et des pharmacies</i>»), ou la surveillance de la section d'une pharmacie où sont conservés ces médicaments.</p> <p>9. La prescription ou la délivrance d'appareils de correction visuelle pour les malvoyants, de verres de contact ou de lunettes, autres que de simples lentilles grossissantes, dans le cas de troubles visuels ou oculaires.</p> <p>10. La prescription d'appareils de correction auditive aux personnes malentendantes.</p> <p>11. L'appareillage ou la délivrance de prothèses dentaires, d'appareils d'orthodontie ou de dispositifs qui se portent dans la bouche en vue de prévenir tout fonctionnement anormal de la denture.</p> <p>12. La direction du travail des parturientes ou la pratique d'accouchements.</p> <p>13. L'administration de tests de provocation d'allergie d'un type particulier selon lesquels un résultat positif constitue une réaction allergique significative.</p> |
|---|---|

Exemptions

(3) An act by a person is not a contravention of subsection (1) if the person is exempted by the regulations under this Act or if the act is done in the course of an activity exempted by the regulations under this Act.

(3) Ne constitue pas une contravention au paragraphe (1) l'acte qu'accomplit une personne exemptée par les règlements pris en application de la présente loi ou l'acte accompli dans le cadre d'une activité soustraite à l'application des règlements pris en application de la présente loi.

Exemptions

Delegation of controlled act

27.—(1) The delegation of a controlled act by a member must be in accordance with the regulations under the health profession Act governing the member's profession.

27 (1) La délégation de l'exécution d'un acte autorisé par un membre doit être faite conformément aux règlements pris en application de la loi sur une profession de la santé qui régit la profession du membre.

Délégation de l'exécution d'actes autorisés

Idem

(2) The delegation of a controlled act to a member must be in accordance with the regulations under the health profession Act governing the member's profession.

(2) La délégation de l'exécution d'un acte autorisé à un membre doit être faite conformément aux règlements pris en application de la loi sur une profession de la santé qui régit la profession du membre.

Idem

Exceptions

28. An act by a person is not a contravention of subsection 26 (1) if it is done in the course of,

28 Ne constitue pas une contravention au paragraphe 26 (1) l'acte accompli par une personne dans le cadre de l'une ou l'autre des activités suivantes :

Exceptions

(a) rendering first aid or temporary assistance in an emergency;

a) l'administration des premiers soins ou l'octroi d'une aide temporaire en cas d'urgence;

- (b) fulfilling the requirements to become a member of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession;
- (c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment; or
- (d) treating a member of the person's household and the act is a controlled act set out in paragraph 1, 5 or 6 of subsection 26 (2).

Dispensing hearing aids

29. No person shall dispense a hearing aid for a hearing impaired person except under a prescription by a member authorized by a health profession Act to prescribe a hearing aid for a hearing impaired person.

Restriction of title "doctor"

30.—(1) Except as allowed in the regulations under this Act, no person shall use the title "doctor", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

Idem

(2) Subsection (1) does not apply to a person who is a member of,

- (a) the College of Chiropractors of Ontario;
- (b) the College of Optometrists of Ontario;
- (c) the College of Physicians and Surgeons of Ontario;
- (d) the College of Psychologists of Ontario; or
- (e) the Royal College of Dental Surgeons of Ontario.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

Holding out as a College

31.—(1) No corporation shall falsely hold itself out as a body that regulates, under statutory authority, individuals who provide health care.

Idem

(2) No individual shall hold himself or herself out as a member, employee or agent of a body that the individual falsely represents as or knows is falsely represented as regulating, under statutory authority, individuals who provide health care.

- b) la satisfaction des exigences prévues pour devenir membre d'une profession de la santé, si l'acte entre dans l'exercice de la profession et est accompli sous la surveillance ou la direction d'un membre de la profession;
- c) le traitement d'une personne par la prière ou par d'autres moyens spirituels, conformément à la doctrine religieuse de la personne qui donne le traitement;
- d) le traitement d'un membre du ménage de la personne, si l'acte est un acte autorisé visé à la disposition 1, 5 ou 6 du paragraphe 26 (2).

29 Nul ne doit délivrer un appareil de correction auditive à une personne malentendante sauf en vertu d'une ordonnance d'un membre autorisé, par une loi sur une profession de la santé, à prescrire de tels appareils aux personnes malentendantes.

30 (1) Sauf dans la mesure permise par les règlements pris en application de la présente loi, nul ne doit employer le titre de «docteur», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

(2) Le paragraphe (1) ne s'applique pas à une personne qui est membre d'un des ordres suivants :

- a) l'Ordre des chiropraticiens de l'Ontario;
- b) l'Ordre des optométristes de l'Ontario;
- c) l'Ordre des médecins et chirurgiens de l'Ontario;
- d) l'Ordre des psychologues de l'Ontario;
- e) l'Ordre des chirurgiens dentistes de l'Ontario.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

31 (1) Aucune personne morale ne doit se présenter faussement comme un organisme régissant, en vertu d'une autorisation législative, des particuliers qui dispensent des soins médicaux.

(2) Aucun particulier ne doit se présenter comme un membre, un employé ou un mandataire d'un organisme qu'il présente faussement comme un organisme régissant, en vertu d'une autorisation législative, des particuliers qui dispensent des soins médicaux, ou qu'il sait être présenté faussement comme tel.

Délivrance d'appareils de correction auditive

Restriction d'emploi du titre de «docteur»

Idem

Définition

Interdiction de se présenter comme un ordre

Idem

MISCELLANEOUS

32.—(1) Every person employed or appointed for the purpose of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every member of a Council or committee of a Council shall preserve secrecy with respect to all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person except,

- (a) to the extent that the information is available to the public under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (b) in connection with the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;
- (c) to a body that governs a health profession in a jurisdiction other than Ontario;
- (d) as may be required for the enforcement of the *Health Insurance Act*;
- (e) to the counsel of the person who is required to preserve secrecy; or
- (f) with the written consent of the person to whom the information relates.

(2) No person or member described in subsection (1) shall be compelled to give testimony in a civil proceeding with regard to matters that come to his or her knowledge in the course of his or her duties.

(3) No record of a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, no report prepared for or statement given at such a proceeding and no order or decision made in such a proceeding is admissible in a civil proceeding other than a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*.

DISPOSITIONS DIVERSES

32 (1) Quiconque est employé ou nommé aux fins de l'application de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), ainsi que les membres d'un conseil ou d'un des comités d'un conseil, sont tenus au secret à l'égard de tout renseignement venant à leur connaissance dans l'exercice de leurs fonctions et n'en divulguent rien à qui que ce soit, sauf :

- a) dans la mesure où les renseignements sont accessibles au public en vertu de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»);
- b) à l'égard de l'application de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), de même qu'à l'égard, notamment, de tout ce qui se rapporte à l'inscription des membres, aux plaintes concernant les membres, aux allégations d'incapacité, d'incompétence ou de faute professionnelle des membres ou à l'égard de la direction de la profession;
- c) à un organisme qui régit une profession de la santé dans un ressort autre que l'Ontario;
- d) de la façon que peut l'exiger l'application de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»);
- e) à l'avocat de la personne qui est tenue au secret;
- f) avec le consentement écrit de la personne à laquelle se rapportent les renseignements.

(2) Aucune personne ni aucun membre visés au paragraphe (1) ne doivent être contraints à témoigner dans une instance civile en ce qui concerne les questions qui viennent à leur connaissance dans l'exercice de leurs fonctions.

(3) Les dossiers des instances introduites aux termes de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), les rapports préparés aux fins de ces instances, les déclarations faites au cours de ces instances, ainsi que les ordonnances ou décisions rendues au cours de ces instances ne sont pas recevables en

Secret professionnel

Interdiction de contraindre

Preuves dans les instances civiles

Confidentiality

Not compellable

Evidence in civil proceedings

Onus of proof to show registration

33. A person who is charged with an offence to which registration under a health profession Act would be a defence shall be deemed, in the absence of evidence to the contrary, to have not been registered.

Immunity

34. No action or other proceeding for damages shall be instituted against the Advisory Council, the Board, a College, a Council, or a member, officer, employee, agent or appointee of the Advisory Council, the Board, a College, a Council, a committee of a Council or a panel of a committee of a Council for an act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a health profession Act, the *Drug and Pharmacies Regulation Act* or a regulation or a by-law under those Acts or for any neglect or default in the performance or exercise in good faith of the duty or power.

Service by mail

35.—(1) A notice to be given under this Act to a person may be given by mail.

Idem

(2) If a notice under this Act is sent by prepaid first class mail addressed to the person at the person's last known address there is a rebuttable presumption that the notice was received by the person on the fifth day after the notice was mailed.

Offence

36.—(1) Every person who contravenes subsection 26 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who contravenes section 29 or 30 or subsection 31 (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

Idem

(3) Every person who contravenes subsection 31 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.

preuve dans le cadre d'instances civiles qui ne sont pas introduites aux termes de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»).

33 Quiconque est inculpé d'une infraction à l'égard de laquelle l'inscription en vertu d'une loi sur une profession de la santé constituerait une défense est réputé, en l'absence de preuve contraire, n'avoir pas été inscrit.

34 Sont irrecevables les actions ou autres instances en dommages-intérêts engagées contre le Conseil consultatif, la Commission, un ordre, un conseil, ou un membre, un dirigeant, un employé, un mandataire ou un délégué du Conseil consultatif, de la Commission, d'un ordre, d'un conseil, d'un comité d'un conseil ou d'un sous-comité d'un tel comité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice d'une fonction ou d'un pouvoir que leur confèrent la présente loi, une loi sur une profession de la santé, la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*») ou un règlement ou règlement administratif pris en application de ces lois, ou à l'égard de toute négligence ou omission commise dans l'exercice de bonne foi de cette fonction ou de ce pouvoir.

35 (1) L'avis devant être donné à quiconque aux termes de la présente loi peut être signifié par la poste.

(2) Si un avis prévu par la présente loi est envoyé par courrier affranchi de première classe à la dernière adresse connue du destinataire, il existe une présomption réfutable selon laquelle cet avis a été reçu par le destinataire le cinquième jour qui suit sa mise à la poste.

36 (1) Quiconque contrevient au paragraphe 26 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$ et d'un emprisonnement d'au plus six mois, ou d'une seule de ces peines.

(2) Quiconque contrevient à l'article 29 ou 30, ou au paragraphe 31 (2), est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

(3) Quiconque contrevient au paragraphe 31 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ pour une première infraction, et d'une amende d'au plus 20 000 \$ pour une infraction subséquente.

Fardeau de la preuve quant à l'inscription

Immunité

Signification par la poste

Idem

Infraction

Idem

Idem

Responsibility of employment agencies

37. Every person who procures employment for an individual and who knows that the individual cannot perform the duties of the position without contravening subsection 26 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Responsibility of employers

38.—(1) The employer of a person who contravenes subsection 26 (1) while acting within the scope of his or her employment is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Responsibility of directors of corporate employers

(2) In addition, if the employer described in subsection (1) is a corporation, every director of the corporation who approved of, permitted or acquiesced in the contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Regulations

39.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing forms of energy for the purposes of paragraph 7 of subsection 26 (2);
- (b) exempting a person or activity from subsection 26 (1);
- (c) attaching conditions to an exemption in a regulation made under clause (b);
- (d) allowing the use of the title "doctor", a variation or abbreviation or an equivalent in another language.

Scope of regulations

(2) A regulation may be general or particular in its application.

Definition

(3) In clause (1) (d), "abbreviation" includes an abbreviation of a variation.

References to health professionals

40. A reference in an Act or regulation to a person described in Column 1 of the Table shall be deemed to be a reference to a person described opposite in Column 2.

Repeals

41. The following are repealed:

1. The *Chiropody Act*.
2. The *Dental Technicians Act*.
3. The *Denture Therapists Act*.
4. The *Ophthalmic Dispensers Act* and section 49 of the *Equality Rights Statute Law Amendment Act, 1986*.

37 Toute personne qui trouve de l'emploi pour un particulier et qui sait que ce dernier ne peut pas s'acquitter des fonctions du poste sans contrevenir au paragraphe 26 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Responsabilité des bureaux de placement

38 (1) L'employeur d'une personne qui contrevient au paragraphe 26 (1) dans le cadre de son emploi est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Responsabilité des employeurs

(2) De plus, si l'employeur visé au paragraphe (1) est une personne morale, tout administrateur de la personne morale qui approuve ou permet la contravention, ou y acquiesce, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Responsabilité des administrateurs

39 (1) Sous réserve de l'approbation du lieutenant-gouverneur en conseil, le ministre peut, par règlement :

Règlements

- a) prescrire des formes d'énergie pour l'application de la disposition 7 du paragraphe 26 (2);
- b) soustraire des personnes ou des activités à l'application du paragraphe 26 (1);
- c) assortir de conditions les exemptions prévues par tout règlement pris en application de l'alinéa b);
- d) autoriser l'emploi du titre de «docteur», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Les règlements peuvent avoir une portée générale ou particulière.

Portée des règlements

(3) À l'alinéa (1) d), le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

40 La mention, dans une loi ou un règlement, d'une des personnes énumérées dans la colonne 1 du tableau est réputée la mention de la personne figurant en regard à la colonne 2.

Mention de professionnels de la santé

41 Les lois et l'article suivants sont abrogés :

Abrogation de lois

1. La loi intitulée *Chiropody Act* («*Loi sur les podologues*»).
2. La loi intitulée *Dental Technicians Act* («*Loi sur les techniciens dentaires*»).
3. La loi intitulée *Denture Therapists Act* («*Loi sur les denturologues*»).
4. La loi intitulée *Ophthalmic Dispensers Act* («*Loi sur les opticiens d'ordonnances*») et l'article 49 de la loi intitulée *Equality Rights Statute Law Amend-*

5. The *Psychologists Registration Act* and the *Psychologists Registration Amendment Act, 1988*.

6. The *Radiological Technicians Act*.

ment Act, 1986 («*Loi de 1986 modifiant des lois sur les droits à l'égalité*»).

5. La loi intitulée *Psychologists Registration Act* («*Loi sur l'inscription des psychologues*») et la loi intitulée *Psychologists Registration Amendment Act, 1988* («*Loi de 1988 modifiant la Loi sur l'inscription des psychologues*»).

6. La loi intitulée *Radiological Technicians Act* («*Loi sur les techniciens en radiologie*»).

Revocations

42. The following regulations made under the *Drugless Practitioners Act* are revoked:

1. Regulation 248 (Chiropractors) of Revised Regulations of Ontario, 1980.

2. Regulation 249 (Classifications) of Revised Regulations of Ontario, 1980.

3. Regulation 251 (Masseurs) of Revised Regulations of Ontario, 1980.

4. Regulation 252 (Osteopaths) of Revised Regulations of Ontario, 1980.

5. Regulation 253 (Physiotherapists) of Revised Regulations of Ontario, 1980.

43.—(1) The following are repealed:

1. The *Health Disciplines Act*, except clauses 1 (1) (a) and (c), subsection 1 (3), section 2, clauses 113 (1) (a) to (m), (o), (p), (q) and (r), 120 (1) (l), sections 135 to 161, subsection 162 (3) and sections 163 and 164.

2. The *Health Disciplines Amendment Act, 1983*.

3. Section 15 of the *Prescription Drug Cost Regulation Act, 1986*.

4. The *Health Disciplines Amendment Act, 1986*.

(2) The title of the *Health Disciplines Act* is repealed and the following substituted:

42 Les règlements suivants, pris en application de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), sont abrogés :

1. Le Règlement 248 (chiropraticiens) des Règlements refondus de l'Ontario de 1980.

2. Le Règlement 249 (classifications) des Règlements refondus de l'Ontario de 1980.

3. Le Règlement 251 (masseurs) des Règlements refondus de l'Ontario de 1980.

4. Le Règlement 252 (ostéopraticiens) des Règlements refondus de l'Ontario de 1980.

5. Le Règlement 253 (physiothérapeutes) des Règlements refondus de l'Ontario de 1980.

43 (1) Les lois et l'article suivants sont abrogés :

1. La loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), à l'exclusion des alinéas 1 (1) (a) et (c), du paragraphe 1 (3), de l'article 2, des alinéas 113 (1) (a) à (m), (o), (p), (q) et (r), 120 (1) (l), des articles 135 à 161, du paragraphe 162 (3) et des articles 163 et 164.

2. La loi intitulée *Health Disciplines Amendment Act, 1983* («*Loi de 1983 modifiant la Loi sur les sciences de la santé*»).

3. L'article 15 de la loi intitulée *Prescription Drug Cost Regulation Act, 1986* («*Loi de 1986 sur la réglementation des prix des médicaments*»).

4. La loi intitulée *Health Disciplines Amendment Act, 1986* («*Loi de 1986 modifiant la Loi sur les sciences de la santé*»).

(2) Le titre de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*») est abrogé et remplacé par ce qui suit :

Abrogation de
règlements

DRUG AND PHARMACIES REGULATION ACT

(3) Clause 1 (1) (a) of the *Drug and Pharmacies Regulation Act* is repealed and the following substituted:

- (a) "Board" means the Health Professions Board continued under the *Regulated Health Professions Act, 1991*.

(4) Subsection 113 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 28, section 15, is further amended by renumbering clause (a) as clause (aa) and by adding the following clause:

- (a) "Accreditation Committee" means the Accreditation Committee of the Council.

(5) Subsection 113 (1) is further amended by adding the following clauses:

- (ca) "Discipline Committee" means the Discipline Committee of the Council;

- (da) "Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*.

(6) Clauses 113 (1) (f), (g), (j) and (q) of the Act are repealed and the following substituted:

- (f) "intern" means a person who is registered as an intern under the *Pharmacy Act, 1991*;

- (g) "licence" means a certificate of registration issued under the *Pharmacy Act, 1991*;

- (j) "pharmacist" means a member;

- (q) "registered pharmacy student" means a person registered as a student under the *Pharmacy Act, 1991*.

(7) Subclause 114 (1) (b) (iii) of the Act is repealed and the following substituted:

- (iii) a live stock medicine within the meaning of the *Live Stock Medicines Act* by a person licensed under that Act.

(8) Subsection 114 (2) of the Act is amended by striking out "this Act" in the second line and substituting "a health profession Act as defined in the *Regulated Health Professions Act, 1991*".

DRUG AND PHARMACIES REGULATION ACT

(3) L'alinéa 1 (1) (a) de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*») est abrogé et remplacé par ce qui suit :

(4) Le paragraphe 113 (1) de la Loi, tel qu'il est modifié par l'article 15 du chapitre 28 des Lois de l'Ontario de 1986, est modifié de nouveau par substitution, à la désignation d'alinéa (a), de la désignation d'alinéa (aa) et par adjonction de l'alinéa suivant :

(5) Le paragraphe 113 (1) est modifié de nouveau par adjonction des alinéas suivants :

(6) Les alinéas 113 (1) (f), (g), (j) et (q) de la Loi sont abrogés et remplacés par ce qui suit :

(7) Le sous-alinéa 114 (1) (b)(iii) de la Loi est abrogé et remplacé par ce qui suit :

(8) Le paragraphe 114 (2) de la Loi est modifié par substitution, aux mots «this Act» à la deuxième ligne, des mots «a health profession Act as defined in the *Regulated Health Professions Act, 1991*».

(9) Section 114 of the Act is amended by adding the following subsection:

Idem

(3) Nothing in this Part prevents any person from selling, to a member of the College of Chiropodists of Ontario, the College of Dental Hygienists of Ontario, the College of Midwives of Ontario or the College of Optometrists of Ontario, a drug that the member may use in the course of engaging in the practice of his or her profession.

(10) Clause 119 (1) (d) of the Act is amended by striking out "licences and registrations" in the third line and substituting "certificates of accreditation".

(11) Clause 119 (1) (j) of the Act is amended by striking out "and the practice of pharmacists" in the third line.

(12) Subsection 135 (4) of the Act is repealed and the following substituted:

Procedure

(4) The provisions of the Health Professions Procedural Code dealing with applications to the Registration Committee and hearings, reviews and appeals from decisions of panels of the Registration Committee apply, with necessary modifications and subject to subsection (5), to applications referred to the Accreditation Committee as though the Accreditation Committee were a panel.

Idem

(5) The following provisions of the Health Professions Procedural Code do not apply to applications referred to the Accreditation Committee:

1. Paragraphs 2, 3 and 5 of subsection 17 (2).
2. Paragraph 2 of subsection 21 (6).

(13) Subsections 136 (2) and (3) of the Act are repealed and the following substituted:

Procedure

(2) The provisions of the Health Professions Procedural Code dealing with allegations of a member's professional misconduct referred to the Discipline Committee and hearings, reviews and appeals from decisions of panels of the Discipline Committee apply, with necessary modifications and subject to subsection (3), to allegations referred to the Discipline Committee under subsection (1).

Idem

(3) Subsection (3a) applies, instead of subsections 49 (1) and (2) of the Health Professions Procedural Code, to allegations referred to the Discipline Committee under subsection (1).

Orders

(3a) If a panel of the Discipline Committee finds a person who has been issued a certificate of accreditation in respect of a pharmacy has established or operated the pharmacy in contravention of this Act or the regulations, it may make an order doing any one or more of the following:

(9) L'article 114 de la Loi est modifié par adjonction du paragraphe suivant :

(10) L'alinéa 119 (1) (d) de la Loi est modifié par substitution, aux mots «licences and registrations» à la troisième ligne, des mots «certificates of accreditation».

(11) L'alinéa 119 (1) (j) de la Loi est modifié par suppression des mots «and the practice of pharmacists» à la troisième ligne.

(12) Le paragraphe 135 (4) de la Loi est abrogé et remplacé par ce qui suit :

(13) Les paragraphes 136 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

1. Directing the Registrar to revoke the person's certificate.
2. Directing the Registrar to suspend the person's certificate for a specified period of time.
3. Requiring the person to pay a fine of not more than \$25,000 to the Treasurer of Ontario.

(14) Section 139 of the Act is amended by striking out "as a pharmacist" in the first line.

(14) L'article 139 de la Loi est modifié par suppression des mots «as a pharmacist» à la première ligne.

(15) Subsection 152 (2) of the Act is amended by striking out "six" in the second line and substituting "two".

(15) Le paragraphe 152 (2) de la Loi est modifié par substitution, au mot «six» à la deuxième ligne, du mot «two».

(16) Section 161 of the Act is amended by striking out "licence or" in the first line and in the third line.

(16) L'article 161 de la Loi est modifié par suppression des mots «licence or» à la première ligne et à la troisième ligne.

44.—(1) Clause 2 (b) of *The Ontario Dietetics Association Act, 1958* is repealed.

44 (1) L'alinéa 2 (b) de la loi intitulée *The Ontario Dietetics Association Act, 1958* est abrogé.

(2) Section 16 of the Act is repealed.

(2) L'article 16 de la Loi est abrogé.

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

45 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

46. The short title of this Act is the *Regulated Health Professions Act, 1991*.

46 Le titre abrégé de la présente loi est *Loi de 1991 sur les professions de la santé réglementées*.

Commencement

Entrée en vigueur

Short title

Titre abrégé

TABLE

TABLEAU

Column 1	Column 2
1. person registered as a chiropodist under the <i>Chiropody Act</i>	member of the College of Chiropodists of Ontario
2. person registered as a dental technician under the <i>Dental Technicians Act</i>	member of the College of Dental Technologists of Ontario
3. person licensed as a denture therapist under the <i>Denture Therapists Act</i>	member of the College of Denturists of Ontario
4. person registered as a chiropractor under the <i>Drugless Practitioners Act</i>	member of the College of Chiropractors of Ontario
5. person registered as a masseur under the <i>Drugless Practitioners Act</i>	member of the College of Massage Therapists of Ontario

Colonne 1	Colonne 2
1. personne inscrite à titre de podologue aux termes de la loi intitulée <i>Chiropody Act</i> (« <i>Loi sur les podologues</i> »)	membre de l'Ordre des podologues de l'Ontario
2. personne inscrite à titre de technicien dentaire aux termes de la loi intitulée <i>Dental Technicians Act</i> (« <i>Loi sur les techniciens dentaires</i> »)	membre de l'Ordre des techniciens dentaires de l'Ontario
3. personne titulaire d'un permis l'autorisant à exercer la profession de denturologue aux termes de la loi intitulée <i>Denture Therapists Act</i> (« <i>Loi sur les denturologues</i> »)	membre de l'Ordre des denturologues de l'Ontario
4. personne inscrite à titre de chiropraticien aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des chiropraticiens de l'Ontario
5. personne inscrite à titre de masseur aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des massothérapeutes de l'Ontario

6. person registered as an osteopath under the <i>Drugless Practitioners Act</i>	member of the College of Physicians and Surgeons of Ontario classed as an osteopath	6. personne inscrite à titre d'ostéopraticien aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des médecins et chirurgiens de l'Ontario, appartenant à la catégorie des ostéopraticiens
7. person registered as a physiotherapist under the <i>Drugless Practitioners Act</i>	member of the College of Physiotherapists of Ontario	7. personne inscrite à titre de physiothérapeute aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des physiothérapeutes de l'Ontario
8. person registered as a dental hygienist under Part II of the <i>Health Disciplines Act</i>	member of the College of Dental Hygienists of Ontario	8. personne inscrite à titre d'hygiéniste dentaire aux termes de la partie II de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des hygiénistes dentaires de l'Ontario
9. person licensed under Part II of the <i>Health Disciplines Act</i>	member of the Royal College of Dental Surgeons of Ontario	9. personne titulaire d'un permis délivré en vertu de la partie II de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre royal des chirurgiens dentistes de l'Ontario
10. person licensed under Part III of the <i>Health Disciplines Act</i>	member of the College of Physicians and Surgeons of Ontario	10. personne titulaire d'un permis délivré en vertu de la partie III de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des médecins et chirurgiens de l'Ontario
11. person who is the holder of a certificate issued under Part IV of the <i>Health Disciplines Act</i>	member of the College of Nurses of Ontario	11. personne titulaire d'un certificat délivré en vertu de la partie IV de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des infirmières et infirmiers de l'Ontario
12. person licensed under Part V of the <i>Health Disciplines Act</i>	member of the College of Optometrists of Ontario	12. personne titulaire d'un permis délivré en vertu de la partie V de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des optométristes de l'Ontario
13. person licensed under Part VI of the <i>Health Disciplines Act</i>	member of the Ontario College of Pharmacists	13. personne titulaire d'un permis délivré en vertu de la partie VI de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des pharmaciens de l'Ontario
14. person registered under the <i>Ophthalmic Dispensers Act</i>	member of the College of Opticians of Ontario	14. personne inscrite aux termes de la loi intitulée <i>Ophthalmic Dispensers Act</i> (« <i>Loi sur les opticiens d'ordonnances</i> »)	membre de l'Ordre des opticiens de l'Ontario
15. person registered under the <i>Psychologists Registration Act</i>	member of the College of Psychologists of Ontario	15. personne inscrite aux termes de la loi intitulée <i>Psychologists Registration Act</i> (« <i>Loi sur l'inscription des psychologues</i> »)	membre de l'Ordre des psychologues de l'Ontario
16. person registered under the <i>Radiological Technicians Act</i>	member of the College of Medical Radiation Technologists of Ontario	16. personne inscrite aux termes de la loi intitulée <i>Radiological Technicians Act</i> (« <i>Loi sur les techniciens en radiologie</i> »)	membre de l'Ordre des techniciens en radiation médicale de l'Ontario

SCHEDULE 1

ANNEXE 1

SELF GOVERNING HEALTH PROFESSIONS		PROFESSIONS DE LA SANTÉ AUTONOMES	
<i>Health Profession Acts</i>	<i>Health Profession</i>	<i>Lois sur les professions de la santé</i>	<i>Profession de la santé</i>
Audiology and Speech-Language Pathology Act, 1991	Audiology and Speech-Language Pathology	Loi de 1991 sur les audiologistes et les orthophonistes	Audiologie et orthophonie
Chiropody Act, 1991	Chiropody	Loi de 1991 sur les chiropraticiens	Chiropratique
Chiropractic Act, 1991	Chiropractic	Loi de 1991 sur les dentistes	Dentisterie
Dental Hygiene Act, 1991	Dental Hygiene	Loi de 1991 sur les denturologues	Denturologie
Dental Technology Act, 1991	Dental Technology	Loi de 1991 sur les diététistes	Diététique
Dentistry Act, 1991	Dentistry	Loi de 1991 sur les ergothérapeutes	Ergothérapie
Denturism Act, 1991	Denturism	Loi de 1991 sur les hygiénistes dentaires	Hygiène dentaire
Dietetics Act, 1991	Dietetics	Loi de 1991 sur les infirmières et infirmiers	Soins infirmiers
Massage Therapy Act, 1991	Massage Therapy	Loi de 1991 sur les inhalothérapeutes	Inhalothérapie
Medical Laboratory Technology Act, 1991	Medical Laboratory Technology	Loi de 1991 sur les massothérapeutes	Massothérapie
Medical Radiation Technology Act, 1991	Medical Radiation Technology	Loi de 1991 sur les médecins	Médecine
Medicine Act, 1991	Medicine	Loi de 1991 sur les opticiens	Profession d'opticien
Midwifery Act, 1991	Midwifery	Loi de 1991 sur les optométristes	Optométrie
Nursing Act, 1991	Nursing	Loi de 1991 sur les pharmaciens	Pharmacie
Occupational Therapy Act, 1991	Occupational Therapy	Loi de 1991 sur les physiothérapeutes	Physiothérapie
Opticianry Act, 1991	Opticianry	Loi de 1991 sur les podologues	Podologie
Optometry Act, 1991	Optometry	Loi de 1991 sur les psychologues	Psychologie
Pharmacy Act, 1991	Pharmacy	Loi de 1991 sur les sages-femmes	Profession de sage-femme
Physiotherapy Act, 1991	Physiotherapy	Loi de 1991 sur les techniciens de laboratoire médical	Technologie de laboratoire médical
Psychology Act, 1991	Psychology	Loi de 1991 sur les techniciens dentaires	Technologie dentaire
Respiratory Therapy Act, 1991	Respiratory Therapy	Loi de 1991 sur les techniciens en radiation médicale	Technologie de radiation médicale

SCHEDULE 2

HEALTH PROFESSIONS PROCEDURAL CODE

Note: This Code is deemed by section 4 of the *Regulated Health Professions Act, 1991* to be part of each health profession Act

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ANNEXE 2

CODE DES PROFESSIONS DE LA SANTÉ

NOTE : Le présent code est réputé, en vertu de l'article 4 de la *Loi de 1991 sur les professions de la santé réglementées*, faire partie de chaque loi sur une profession de la santé

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Definitions

1.—(1) In this Code,

“Board” means the Health Professions Board;
 (“Commission”)

1 (1) Les définitions qui suivent s'appliquent au présent code.

«certificat d'inscription» Certificat d'inscription délivré par le registrateur. («certificate of registration»)

“by-laws” means by-laws made by the Council; (“règlements administratifs”)

“certificate of registration” means a certificate of registration issued by the Registrar; (“certificat d’inscription”)

“drug” means drug as defined in clause 113 (1) (d) of the *Drug and Pharmacies Regulation Act*; (“médicament”)

“incapacitated” means, in relation to a member, that the member is suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the member no longer be permitted to practise or that the member’s practice be restricted; (“frappé d’incapacité”)

“member” means a member of the College; (“membre”)

“Minister” means the Minister of Health; (“ministre”)

“prescribed” means prescribed in the regulations; (“prescrit”)

“quality assurance program” means a program to assure the quality of the practice of the profession and to promote continuing competence among the members; (“programme d’assurance de la qualité”)

“Registrar” means the Registrar of the College; (“regisateur”)

“registration” means the issuance of a certificate of registration. (“inscription”)

Hearing not required unless referred to

(2) Nothing in the health profession Act or this Code shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act* unless the holding of a hearing is specifically referred to.

COLLEGE

College is body corporate

2.—(1) The College is a body corporate without share capital with all the powers of a natural person.

Corporations Act

(2) The *Corporations Act* does not apply in respect to the College.

Objects of College

3.—(1) The College has the following objects:

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the *Regulated Health Professions Act, 1991* and the regulations and by-laws.
2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.
3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.
4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing competence among the members.
5. To develop, establish and maintain standards of professional ethics for the members.
6. To administer the health profession Act, this Code and the *Regulated Health Professions Act, 1991* as it relates to the profession and

«Commission» La Commission des professions de la santé. («Board»)

«frappé d’incapacité» Se dit d’un membre atteint d’une affection physique ou mentale ou de troubles physiques ou mentaux qui sont tels qu’il convient, dans l’intérêt public, de ne plus l’autoriser à exercer sa profession ou de restreindre ses activités professionnelles. («incapacitated»)

«inscription» La délivrance d’un certificat d’inscription. («registration»)

«médicament» Médicament, tel que le définit l’alinéa 113 (1) d) de la loi intitulée *Drug and Pharmacies Regulation Act* («Loi sur la réglementation des médicaments et des pharmacies»). («drug»)

«membre» Membre d’un ordre. («member»)

«ministre» Le ministre de la Santé. («Minister»)

«prescrit» Prescrit par les règlements. («prescribed»)

«programme d’assurance de la qualité» Programme visant à assurer la qualité de l’exercice de la profession et à promouvoir le maintien de la compétence parmi les membres. («quality assurance program»)

«regisateur» Le regisateur de l’ordre. («Registrar»)

«règlements administratifs» Règlements administratifs adoptés par le conseil. («by-laws»)

(2) Aucune des dispositions de la loi sur une profession de la santé ou du présent code ne doit s’interpréter comme exigeant la tenue d’une audience au sens de la loi intitulée *Statutory Powers Procedure Act* («Loi sur l’exercice des compétences légales»), à moins qu’il ne soit fait explicitement mention de la tenue d’une audience.

Audience no requise sauf mention contraire

ORDRE

2. (1) L’ordre est une personne morale sans capital-actions, dotée de tous les pouvoirs d’une personne physique.

Personne morale

(2) La loi intitulée *Corporations Act* («Loi sur les personnes morales») ne s’applique pas en ce qui concerne l’ordre.

«Loi sur les personnes morales»

3 (1) Les objets de l’ordre sont les suivants :

Objets de l’ordre

1. Réglementer l’exercice de la profession et régir l’activité des membres conformément à la loi sur la profession de la santé, au présent code et à la *Loi de 1991 sur les professions de la santé réglementées*, ainsi qu’aux règlements et règlements administratifs.
2. Élaborer et maintenir des normes d’admissibilité applicables aux personnes auxquelles un certificat d’inscription est délivré.
3. Élaborer et maintenir des programmes et des normes d’exercice pour assurer la qualité de l’exercice de la profession.
4. Élaborer et maintenir des normes de connaissance et de compétence, ainsi que des programmes, pour promouvoir le maintien de la compétence parmi les membres.
5. Élaborer et maintenir des normes de déontologie applicables aux membres.
6. Appliquer la loi sur une profession de la santé, le présent code et la *Loi de 1991 sur les professions de la santé réglementées* dans

to perform the other duties and exercise the other powers that are imposed or conferred on the College.

7. Any other objects relating to human health care that the Council considers desirable.

(2) In carrying out its objects, the College has a duty to serve and protect the public interest.

4. The College shall have a Council that shall be its board of directors and that shall manage and administer its affairs.

5.—(1) Council members appointed by the Lieutenant Governor in Council shall be appointed for terms not exceeding three years.

(2) Council members appointed by the Lieutenant Governor in Council are eligible for reappointment.

(3) The majority of the members of the Council constitutes a quorum.

6.—(1) The meetings of the Council shall be open to the public and reasonable notice shall be given to the members of the College and to the public.

(2) Despite subsection (1), the Council may exclude the public from any meeting or part of a meeting if it is satisfied that,

- (a) matters involving public security may be disclosed;
- (b) financial or personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public;
- (c) a person involved in a criminal proceeding or civil suit or proceeding may be prejudiced;
- (d) personnel matters or property acquisitions will be discussed;
- (e) instructions will be given to or opinions received from the solicitors for the College; or
- (f) the Council will deliberate whether to exclude the public from a meeting or whether to make an order under subsection (3).

(3) In situations in which the Council may exclude the public from meetings, it may make orders it considers necessary to prevent the public disclosure of matters disclosed in the meeting, including banning publication or broadcasting of those matters.

(4) If the Council excludes the public from a meeting or makes an order under subsection (3), it shall have its reasons for doing so noted in the minutes of the meeting.

7. Council members appointed by the Lieutenant Governor in Council shall be paid, by the Minister of Health, the expenses and remuneration the Lieutenant Governor in Council determines.

8.—(1) The Council may employ persons it considers advisable.

(2) The Council shall appoint one of its employees as the Registrar.

la mesure où elle se rapporte à la profession, et exercer les autres fonctions qui lui sont imposées et les autres pouvoirs qui lui sont conférés.

7. Poursuivre tout autre objet ayant trait aux soins des êtres humains que le conseil juge souhaitable.

(2) Dans la poursuite de ses objets, l'ordre est tenu de servir et de protéger l'intérêt public.

4 L'ordre comprend un conseil qui est son conseil d'administration et qui gère ses affaires.

5 (1) Les membres du conseil nommés par le lieutenant-gouverneur en conseil sont nommés pour une période maximale de trois ans.

(2) Le mandat des membres du conseil nommés par le lieutenant-gouverneur en conseil peut être reconduit.

(3) La majorité des membres du conseil constitue le quorum.

6 (1) Les réunions du conseil sont publiques et un préavis suffisant en est donné aux membres de l'ordre ainsi qu'au public.

(2) Malgré le paragraphe (1), le conseil peut tenir à huis clos toute réunion ou toute partie de réunion s'il est convaincu que, selon le cas :

- a) des questions touchant à la sécurité publique risquent d'être divulguées;
- b) risquent d'être divulguées des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel les réunions doivent être publiques;
- c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;
- d) des questions de personnel ou l'acquisition de biens feront l'objet de discussions;
- e) des instructions seront données aux procureurs représentant l'ordre ou ces derniers donneront des avis;
- f) le conseil délibérera sur la question de savoir s'il doit tenir une réunion à huis clos ou s'il doit rendre une ordonnance en vertu du paragraphe (3).

(3) Dans les cas où le conseil peut tenir des réunions à huis clos, il peut rendre les ordonnances qu'il estime nécessaires pour empêcher la divulgation dans le public des questions dont il a été fait état lors de la réunion, et notamment proscrire la publication ou la radiodiffusion de ces questions.

(4) Si le conseil tient une réunion à huis clos ou rend une ordonnance en vertu du paragraphe (3), il fait en sorte que les motifs à l'appui de sa décision soient consignés dans le procès-verbal de la réunion.

7 Les membres du conseil nommés par le lieutenant-gouverneur en conseil reçoivent, du ministre de la Santé, la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

8 (1) Le conseil peut engager le personnel qu'il juge souhaitable.

(2) Le conseil nomme un de ses employés registraire.

Obligation

Conseil

Mandat

Reconduction de mandat

Quorum

Réunions

Réunion à huis clos

Ordonnances interdisant la divulgation

Motifs consignés dans le procès-verbal

Rémunération et indemnités

Personnel

Registraire

Duty

Council

Terms

Reappointments

Quorum

Meetings

Exclusion of public

Orders preventing public disclosure

Reasons noted in minutes

Remuneration and expenses

Employees

Registrar

Committees	<p>9. The College shall have the following committees:</p> <ol style="list-style-type: none"> 1. Executive Committee. 2. Registration Committee. 3. Complaints Committee. 4. Discipline Committee. 5. Fitness to Practise Committee. 6. Quality Assurance Committee. 	<p>9 L'ordre a les comités suivants :</p> <ol style="list-style-type: none"> 1. Le bureau. 2. Le comité d'inscription. 3. Le comité des plaintes. 4. Le comité de discipline. 5. Le comité d'aptitude professionnelle. 6. Le comité d'assurance de la qualité. 	Comités
Annual reports	<p>10.—(1) Each committee named in section 9 shall annually submit a report of its activities to the Council.</p>	<p>10 (1) Chacun des comités mentionnés à l'article 9 présente tous les ans un rapport sur ses activités au conseil.</p>	Rapports annuels
Exclusions from reports	<p>(2) The Executive Committee shall not submit a report that contains information, other than information of a general statistical nature, relating to,</p> <ol style="list-style-type: none"> (a) a referral by the Executive Committee to the Discipline or Fitness to Practise Committee until a panel of the Discipline or Fitness to Practise Committee disposes of the matter; (b) an approval for the Registrar to appoint an investigator until the investigation is completed and reported by the Registrar and the Executive Committee decides not to make a referral with respect to the matter to the Discipline Committee or, if the Executive Committee makes a referral with respect to the matter to the Discipline Committee, until a panel of the Discipline Committee disposes of the matter; or (c) an interim order made by the Executive Committee in respect of a member until a panel of the Discipline Committee disposes of the matter. 	<p>(2) Le rapport que présente le bureau ne contient pas de renseignements concernant l'une des questions suivantes, sauf s'il s'agit de renseignements d'une nature statistique générale :</p> <ol style="list-style-type: none"> a) le renvoi d'une question par le bureau au comité de discipline ou au comité d'aptitude professionnelle jusqu'à ce qu'un sous-comité d'un de ces comités tranche la question; b) l'autorisation donnée au registrateur de nommer un enquêteur jusqu'à ce que l'enquête soit terminée, qu'un compte rendu en ait été donné par le registrateur et que le bureau décide de ne pas renvoyer la question au comité de discipline ou, s'il la lui renvoie, jusqu'à ce qu'un sous-comité du comité de discipline tranche la question; c) une ordonnance provisoire rendue par le bureau à l'égard d'un membre jusqu'à ce qu'un sous-comité du comité de discipline tranche la question. 	Renseignements exclus des rapports
Executive Committee's exercise of Council's powers	<p>11.—(1) Between the meetings of the Council, the Executive Committee has all the powers of the Council with respect to any matter that, in the Committee's opinion, requires immediate attention, other than the power to make, amend or revoke a regulation or by-law.</p>	<p>11 (1) Entre les réunions du conseil, le bureau a tous les pouvoirs du conseil à l'égard de toute question qui, à son avis, requiert une attention immédiate, à l'exclusion du pouvoir de prendre, de modifier ou d'abroger un règlement ou un règlement administratif.</p>	Exercice des pouvoirs du conseil par le bureau
Report to Council	<p>(2) If the Executive Committee exercises a power of the Council under subsection (1), it shall report on its actions to the Council at the Council's next meeting.</p>	<p>(2) Si le bureau exerce un des pouvoirs du conseil en vertu du paragraphe (1), il présente au conseil, à sa réunion suivante, un rapport sur les mesures qu'il a prises en vertu de ce pouvoir.</p>	Rapport adressé au conseil
Members	<p>12.—(1) A person registered by the College is a member.</p>	<p>12 (1) Quiconque est inscrit par l'ordre en est membre.</p>	Membres
Suspended members	<p>(2) A person whose certificate of registration is suspended is not a member.</p>	<p>(2) La personne dont le certificat d'inscription est suspendu n'est pas membre.</p>	Personne suspendue
Continuing jurisdiction	<p>13.—(1) A person who was a member is subject to the jurisdiction of the College in respect of his or her conduct while a member despite the resignation of the person as a member or the suspension or revocation of the person's certificate of registration.</p>	<p>13 (1) Quiconque n'est plus membre relève toujours de l'autorité de l'ordre pour ce qui est de sa conduite lorsqu'il était membre, même s'il a démissionné en tant que membre ou que son certificat d'inscription a été suspendu ou révoqué.</p>	Autorité continue
Idem	<p>(2) A person who was a member is subject to the jurisdiction of the College in respect of his or her capacity or competence despite the suspension of the person's certificate of registration.</p>	<p>(2) Quiconque n'est plus membre relève toujours de l'autorité de l'ordre pour ce qui est de sa capacité ou de sa compétence, même s'il a démissionné en tant que membre ou que son certificat d'inscription a été suspendu ou révoqué.</p>	Idem

REGISTRATION

14.—(1) If a person applies to the Registrar for registration, the Registrar shall,

- (a) register the applicant; or
- (b) refer the application to the Registration Committee.

INSCRIPTION

14 (1) Si une personne présente une demande d'inscription au registrateur, ce dernier :

- a) soit inscrit l'auteur de la demande;
- b) soit renvoie la demande au comité d'inscription.

Referrals to Registration Committee	(2) The Registrar shall refer an application for registration to the Registration Committee if the Registrar,	(2) Le registrateur renvoie une demande d'inscription au comité d'inscription si, selon le cas :	Renvoi de demandes au comité d'inscription
	(a) has doubts, on reasonable grounds, about the sufficiency of the applicant's capacity, training, experience or education;	a) il a des doutes, en se fondant sur des motifs raisonnables, sur la suffisance de la capacité, de la formation, de l'expérience ou de la scolarité de l'auteur de la demande;	
	(b) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant does not consent to the imposition; or	b) il est d'avis que le certificat d'inscription de l'auteur de la demande devrait être assorti de conditions ou de restrictions et que ce dernier s'y oppose;	
	(c) proposes to refuse the application.	c) il se propose de refuser la demande.	
Notice to applicant	(3) If the Registrar refers an application to the Registration Committee, he or she shall give the applicant notice of the statutory grounds for the referral and of the applicant's right to make written submissions under subsection 17 (1).	(3) Si le registrateur renvoie une demande au comité d'inscription, il avise l'auteur de la demande des motifs légaux du renvoi et du droit qu'a ce dernier de présenter des observations par écrit en vertu du paragraphe 17 (1).	Avis adressé à l'auteur de la demande
Terms, etc., attached on consent	(4) If the Registrar is of the opinion that a certificate of registration should be issued to an applicant with terms, conditions or limitations imposed and the applicant consents to the imposition, the Registrar may do so with the approval of a panel of the Registration Committee selected by the chair for the purpose.	(4) Si le registrateur est d'avis que devrait être délivré à l'auteur d'une demande un certificat d'inscription assorti de conditions ou de restrictions et que ce dernier y consent, le registrateur peut le délivrer sous réserve de l'approbation d'un sous-comité du comité d'inscription dont les membres sont choisis par le président à cette fin.	Acceptation des conditions ou restrictions imposées
Panels for consent	(5) Subsections 16 (2) and (3) apply with respect to the panel mentioned in subsection (4).	(5) Les paragraphes 16 (2) et (3) s'appliquent au sous-comité visé au paragraphe (4).	Approbation du sous-comité
Disclosure of application file	15. —(1) The Registrar shall give an applicant for registration, at his or her request, all the information and a copy of each document the College has that is relevant to the application.	15 (1) Le registrateur communique à l'auteur d'une demande d'inscription qui en fait la demande tous les renseignements, ainsi qu'une copie de chaque document que possède l'ordre, et qui se rapportent à la demande.	Communication des renseignements relatifs à la demande
Exception	(2) The Registrar may refuse to give an applicant anything that may, in the Registrar's opinion, jeopardize the safety of any person.	(2) Le registrateur peut refuser de communiquer à l'auteur d'une demande tout ce qui pourrait, à son avis, mettre en danger la sécurité de quiconque.	Exception
Panels	16. —(1) An application for registration referred to the Registration Committee or an application referred back to the Registration Committee by the Board shall be reviewed by a panel selected by the chair from among the members of the Committee.	16 (1) La demande d'inscription renvoyée au comité d'inscription ou la demande renvoyée au comité d'inscription par la Commission est examinée par un sous-comité dont les membres sont choisis par le président parmi les membres du comité.	Sous-comités
Idem	(2) A panel shall be composed of at least three persons, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.	(2) Le sous-comité se compose d'au moins trois personnes, dont l'une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.	Idem
Quorum	(3) Three members of a panel constitute a quorum.	(3) Trois membres constituent le quorum d'un sous-comité.	Quorum
Consideration by panel	17. —(1) An applicant may make written submissions to the panel within thirty days after receiving notice under subsection 14 (3) or within any longer period the Registrar may specify in the notice.	17 (1) L'auteur d'une demande peut présenter des observations par écrit au sous-comité dans les trente jours suivant la réception de l'avis prévu au paragraphe 14 (3) ou dans tout autre délai plus long que peut fixer le registrateur dans l'avis.	Examen par le sous-comité
Orders by panel	(2) After considering the application and the submissions, the panel may make an order doing any one or more of the following:	(2) Après examen de la demande et des observations, le sous-comité peut, par ordonnance :	Ordonnances du sous-comité
	1. Directing the Registrar to issue a certificate of registration.	1. Enjoindre au registrateur de délivrer un certificat d'inscription.	
	2. Directing the Registrar to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.	2. Enjoindre au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux examens établis ou approuvés par le sous-comité.	
	3. Directing the Registrar to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.	3. Enjoindre au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux cours de formation supplémentaires indiqués par le sous-comité.	
	4. Directing the Registrar to impose specified terms, conditions and limitations on a certificate of registration of the applicant and specifying a limitation on the applicant's right to apply under subsection 18 (1).	4. Enjoindre au registrateur d'assortir le certificat d'inscription de l'auteur de la demande des conditions et des restrictions précisées et d'indiquer les restrictions s'appliquant au droit qu'a l'auteur de la demande de présen-	

		ter une demande en vertu du paragraphe 18 (1).	
	5. Directing the Registrar to refuse to issue a certificate of registration.	5. Enjoindre au registrateur de refuser de délivrer un certificat d'inscription.	
Idem	(3) A panel, in making an order under subsection (2), may direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement unless the requirement is prescribed as a non-exemptible requirement.	(3) Le sous-comité qui rend une ordonnance en vertu du paragraphe (2) peut enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur d'une demande qui ne satisfait pas à une exigence d'inscription, à moins qu'il ne s'agisse d'une exigence prescrite comme étant une exigence à laquelle on ne peut se soustraire.	Idem
Order on consent	(4) The panel may, with the consent of the applicant, direct the Registrar to issue a certificate of registration with the terms, conditions and limitations specified by the panel imposed.	(4) Le sous-comité peut enjoindre au registrateur de délivrer un certificat d'inscription assorti des conditions et des restrictions précisées par le sous-comité, si l'auteur de la demande y consent.	Ordonnance sur consentement
Application for variation	18. —(1) A member may apply to the Registration Committee, subject to any limitation in an order of a panel under paragraph 4 of subsection 17 (2) or under subsection (6), for an order directing the Registrar to remove or modify any term, condition or limitation imposed on the member's certificate of registration under an order by a panel of the Registration Committee.	18 (1) Un membre peut demander au comité d'inscription, sous réserve de toute restriction prévue par une ordonnance d'un sous-comité prévue à la disposition 4 du paragraphe 17 (2) ou au paragraphe (6), que soit rendue une ordonnance enjoignant au registrateur de supprimer ou de modifier toute condition ou restriction dont est assorti son certificat d'inscription aux termes d'une ordonnance d'un sous-comité du comité d'inscription.	Demande de modification d'ordonnance
Panels	(2) An application to the Registration Committee under subsection (1) or an application referred back to the Registration Committee by the Board shall be reviewed by a panel selected by the chair from among the members of the Committee.	(2) La demande présentée au comité d'inscription en vertu du paragraphe (1) ou celle renvoyée au comité d'inscription par la Commission est examinée par un sous-comité dont les membres sont choisis par le président parmi les membres du comité.	Sous-comités
Idem	(3) Subsections 16 (2) and (3) apply with respect to the panel mentioned in subsection (2).	(3) Les paragraphes 16 (2) et (3) s'appliquent au sous-comité visé au paragraphe (2).	Idem
Submissions	(4) An applicant may make written submissions to the panel.	(4) L'auteur d'une demande peut présenter des observations par écrit au sous-comité.	Observations
Orders	(5) After considering the application and the submissions, the panel may make an order doing any one or more of the following: <ol style="list-style-type: none"> 1. Refusing the application. 2. Directing the Registrar to remove any term, condition or limitation imposed on the certificate of registration. 3. Directing the Registrar to impose terms, conditions or limitations on the certificate of registration. 	(5) Après examen de la demande et des observations, le sous-comité peut, par ordonnance : <ol style="list-style-type: none"> 1. Refuser la demande. 2. Enjoindre au registrateur de supprimer toute condition ou restriction dont est assorti le certificat d'inscription. 3. Enjoindre au registrateur d'assortir de conditions ou de restrictions le certificat d'inscription. 	Ordonnances
Limitations on applications	(6) The panel, in disposing of an application under this section, may fix a period of time not longer than six months during which the applicant may not apply under subsection (1).	(6) Le sous-comité, lorsqu'il statue sur une demande aux termes du présent article, peut fixer un délai maximal de six mois dans lequel l'auteur de la demande ne peut présenter de demande en vertu du paragraphe (1).	Restrictions relatives aux demandes
Notice of orders	19. —(1) A panel shall give the applicant notice of an order it makes under subsection 17 (2) or 18 (5) and written reasons for it if the order, <ol style="list-style-type: none"> (a) directs the Registrar to refuse to issue a certificate of registration; (b) directs the Registrar to issue a certificate of registration if the applicant successfully completes examinations or additional training; (c) directs the Registrar to impose terms, conditions and limitations on a certificate of registration of the applicant; or (d) refuses an application for an order removing or modifying any term, condition or limitation imposed on a certificate of registration. 	19 (1) Le sous-comité avise l'auteur de la demande de l'ordonnance qu'il rend en vertu du paragraphe 17 (2) ou 18 (5) et des motifs écrits à l'appui de celle-ci si l'ordonnance, selon le cas : <ol style="list-style-type: none"> a) enjoint au registrateur de refuser de délivrer un certificat d'inscription; b) enjoint au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux examens ou aux cours de formation supplémentaires; c) enjoint au registrateur d'assortir de conditions et de restrictions le certificat d'inscription de l'auteur de la demande; d) refuse une demande d'ordonnance visant à supprimer ou à modifier toute condition ou restriction dont est assorti un certificat d'inscription. 	Avis d'ordonnance

Contents of notice	(2) A notice under subsection (1) shall inform the applicant of the order and of the provisions of subsections 20 (1) and (2).	(2) L'avis prévu au paragraphe (1) informe l'auteur de la demande de l'ordonnance et des dispositions des paragraphes 20 (1) et (2).	Contenu de l'avis
Appeal to Board	20. —(1) An applicant who has been given a notice under subsection 19 (1) of an order may require the Board to hold a review of the application and the documentary evidence in support of it, or a hearing of the application, by giving the Board and the Registration Committee notice in accordance with subsection (2).	20 (1) L'auteur d'une demande qui a reçu un avis d'ordonnance aux termes du paragraphe 19 (1) peut exiger de la Commission qu'elle réexamine sa demande et les éléments de preuve documentaire à l'appui de celle-ci, ou qu'elle tienne une audience relativement à sa demande, en remettant à la Commission et au comité d'inscription un avis à cet effet, conformément au paragraphe (2).	Appel porté devant la Commission
Requirements of notice	(2) A notice under subsection (1) shall be a written notice, given within thirty days after the notice under subsection 19 (1) was given, specifying whether a review or a hearing is required.	(2) L'avis prévu au paragraphe (1) est donné par écrit dans les trente jours suivant la date à laquelle l'avis prévu au paragraphe 19 (1) a été donné, et précise si l'auteur de la demande exige un réexamen ou une audience.	Exigences de remise de l'avis et contenu
Order, etc., to Board	(3) If the Registration Committee receives a notice that an applicant requires a hearing or review, it shall forthwith give the Board a copy of the order made with respect to the application, the reasons for it and the documents and things upon which the decision to make the order was based.	(3) Le comité d'inscription qui reçoit un avis de l'auteur d'une demande selon lequel ce dernier exige une audience ou un réexamen remet sans délai à la Commission une copie de l'ordonnance rendue au sujet de la demande, les motifs à l'appui de celle-ci, ainsi que les documents et choses sur lesquels la décision de rendre l'ordonnance était fondée.	Copie de l'ordonnance, etc., à la Commission
When order may be carried out	(4) An order of a panel, notice of which is required under subsection 19 (1), may be carried out only when, (a) thirty-five days have passed since the notice of the order was given under subsection 19 (1) without the applicant requiring a review or hearing; or (b) the Board has confirmed the order.	(4) L'ordonnance d'un sous-comité, qui doit faire l'objet d'un avis aux termes du paragraphe 19 (1), ne peut être exécutée que lorsque se réalise l'une ou l'autre des éventualités suivantes : a) trente-cinq jours se sont écoulés depuis que l'avis d'ordonnance a été donné aux termes du paragraphe 19 (1) sans que l'auteur de la demande ait exigé de réexamen ou d'audience; b) la Commission a confirmé l'ordonnance.	Moment où l'ordonnance peut être exécutée
Registration hearings or reviews	21. —(1) This section applies to a hearing or review by the Board required by an applicant under subsection 20 (1).	21 (1) Le présent article s'applique à l'audience tenue ou au réexamen effectué par la Commission, et qu'exige l'auteur d'une demande en vertu du paragraphe 20 (1).	Audiences ou réexamens relatifs à l'inscription
Procedural provisions	(2) The following provisions apply with necessary modifications to a hearing or review: 1. Subsection 37 (4) (exclusion from panel). 2. Section 41 (disclosure of evidence). 3. Section 42 (no communication by panel members). 4. Section 48 (members of panel who participate). 5. Section 53 (release of evidence).	(2) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à une audience ou à un réexamen : 1. Le paragraphe 37 (4) (exclusion). 2. L'article 41 (divulgence des preuves). 3. L'article 42 (interdiction aux membres des sous-comités de communiquer). 4. L'article 48 (membres du sous-comité qui participent). 5. L'article 53 (communication des preuves).	Dispositions relatives à la procédure
Idem	(3) The following provisions also apply with necessary modifications to a hearing: 1. Section 44 (hearings open). 2. Section 45 (sexual misconduct witnesses). 3. Section 46 (transcript of hearings).	(3) Les dispositions suivantes s'appliquent également, avec les adaptations nécessaires, à une audience : 1. L'article 44 (audiences publiques). 2. L'article 45 (témoins d'inconduite sexuelle). 3. L'article 46 (transcription des audiences).	Idem
Findings of fact	(4) The findings of fact in a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the <i>Statutory Powers Procedure Act</i> .	(4) Lors d'une audience, les conclusions de fait se fondent uniquement sur les preuves admissibles ou les questions dont il peut être pris connaissance en vertu des articles 15 et 16 de la loi intitulée <i>Statutory Powers Procedure Act</i> («Loi sur l'exercice des compétences légales»).	Conclusions de fait
Idem	(5) The findings of fact in a review shall be based exclusively on the application and documentary evidence admissible or matters that may be noticed under sections 15 and 16 of the <i>Statutory Powers Procedure Act</i> .	(5) Lors d'un réexamen, les conclusions de fait se fondent uniquement sur la demande et les éléments de preuve documentaire admissibles ou sur les questions dont il peut être pris connaissance en vertu des articles 15 et 16 de la loi intitulée <i>Statutory Powers Procedure Act</i> («Loi sur l'exercice des compétences légales»).	Idem

Disposal by Board

(6) The Board shall, after the hearing or review, make an order doing any one or more of the following:

1. Confirming the order made by the panel.
2. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant if the applicant successfully completes any examinations or training the Registration Committee may specify.
3. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant and to impose any terms, conditions and limitations the Board considers appropriate.
4. Referring the matter back to the Registration Committee for further consideration by a panel, together with any recommendations the Board considers appropriate.

Idem

(7) The Board may make an order under paragraph 3 of subsection (6) only if the Board finds that the applicant substantially qualifies for registration and that the panel has exercised its powers improperly.

Idem

(8) The Board, in making an order under subsection (6), may direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement unless the requirement is prescribed as a non-exemptible requirement.

Parties

(9) The College and the applicant are parties to a hearing or review.

Register

22.—(1) The Registrar shall maintain a register.

Contents of register

(2) The register shall contain,

- (a) each member's name, business address and business telephone number;
- (b) each member's class of registration and specialist status;
- (c) the terms, conditions and limitations imposed on each certificate of registration;
- (d) a notation of every revocation and suspension of a certificate of registration;
- (e) the result of every disciplinary and incapacity proceeding;
- (f) information that the Registration, Discipline or Fitness to Practise Committee specifies shall be included; and
- (g) information that the regulations prescribe as information to be kept in the register.

Access to information

(3) A person may obtain, during normal business hours, the following information contained in the register:

1. Information described in clauses (2) (a) to (c).
2. The results of every disciplinary and incapacity proceeding completed within three years before the time the register was prepared or last updated,
 - i. in which a member's certificate of registration was revoked or suspended or

(6) À la suite de l'audience ou du réexamen, la Commission rend une ordonnance dans l'un ou l'autre, ou plusieurs, des buts suivants :

Décision de la Commission

1. Confirmer l'ordonnance rendue par le sous-comité.
2. Exiger du comité d'inscription qu'il rende une ordonnance enjoignant au registrateur de délivrer un certificat d'inscription à l'auteur de la demande si ce dernier réussit aux examens ou aux cours de formation que le comité d'inscription peut préciser.
3. Exiger du comité d'inscription qu'il rende une ordonnance enjoignant au registrateur de délivrer un certificat d'inscription à l'auteur de la demande et de l'assortir des conditions et des restrictions qu'elle estime opportunes.
4. Renvoyer la question au comité d'inscription pour qu'un sous-comité l'examine de nouveau, en y joignant les recommandations qu'elle estime opportunes.

Idem

(7) La Commission ne peut rendre d'ordonnance visée à la disposition 3 du paragraphe (6) que si elle constate que l'auteur de la demande satisfait pour l'essentiel aux exigences d'inscription et que le sous-comité a exercé ses pouvoirs de façon irrégulière.

Idem

(8) Lorsqu'elle rend une ordonnance aux termes du paragraphe (6), la Commission peut enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur d'une demande qui ne satisfait pas à une exigence d'inscription, à moins qu'il ne s'agisse d'une exigence prescrite comme étant une exigence à laquelle on ne peut se soustraire.

(9) Sont parties à une audience ou à un réexamen l'ordre et l'auteur de la demande.

Parties

22 (1) Le registrateur dresse un tableau.

Tableau

(2) Le tableau contient les renseignements suivants :

Contenu du tableau

- a) le nom, l'adresse professionnelle et le numéro de téléphone professionnel de chaque membre;
- b) la catégorie d'inscription et la qualité de spécialiste de chaque membre;
- c) les conditions et les restrictions dont est assorti chaque certificat d'inscription;
- d) l'indication de chaque révocation et de chaque suspension de certificat d'inscription;
- e) l'issue de chaque procédure disciplinaire et de chaque procédure pour incapacité;
- f) les renseignements que le comité d'inscription, le comité de discipline ou le comité d'aptitude professionnelle précise;
- g) les renseignements que les règlements prescrivent comme devant être conservés au tableau.

(3) Quiconque peut obtenir, pendant les heures de bureau, les renseignements suivants figurant au tableau :

Accès aux renseignements

1. Les renseignements visés aux alinéas (2) a) à c).
2. L'issue de chaque procédure disciplinaire et de chaque procédure pour incapacité qui a pris fin dans les trois ans ayant précédé la date à laquelle le tableau a été dressé ou mis à jour la dernière fois :
 - i. soit au cours de laquelle le certificat d'inscription d'un membre a été révo-

had terms, conditions or limitations imposed on it, or

- ii. in which a member was required to pay a fine or attend to be reprimanded or in which an order was suspended if the results of the proceeding were directed to be included in the register by the Discipline or Fitness to Practise Committee.

3. Information designated as public in the regulations.

(4) The Registrar shall provide to a person, upon the payment of a reasonable charge, a copy of any information in the register the person may obtain.

23. The Registrar may revoke a member's certificate of registration for failure to pay a prescribed fee after two months notice of the default and intention to revoke.

COMPLAINTS

24.—(1) A complaint filed with the Registrar regarding the conduct or actions of a member shall be investigated by a panel selected by the chair of the Complaints Committee from among the members of the Committee.

(2) A panel shall be composed of at least three persons, at least one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(3) Three members of a panel constitute a quorum.

(4) A panel shall not be selected unless the complaint is in writing.

(5) The Registrar shall give the member who is the subject of a complaint notice of the complaint and of the provisions of subsection 25 (1).

25.—(1) A member who is the subject of a complaint may make written submissions to the panel within thirty days after receiving notice under subsection 24 (5).

(2) A panel, after investigating a complaint regarding the conduct or actions of a member, considering the submissions of the member and considering or making reasonable efforts to consider all records and documents it considers relevant to the complaint, may do any one or more of the following:

1. Refer a specified allegation of the member's professional misconduct or incompetence to the Discipline Committee if the allegation is related to the complaint.
2. Refer the member to the Executive Committee for incapacity proceedings.
3. Require the member to appear before the panel to be cautioned.
4. Take action it considers appropriate that is not inconsistent with the health profession Act, this Code, the regulations or by-laws.

26. A panel shall give the complainant and the member who is the subject of the complaint,

qué ou suspendu ou a été assorti de conditions ou de restrictions,

- ii. soit au cours de laquelle un membre a été tenu de verser une amende ou de comparaître pour être réprimandé, ou au cours de laquelle une ordonnance a été suspendue si le comité de discipline ou le comité d'aptitude professionnelle a ordonné de consigner au tableau l'issue de la procédure.

3. Les renseignements désignés comme étant de nature publique dans les règlements.

(4) Le registrateur fournit à une personne, moyennant le versement de frais raisonnables, une copie de tous les renseignements figurant au tableau qu'elle est autorisée à obtenir.

23 Le registrateur peut révoquer le certificat d'inscription d'un membre si ce dernier n'acquiesce pas les droits prescrits deux mois après avoir reçu un avis de défaut de paiement et d'intention de révoquer.

PLAINTES

24 (1) Toute plainte relative à la conduite ou aux actes d'un membre qui est déposée auprès du registrateur fait l'objet d'une enquête par un sous-comité dont les membres sont choisis par le président du comité des plaintes parmi les membres du comité.

(2) Le sous-comité se compose d'au moins trois personnes, dont au moins une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

(3) Trois membres constituent le quorum d'un sous-comité.

(4) Un sous-comité ne peut être constitué que si la plainte est présentée par écrit.

(5) Le registrateur avise de la plainte et des dispositions du paragraphe 25 (1) le membre qui fait l'objet de la plainte.

25 (1) Le membre qui fait l'objet d'une plainte peut présenter des observations par écrit au sous-comité dans les trente jours suivant la réception de l'avis visé au paragraphe 24 (5).

(2) Après avoir fait enquête sur une plainte relative à la conduite ou aux actes d'un membre, avoir étudié les observations du membre et avoir examiné ou avoir fait des efforts raisonnables pour examiner tous les documents et éléments d'information qui, selon lui, se rapportent à la plainte, le sous-comité peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

1. Renvoyer toute allégation précisée de faute professionnelle ou d'incompétence du membre au comité de discipline, si elle se rapporte à la plainte.
2. Adresser le membre au bureau aux fins de procédures pour incapacité.
3. Exiger du membre qu'il se présente devant le sous-comité pour recevoir un avertissement.
4. Prendre toute mesure qu'il estime opportune et qui n'est pas incompatible avec la loi sur une profession de la santé, le présent code, les règlements ou les règlements administratifs.

26 Le sous-comité donne au plaignant et au membre qui fait l'objet de la plainte les documents suivants :

Information from register

Revocation for non-payment of fees

Panel for investigation of complaints

Composition

Quorum

Complaint in writing

Notice to member

Consideration by panel

Powers of panel

Notice of decision

Renseignements figurant au tableau

Révocation pour cause de non-acquiescement des droits

Sous-comité chargé de faire enquête sur les plaintes

Composition

Quorum

Plainte par écrit

Avis adressé au membre

Examen par le sous-comité

Pouvoirs du sous-comité

Avis de décision

- (a) a copy of its decision;
- (b) a copy of its reasons, if the panel decided to take no action with respect to a complaint or to do anything under paragraph 3 or 4 of subsection 25 (2); and
- (c) a notice advising the member and the complainant of any right to request a review they may have under subsection 28 (2).

- a) une copie de sa décision;
- b) une copie du texte des motifs, si le sous-comité a décidé de ne prendre aucune mesure à l'égard de la plainte ou de prendre la mesure prévue à la disposition 3 ou 4 du paragraphe 25 (2);
- c) un avis informant le membre et le plaignant de tout droit de demander un réexamen qui peut leur être conféré en vertu du paragraphe 28 (2).

Timely disposal

27.—(1) A panel shall dispose of a complaint within 120 days after the filing of the complaint.

27 (1) Le sous-comité statue sur la plainte dans les 120 jours qui suivent son dépôt.

If complaint not disposed of

(2) If a complaint regarding the conduct or actions of a member has not been disposed of by a panel within 120 days after the filing of the complaint, the Board, on application of the member or the complainant, may require the Complaints Committee to ensure the complaint is disposed of.

(2) Si le sous-comité n'a pas statué sur la plainte relative à la conduite ou aux actes d'un membre dans les 120 jours qui suivent son dépôt, la Commission peut, à la demande du membre ou du plaignant, exiger du comité des plaintes qu'il fasse en sorte qu'il soit statué sur la plainte.

If further delay

(3) If the complaint is not disposed of within sixty days after the Board's requirement, the Board shall investigate the complaint and make an order under subsection (5) within 120 days after the Board's requirement.

(3) S'il n'est toujours pas statué sur la plainte dans les soixante jours après que la Commission l'a exigé, cette dernière fait enquête sur la plainte et rend une ordonnance en vertu du paragraphe (5) dans les 120 jours après que la Commission a exigé qu'il soit statué sur la plainte.

Board's investigatory powers

(4) In investigating a complaint, the Board has all the powers of a panel of the Complaints Committee and of the Registrar with respect to the investigation of the matter and, in particular, the Board may appoint an investigator under clause 73 (c).

(4) Lorsqu'elle fait enquête sur une plainte, la Commission est dotée des pouvoirs d'un sous-comité du comité des plaintes et de ceux du registraire à l'égard de l'enquête sur la question et peut, notamment, nommer un enquêteur en vertu de l'alinéa 73 c).

Powers of Board

(5) After an investigation, the Board may do any one or more of the following:

(5) Après son enquête, la Commission peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

1. Refer the matter to the Complaints Committee.
2. Make recommendations the Board considers appropriate to the Complaints Committee.
3. Require the Complaints Committee or a panel to do anything the Committee or a panel may do under the health profession Act and this Code except to request the Registrar to conduct an investigation.

1. Renvoyer la question au comité des plaintes.
2. Faire les recommandations qu'elle estime opportunes à l'intention du comité des plaintes.
3. Exiger du comité des plaintes ou d'un sous-comité qu'il prenne toute mesure que le comité ou un sous-comité est habilité à prendre en vertu de la loi sur une profession de la santé et du présent code, sauf s'il s'agit de demander au registraire de mener une enquête.

Review by Board

28.—(1) Subject to section 29, the Board shall review a decision of a panel of the Complaints Committee if the Board receives a request under subsection (2).

28 (1) Sous réserve de l'article 29, la Commission réexamine la décision d'un sous-comité du comité des plaintes si elle reçoit une demande aux termes du paragraphe (2).

Request for review

(2) The complainant or the member who is the subject of the complaint may request the Board to review a decision of a panel of the Complaints Committee unless the decision was,

(2) Le plaignant ou le membre qui fait l'objet de la plainte peut demander à la Commission de réexaminer la décision d'un sous-comité du comité des plaintes, sauf si la décision avait pour objet :

- (a) to refer an allegation of professional misconduct or incompetence to the Discipline Committee; or
- (b) to refer the member to the Executive Committee for incapacity proceedings.

- a) soit de renvoyer une allégation de faute professionnelle ou d'incompétence au comité de discipline;
- b) soit d'adresser le membre au bureau aux fins de procédures pour incapacité.

Time limit

(3) A request for a review may be made only within thirty days after the receipt of the notice of the right to request a review given under clause 26 (c).

(3) La demande de réexamen ne peut être présentée que dans les trente jours suivant la réception de l'avis relatif au droit de demander un réexamen donné aux termes de l'alinéa 26 c).

Parties

(4) The complainant and the member who is the subject of the complaint are parties to a review.

(4) Sont parties à un réexamen le plaignant et le membre qui fait l'objet de la plainte.

When no review

29.—(1) The Board shall not review a decision if the party who requested the review withdraws the request and the other party consents.

29 (1) La Commission ne réexamine pas la décision si la partie qui demande le réexamen retire sa demande et que l'autre partie y consent.

Request in bad faith, etc.	(2) If the Board considers a request to review a decision to have been frivolous, vexatious, made in bad faith or otherwise an abuse of process, it shall give the parties notice that it intends not to proceed with the review and that the parties have a right to make written submissions within thirty days after receiving the notice.	(2) Si la Commission estime qu'une demande de réexamen de décision est frivole, vexatoire ou faite de mauvaise foi, ou qu'elle constitue par ailleurs un usage abusif de la procédure, elle avise les parties de son intention de ne pas donner suite au réexamen et du droit qu'ont ces dernières de présenter des observations par écrit dans les trente jours suivant la réception de l'avis.	Demande faite de mauvaise foi
Idem	(3) If the Board is satisfied, after considering the written submissions of the parties, that a request was frivolous, vexatious, made in bad faith or otherwise an abuse of process, the Board shall not review the decision.	(3) Si la Commission est convaincue, après étude des observations écrites des parties, qu'une demande est frivole, vexatoire ou faite de mauvaise foi, ou qu'elle constitue par ailleurs un usage abusif de la procédure, elle ne réexamine pas la décision.	Idem
Personal representative as complainant	30. A complainant's personal representative may act as the complainant for the purposes of a review of the decision by the Board if the complainant dies or becomes incapacitated.	30 Le représentant d'un plaignant peut agir à titre de plaignant aux fins du réexamen de la décision par la Commission si le plaignant décède ou est frappé d'incapacité.	Représentant à titre de plaignant
Record of decision to be reviewed	31. —(1) If the Board is requested to review a decision, the Registrar shall give the Board, within fifteen days after the Board's request, a record of the investigation and the documents and things upon which the decision was based.	31 (1) Si demande est faite à la Commission de réexaminer une décision, le registrateur lui remet dans les quinze jours suivant sa demande un compte rendu de l'enquête, ainsi que les documents et choses sur lesquels la décision était fondée.	Examen du compte rendu de la décision
Disclosure	(2) Before reviewing a decision, the Board shall disclose to the parties and to the Complaints Committee everything given to it by the Registrar under subsection (1).	(2) Avant de procéder au réexamen de la décision, la Commission divulgue auprès des parties et du comité des plaintes tout ce que lui a remis le registrateur aux termes du paragraphe (1).	Divulguation
Exceptions	(3) The Board may refuse to disclose anything that may, in its opinion, (a) disclose matters involving public security; (b) undermine the integrity of the complaint investigation and review process; (c) disclose financial or personal or other matters of such a nature that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that disclosure be made; (d) prejudice a person involved in a criminal proceeding or in a civil suit or proceeding; or (e) jeopardize the safety of any person.	(3) La Commission peut refuser de divulguer tout ce qui, à son avis, risque, selon le cas : (a) d'entraîner la divulgation de questions touchant à la sécurité publique; (b) d'ébranler l'intégrité du processus d'enquête sur la plainte et de réexamen; (c) de divulguer des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel la divulgation doit avoir lieu; (d) de léser une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile; (e) de mettre en danger la sécurité de quiconque.	Exceptions
Conduct of review	32. —(1) In a review, the Board shall consider either or both of, (a) the adequacy of the investigation conducted; or (b) the reasonableness of the decision.	32 (1) Lors d'un réexamen, la Commission prend en considération l'un et l'autre, ou un seul, des éléments suivants : (a) le caractère adéquat de l'enquête menée; (b) le caractère raisonnable de la décision.	Procédure de réexamen
Procedure	(2) In conducting a review, the Board. (a) shall give the party requesting the review an opportunity to comment on the matters set out in clauses (1) (a) and (b) and the other party an opportunity to respond to those comments; (b) may question the parties and a representative of the College; (c) may permit the parties to make representations with respect to issues raised by any questions asked under clause (b); and (d) shall not allow the parties or the representative of the College to question each other.	(2) Lorsqu'elle procède à un réexamen, la Commission : (a) donne à la partie qui demande le réexamen la possibilité de faire des commentaires sur les questions énoncées aux alinéas (1) a) et b), et à l'autre partie la possibilité d'y répondre; (b) peut interroger les parties et un représentant de l'ordre; (c) peut permettre aux parties de présenter des observations sur les questions soulevées par toute question posée en vertu de l'alinéa b); (d) ne permet pas aux parties et au représentant de l'ordre de s'interroger mutuellement.	Procédure
Procedural provisions	33. The following provisions apply with necessary modifications to a review by the Board:	33 Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, aux réexamens effectués par la Commission :	Dispositions relatives à la procédure

1. Section 42 (no communication by panel members).
2. Section 43 (legal advice).
3. Section 44 (hearings open).
4. Section 45 (sexual misconduct witnesses).
5. Section 48 (members of panel who participate).
6. Section 53 (release of evidence).

Powers of Board

34.—(1) After conducting a review of a decision, the Board may do any one or more of the following:

1. Confirm all or part of the decision.
2. Make recommendations the Board considers appropriate to the Complaints Committee.
3. Require the Complaints Committee to do anything the Committee or a panel may do under the health profession Act and this Code except to request the Registrar to conduct an investigation.

Decision in writing

(2) The Board shall give its decision and reasons in writing to the parties and the Complaints Committee.

DISCIPLINE

Executive Committee referral

35. The Executive Committee may refer a specified allegation of a member's professional misconduct or incompetence to the Discipline Committee.

Interim suspension

36.—(1) The Executive Committee may, subject to subsection (4), make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if.

- (a) it has referred a matter involving the member to the Discipline Committee; and
- (b) it is of the opinion that the conduct of the member exposes or is likely to expose his or her patients to harm or injury.

Procedure following interim suspension

(2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Discipline Committee,

- (a) the College shall prosecute the matter expeditiously; and
- (b) the Discipline Committee shall give precedence to the matter.

Duration of order

(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Discipline Committee.

Restrictions on orders

(4) No order shall be made under subsection (1) with respect to a member by the Executive Committee unless the member has been given,

- (a) notice of the Committee's intention to make the order; and
- (b) at least fourteen days to make written submissions to the Committee.

Panel for discipline hearing

37.—(1) The chair of the Discipline Committee shall select a panel from among the members of the Committee to hold a hearing of allegations of a member's professional misconduct or incompetence referred to the Committee by the Executive or Complaints Committee.

1. L'article 42 (interdiction aux membres des sous-comités de communiquer).
2. L'article 43 (avis juridiques).
3. L'article 44 (audiences publiques).
4. L'article 45 (témoins d'inconduite sexuelle).
5. L'article 48 (membres du sous-comité qui participent).
6. L'article 53 (communication des preuves).

34 (1) Après avoir effectué le réexamen d'une décision, la Commission peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

1. Confirmer la décision, en totalité ou en partie.
2. Faire les recommandations qu'elle estime opportunes à l'intention du comité des plaintes.
3. Exiger du comité des plaintes qu'il prenne toute mesure qu'il est habilité à prendre en vertu de la loi sur une profession de la santé et du présent code, sauf s'il s'agit de demander au registrateur de mener une enquête.

(2) La Commission communique sa décision motivée par écrit aux parties et au comité des plaintes.

DISCIPLINE

35 Le bureau peut renvoyer au comité de discipline toute allégation précisée de faute professionnelle ou d'incompétence d'un membre.

36 (1) Le bureau peut, sous réserve du paragraphe (4), rendre une ordonnance provisoire enjoignant au registrateur de suspendre le certificat d'inscription d'un membre ou de l'assortir de conditions ou de restrictions si :

- a) d'une part, il a renvoyé au comité de discipline une question mettant en cause le membre;
- b) d'autre part, il est d'avis que la conduite du membre expose ou exposera vraisemblablement ses patients à un préjudice ou à des blessures.

(2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité de discipline :

- a) d'une part, l'ordre traite la question avec célérité;
- b) d'autre part, le comité de discipline donne priorité à la question.

(3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité de discipline.

(4) Aucune ordonnance ne peut être rendue en vertu du paragraphe (1) à l'égard d'un membre par le bureau sans que le membre :

- a) ait été avisé de l'intention du bureau de rendre l'ordonnance;
- b) ait bénéficié d'un délai d'au moins quatorze jours pour présenter des observations par écrit au bureau.

37 (1) Le président du comité de discipline constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur les allégations de faute professionnelle ou d'incompétence d'un membre, renvoyées au comité par le bureau ou par le comité des plaintes.

Pouvoirs de la Commission

Décision par écrit

Renvoi des allégations par le bureau

Suspension provisoire

Procédure suivant la suspension provisoire

Effet de l'ordonnance

Restrictions relatives aux ordonnances

Sous-comité constitué pour les questions disciplinaires

Composition	(2) A panel shall be composed of at least three and no more than five persons, at least two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.	(2) Le sous-comité se compose d'au moins trois et d'au plus cinq personnes, dont au moins deux sont des personnes nommées au conseil par le lieutenant-gouverneur en conseil.	Composition
Composition	(3) One of the members of a panel shall be both a member of the College and a member of the Council.	(3) Un des membres du sous-comité est à la fois membre de l'ordre et membre du conseil.	Composition
Exclusion from panel	(4) No person shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing.	(4) Ne peut être choisi pour faire partie du sous-comité quiconque a participé à l'enquête sur ce qui doit constituer l'objet de l'audience du sous-comité.	Exclusion
Quorum	(5) Three members of a panel constitute a quorum.	(5) Trois membres constituent le quorum d'un sous-comité.	Quorum
Requirements re panel	38. —(1) A member of a panel who was appointed to the Council by the Lieutenant Governor in Council must be present for a hearing to commence.	38 (1) Le membre du sous-comité qui a été nommé au conseil par le lieutenant-gouverneur en conseil doit être présent pour que l'audience puisse commencer.	Exigences relatives au sous-comité
Panel members deemed to continue	(2) A member of a panel who ceases to be a member of the Discipline Committee after a hearing of a matter has commenced before the panel shall be deemed, for the purposes of dealing with that matter, to remain a member of the panel until the final disposition of the matter.	(2) Le membre d'un sous-comité qui cesse d'être membre du comité de discipline après qu'a commencé l'audition d'une question devant le sous-comité est réputé, aux fins du règlement de la question, être toujours membre du sous-comité jusqu'à ce que la question soit tranchée de façon définitive.	Les membres du sous-comité sont réputés maintenus
Amendment of notice of hearing	39. A panel may at any time permit a notice of hearing of allegations against a member to be amended to correct errors or omissions of a minor or clerical nature if it is of the opinion that it is just and equitable to do so and the panel may make any order it considers necessary to prevent prejudice to the member.	39 Le sous-comité peut en tout temps permettre que l'avis d'audience relative aux allégations faites contre un membre soit modifié pour corriger les erreurs ou omissions mineures ou les coquilles qui s'y trouvent, s'il est d'avis qu'il est juste et équitable de ce faire. Le sous-comité peut rendre toute ordonnance qu'il estime nécessaire pour éviter tout préjudice au membre.	Modification des avis d'audience
Parties	40. The College and the member against whom allegations have been made are parties to a hearing.	40 Sont parties à l'audience l'ordre et le membre contre lequel des allégations ont été faites.	Parties
Disclosure of evidence	41. —(1) Evidence against a member is not admissible at a hearing of allegations against the member unless the member is given, at least ten days before the hearing. (a) in the case of written or documentary evidence, an opportunity to examine the evidence; (b) in the case of evidence of an expert, a copy of the expert's written report or if there is no written report, a written summary of the evidence; or (c) in the case of evidence of a witness, the identity of the witness.	41 (1) Les preuves contre un membre ne sont recevables lors de l'audition des allégations faites contre lui que si, au moins dix jours avant l'audience, il a été donné au membre, selon le cas : a) dans le cas d'éléments de preuve écrite ou documentaire, la possibilité de les examiner; b) dans le cas de preuves provenant d'un expert, une copie du rapport écrit de l'expert, ou à défaut d'un tel rapport, un sommaire écrit des preuves; c) dans le cas de preuves testimoniales, l'identité des témoins.	Divulgence des preuves
Exception	(2) A panel may, in its discretion, allow the introduction of evidence that is inadmissible under subsection (1) and may make directions it considers necessary to ensure that the member is not prejudiced.	(2) Le sous-comité peut, à sa discrétion, permettre la présentation de preuves qui ne sont pas recevables aux termes du paragraphe (1) et peut donner des directives qu'il estime nécessaires pour empêcher que le membre soit lésé.	Exception
No communication by panel members	42. No member of a panel holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or the party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication.	42 Aucun membre d'un sous-comité qui tient une audience ne peut s'entretenir, en dehors de l'audience, avec une partie ou son représentant à propos de l'objet de l'audience, sans que l'autre partie ait été avisée de l'objet de l'entretien et qu'il lui soit donné la possibilité d'y assister.	Interdiction aux membres des sous-comités de communiquer
Legal advice	43. If a panel obtains legal advice with respect to a hearing, it shall make the nature of the advice known to the parties and they may make submissions with respect to the advice.	43 Si un sous-comité obtient des avis juridiques relativement à une audience, il en fait connaître la nature aux parties et ces dernières peuvent présenter des observations à cet égard.	AVIS juridiques
Hearings public	44. —(1) A hearing shall, subject to subsection (2), be open to the public.	44 (1) Sous réserve du paragraphe (2), les audiences sont publiques.	Audiences publiques
Exclusion of public	(2) The panel may make an order that the public be excluded from a hearing if the panel is satisfied that,	(2) Le sous-comité peut rendre une ordonnance portant que l'audience doit être tenue à huis clos, s'il est convaincu que :	Huis clos

	(a) matters involving public security may be disclosed;	a) des questions touchant à la sécurité publique risquent d'être divulguées;	
	(b) financial or personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;	b) risquent d'être divulguées lors de l'audience des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel les audiences doivent être publiques;	
	(c) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or	c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;	
	(d) the safety of a person may be jeopardized.	d) la sécurité de quiconque risque d'être mise en danger.	
Orders preventing public disclosure	(3) In situations in which the panel may make an order that the public be excluded from a hearing, it may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.	(3) Dans les cas où le sous-comité peut rendre une ordonnance portant que l'audience doit se tenir à huis clos, il peut rendre les ordonnances qu'il estime nécessaires pour empêcher la divulgation dans le public des questions dont il a été fait état lors de l'audience, et notamment proscrire la publication ou la radiodiffusion de ces questions.	Ordonnances interdisant la divulgation
Public information may be disclosed	(4) No order shall be made under subsection (3) that prevents the publication of anything that is contained in the register and available to the public.	(4) Nulle ordonnance empêchant la publication des renseignements qui figurent au tableau et qui sont accessibles au public ne peut être rendue en vertu du paragraphe (3).	Possibilité de divulguer les renseignements publics
Exclusion of public	(5) The panel may make an order that the public be excluded from the part of a hearing dealing with a motion for an order under subsection (2).	(5) Le sous-comité peut rendre une ordonnance portant que la partie de l'audience qui traite d'une motion visant à obtenir une ordonnance en vertu du paragraphe (2) doit se tenir à huis clos.	Huis clos
Orders with respect to matters in submissions	(6) The panel may make any order necessary to prevent the public disclosure of matters disclosed in the submissions relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.	(6) Le sous-comité peut rendre toute ordonnance nécessaire pour empêcher la divulgation dans le public des questions dont il est fait état dans les observations relatives à une motion visée au paragraphe (5), et notamment proscrire la publication ou la radiodiffusion de ces questions.	Ordonnances à l'égard des questions énoncées dans les observations
Reasons for order, etc.	(7) The panel shall ensure that any order it makes under this section and its reasons are available to the public in writing.	(7) Le sous-comité fait en sorte que toute ordonnance qu'il rend en vertu du présent article soit accessible au public sous forme écrite et accompagnée des motifs.	Motifs à l'appui de l'ordonnance
Reconsidering of order	(8) The panel may reconsider an order made under subsection (2) or (3) at the request of any person or on its own motion.	(8) Le sous-comité peut réexaminer toute ordonnance rendue en vertu du paragraphe (2) ou (3), à la demande de quiconque ou de sa propre initiative.	Réexamen de l'ordonnance
Sexual misconduct witnesses	45. A panel shall, on the request of a witness whose testimony is in relation to allegations of a member's misconduct of a sexual nature involving the witness, make an order that no person shall publish the identity of the witness or any information that could disclose the identity of the witness.	45 Le sous-comité, à la demande d'un témoin dont le témoignage se rapporte aux allégations d'inconduite d'ordre sexuel de la part d'un membre et qui concerne le témoin, rend une ordonnance portant que nul ne doit rendre publics l'identité du témoin ni aucun renseignement susceptible de révéler l'identité du témoin.	Témoins d'inconduite sexuelle
Transcript of hearings	46.—(1) The panel holding a hearing shall ensure that, (a) the oral evidence is recorded; (b) copies of the transcript of the hearing are available to a party on the party's request at the party's expense; and (c) copies of the transcript of any part of the hearing that is not the subject of an order prohibiting publication are available to any person at that person's expense.	46 (1) Le sous-comité qui tient une audience veille à ce que : a) les témoignages oraux soient consignés; b) la copie de la transcription de l'audience soit accessible aux parties qui en font la demande, à leurs frais; c) la copie de la transcription de toute partie de l'audience dont la publication n'est pas interdite par ordonnance soit accessible à quiconque, à ses frais.	Transcriptio des audiences
Transcripts filed with court	(2) If a transcript of a part of a hearing that is the subject of an order prohibiting publication is filed with a court in respect of proceedings, only the court and the parties to the proceedings may examine it unless the court orders otherwise.	(2) Si la transcription d'une partie de l'audience qui fait l'objet d'une ordonnance en interdisant la publication est déposée auprès d'un tribunal relativement à une instance, seuls le tribunal et les parties à l'instance peuvent l'examiner, sauf ordonnance contraire du tribunal.	Transcriptio déposée auprès du tribunal.
Admissibility of evidence	47. Despite the <i>Statutory Powers Procedure Act</i> , nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the find-	47 Malgré la loi intitulée <i>Statutory Powers Procedure Act</i> (« <i>Loi sur l'exercice des compétences légales</i> »), sont irrecevables lors d'une audience les	Recevabilité des preuves

ings of a panel shall be based exclusively on evidence admitted before it.

Members of panel who participate

48. Only the members of a panel who were present throughout a hearing shall participate in the panel's decision.

Professional misconduct

49.—(1) A panel shall find that a member has committed an act of professional misconduct if,

- (a) the member has been convicted of an offence that is relevant to the member's suitability to practise;
- (b) the governing body of a health profession in a jurisdiction other than Ontario has found that the member committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined in the regulations; or
- (c) the member has committed an act of professional misconduct as defined in the regulations.

Orders

(2) If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration for a specified period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
4. Requiring the member to appear before the panel to be reprimanded.
5. Requiring the member to pay a fine of not more than \$10,000 to the Treasurer of Ontario.

Idem

(3) In making an order under paragraph 2 or 3 of subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.

Suspension of order

(4) A panel may suspend the effect of an order made under subsection (2) for a specified period and on specified conditions.

Incompetence

50.—(1) A panel shall find a member to be incompetent if the member's professional care of a patient displayed a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates that the member is unfit to continue to practise or that the member's practice should be restricted.

Order

(2) If a panel finds a member is incompetent, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.

preuves qui ne seraient pas recevables devant un tribunal dans le cadre d'une action civile, et les conclusions d'un sous-comité se fondent uniquement sur les preuves qu'il reçoit.

48 Seuls les membres d'un sous-comité qui étaient présents du début d'une audience à la fin participent à la décision du sous-comité.

49 (1) Le sous-comité conclut qu'un membre a commis une faute professionnelle si, selon le cas :

- a) le membre a été déclaré coupable d'une infraction qui se rapporte à son aptitude à exercer sa profession;
- b) le corps dirigeant d'une profession de la santé dans un ressort autre que l'Ontario a conclu que le membre avait commis une faute professionnelle qui, de l'avis du sous-comité, constitue une faute professionnelle telle que la définissent les règlements;
- c) le membre a commis une faute professionnelle telle que la définissent les règlements.

(2) Si un sous-comité conclut qu'un membre a commis une faute professionnelle, il peut, par ordonnance :

1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre.
2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre pour une durée déterminée.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie.
4. Exiger du membre qu'il se présente devant le sous-comité pour être réprimandé.
5. Exiger du membre qu'il verse une amende d'au plus 10 000 \$ au trésorier de l'Ontario.

(3) Lorsqu'il rend une ordonnance en vertu de la disposition 2 ou 3 du paragraphe (2), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.

(4) Le sous-comité peut suspendre l'effet d'une ordonnance rendue en vertu du paragraphe (2) pour une durée déterminée et dans des conditions précisées.

50 (1) Le sous-comité conclut à l'incompétence d'un membre si les soins professionnels donnés à un patient manifestent un manque de connaissance, de compétence ou de jugement, ou de l'indifférence pour le bien-être du patient, d'un ordre ou dans une mesure qui démontre que le membre est inapte à exercer sa profession ou que ses activités professionnelles doivent être restreintes.

(2) Si le sous-comité conclut à l'incompétence d'un membre, il peut, par ordonnance :

1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre.
2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre.
3. Enjoindre au registrateur d'assortir de conditions et de restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie.

Membres du sous-comité qui participent

Faute professionnelle

Ordonnances

Idem

Suspension d'ordonnance

Incompétence

Ordonnance

Idem	(3) In making an order under subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.	(3) Lorsqu'il rend une ordonnance en vertu du paragraphe (2), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.	Idem
Costs if proceedings unwarranted	51. If a panel is of the opinion that the commencement of proceedings was unwarranted, it may make an order requiring the College to pay all or part of the member's legal costs.	51 Le sous-comité qui est d'avis que l'introduction d'une instance était injustifiée peut rendre une ordonnance exigeant de l'ordre qu'il paie tout ou partie des frais judiciaires du membre.	Frais en cas d'instances injustifiées
Decision to complainant	52. A panel shall give its decision and reasons in writing to the parties and, if the matter had been referred to the Discipline Committee by the Complaints Committee, to the complainant in the matter.	52 Le sous-comité communique sa décision motivée par écrit aux parties et, si la question a été renvoyée au comité de discipline par le comité des plaintes, au plaignant.	Communication de la décision au plaignant
Release of evidence	53. The Discipline Committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined.	53 Le comité de discipline communique, sur demande, les documents et choses présentés en preuve lors d'une audience à la personne qui les a produits, dans un délai raisonnable après que la question en litige a été tranchée de façon définitive.	Communication des preuves
Publication of decisions	54.—(1) The College shall publish a panel's decision and its reasons, or a summary of its reasons, in its annual report and may publish the decision and reasons or summary in any other publication of the College.	54 (1) L'ordre doit publier la décision motivée du sous-comité, ou la décision et un résumé des motifs à l'appui de celle-ci, dans son rapport annuel. Il peut publier la décision motivée ou la décision et le résumé des motifs dans n'importe quelle autre de ses publications.	Publication des décisions
Publication of member's name	(2) In publishing a decision and reasons or summary under subsection (1), the College shall publish the name of the member who was the subject of the proceeding if, <ul style="list-style-type: none"> (a) the results of the proceeding may be obtained by a person from the register; or (b) the member requests the publication of his or her name. 	(2) Lorsqu'il publie une décision motivée ou une décision et un résumé des motifs aux termes du paragraphe (1), l'ordre publie le nom du membre qui fait l'objet de l'instance si, selon le cas : <ul style="list-style-type: none"> a) quiconque peut connaître l'issue de l'instance en consultant le tableau; b) le membre demande que son nom soit publié. 	Publication du nom du membre
Withholding of member's name	(3) The College shall not publish the member's name unless it is required to do so under subsection (2).	(3) L'ordre ne publie pas le nom du membre à moins d'y être tenu aux termes du paragraphe (2).	Non-publication du nom du membre
INCAPACITY			
Registrar's inquiry	55. If the Registrar believes that a member may be incapacitated, the Registrar shall make inquiries he or she considers appropriate and shall report the results of the inquiries to the Executive Committee.	55 Le registrateur qui croit qu'un membre est peut-être frappé d'incapacité mène les enquêtes qu'il estime appropriées et présente au bureau un rapport sur le résultat de ces enquêtes.	Enquête du registrateur
Appointment of board of inquiry	56.—(1) The Executive Committee may appoint a board of inquiry to inquire into whether a member is incapacitated if it receives, <ul style="list-style-type: none"> (a) a report from the Registrar under section 55; or (b) a referral from a panel of the Complaints Committee under paragraph 2 of subsection 25 (2). 	56 (1) Une commission d'enquête chargée de mener une enquête afin d'établir si un membre est frappé d'incapacité peut être constituée par le bureau si celui-ci reçoit, selon le cas : <ul style="list-style-type: none"> a) un rapport du registrateur visé à l'article 55; b) un renvoi effectué par un sous-comité du comité des plaintes en vertu de la disposition 2 du paragraphe 25 (2). 	Constitution d'une commission d'enquête
Notice to member	(2) The Executive Committee shall give a member notice that it intends to appoint a board of inquiry to inquire into whether the member is incapacitated before it appoints a board.	(2) Le bureau avise au préalable le membre de son intention de constituer une commission d'enquête pour mener une enquête afin d'établir si le membre est frappé d'incapacité.	Avis adressé au membre
Composition of board	(3) A board of inquiry shall be composed of one member of the Council who was appointed by the Lieutenant Governor in Council and two or more members of the College.	(3) La commission d'enquête se compose d'un membre du conseil qui a été nommé par le lieutenant-gouverneur en conseil et d'au moins deux membres de l'ordre.	Composition de la commission
Inquiries by board	57.—(1) A board of inquiry shall make inquiries it considers appropriate.	57 (1) La commission d'enquête mène les enquêtes qu'elle estime appropriées.	Enquêtes de la commission
Physical or mental examinations	(2) If, after making inquiries, a board of inquiry has reasonable and probable grounds to believe that the member who is the subject of the inquiry is incapacitated, the board may require the member to submit to physical or mental examinations conducted or ordered by a health professional specified by the board and may, subject to section 61, make an order	(2) Si, au terme de ses enquêtes, la commission d'enquête a des motifs raisonnables et probables de croire que le membre qui fait l'objet de l'enquête est frappé d'incapacité, elle peut exiger de lui qu'il subisse des examens physiques ou mentaux pratiqués ou ordonnés par un professionnel de la santé qu'elle désigne et peut, sous réserve de l'article 61, rendre	Examens physiques ou mentaux

directing the Registrar to suspend the member's certificate of registration until he or she submits to the examinations.

58. A board of inquiry shall report to the Executive Committee and shall give a copy of its report and a copy of any report on an examination required under subsection 57 (2) to the member who was the subject of the inquiry.

59. After receiving the report of a board of inquiry, the Executive Committee may refer the matter to the Fitness to Practise Committee.

60.—(1) The Executive Committee may, subject to section 61, make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if,

- (a) it has referred a matter involving the member to the Fitness to Practise Committee; and
- (b) it is of the opinion that the physical or mental state of the member exposes or is likely to expose his or her patients to harm or injury.

(2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Fitness to Practise Committee,

- (a) the College shall prosecute the matter expeditiously; and
- (b) the Fitness to Practise Committee shall give precedence to the matter.

(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Fitness to Practise Committee.

61. No order shall be made with respect to a member by a board of inquiry under subsection 57 (2) or by the Executive Committee under subsection 60 (1) unless the member has been given,

- (a) notice of the intention of the board or Committee to make the order;
- (b) at least fourteen days to make written submissions to the board or Committee; and
- (c) in the case of an order by the Executive Committee under subsection 60 (1), a copy of the provisions of section 60.

62.—(1) The chair of the Fitness to Practise Committee shall select a panel from among the members of the Committee to hold a hearing of any matter referred to the Committee by the Executive Committee.

(2) A panel shall be composed of at least three persons, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(3) Three members of a panel constitute a quorum.

63. The College, the member who is alleged to be incapacitated and any other person specified by the panel are parties to a hearing.

64.—(1) A health professional shall not give, at a hearing, evidence in his or her professional capacity unless he or she prepares and signs a report containing his or her findings and the facts they are based on and the report is introduced by a party as evidence.

une ordonnance enjoignant au registrateur de suspendre le certificat d'inscription du membre jusqu'à ce qu'il ait subi ces examens.

58 La commission d'enquête présente un rapport au bureau et en remet une copie, ainsi qu'une copie de tout rapport relatif aux examens exigés aux termes du paragraphe 57 (2), au membre qui a fait l'objet de l'enquête.

59 Après avoir reçu le rapport d'une commission d'enquête, le bureau peut renvoyer la question au comité d'aptitude professionnelle.

60 (1) Le bureau peut, sous réserve de l'article 61, rendre une ordonnance provisoire enjoignant au registrateur de suspendre le certificat d'inscription d'un membre ou de l'assortir de conditions ou de restrictions si :

- a) d'une part, il a renvoyé au comité d'aptitude professionnelle une question mettant en cause le membre;
- b) d'autre part, il est d'avis que l'état physique ou mental du membre expose ou exposera vraisemblablement ses patients à un préjudice ou à des blessures.

(2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité d'aptitude professionnelle :

- a) d'une part, l'ordre traite la question avec célérité;
- b) d'autre part, le comité d'aptitude professionnelle donne priorité à la question.

(3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité d'aptitude professionnelle.

61 Aucune ordonnance ne peut être rendue à l'égard d'un membre par une commission d'enquête en vertu du paragraphe 57 (2) ou par le bureau en vertu du paragraphe 60 (1) sans que le membre :

- a) ait été avisé de l'intention de la commission ou du bureau de rendre l'ordonnance;
- b) ait bénéficié d'un délai d'au moins quatorze jours pour présenter des observations par écrit à la commission ou au bureau;
- c) ait reçu copie des dispositions de l'article 60, dans le cas d'une ordonnance émanant du bureau, prévue au paragraphe 60 (1).

62 (1) Le président du comité d'aptitude professionnelle constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur toute question renvoyée au comité par le bureau.

(2) Le sous-comité se compose d'au moins trois personnes, dont l'une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

(3) Trois membres constituent le quorum d'un sous-comité.

63 Sont parties à une audience l'ordre, le membre dont il est allégué qu'il est frappé d'incapacité et toute autre personne que précise le sous-comité.

64 (1) Un professionnel de la santé ne peut témoigner à une audience, en qualité de professionnel, à moins qu'il dresse et signe un rapport qui comprend ses conclusions et les faits sur lesquels celles-ci se fondent et que son rapport soit présenté en preuve par une partie.

Board's report

Referral to Fitness to Practise Committee

Interim suspension

Procedure following interim suspension

Duration of order

Restrictions on orders

Panels for Fitness to Practise hearings

Composition

Quorum

Parties

Testimony of health professionals

Rapport de la commission

Renvoi au comité d'aptitude professionnelle

Suspension provisoire

Procédure suivant la suspension provisoire

Effet de l'ordonnance

Restrictions relatives aux ordonnances

Sous-comité constitué pour les questions d'aptitude professionnelle

Composition

Quorum

Parties

Témoignage des professionnels de la santé

Reports

(2) A report described in subsection (1) is admissible as evidence at a hearing without proof of its making or of the health professional's signature if a copy of the report is given to the other parties at least ten days before the hearing.

(2) Le rapport visé au paragraphe (1) est recevable en preuve lors d'une audience sans qu'il soit nécessaire de prouver son authenticité ou celle de la signature du professionnel de la santé, si une copie en est remise aux autres parties au moins dix jours avant l'audience.

Rapports

Cross-examination

(3) If a report described in subsection (1) is introduced by a party, the other parties may summon and cross-examine the person who prepared the report.

(3) Si le rapport visé au paragraphe (1) est présenté par une partie, les autres parties peuvent assigner et contre-interroger la personne qui a dressé le rapport.

Contre-interrogatoire

Procedural provisions

65. The following provisions apply with necessary modifications to a hearing by a panel:

1. Subsection 21 (4) (findings of fact).
2. Subsection 37 (4) (exclusion from panel).
3. Subsection 38 (2) (panel members deemed to continue).
4. Section 41 (disclosure of evidence).
5. Section 42 (no communication by panel members).
6. Section 43 (legal advice).
7. Section 45 (sexual misconduct witnesses).
8. Section 48 (members of panel who participate).
9. Section 53 (release of evidence).

65 Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, aux audiences tenues par les sous-comités :

1. Le paragraphe 21 (4) (conclusions de fait).
2. Le paragraphe 37 (4) (exclusion).
3. Le paragraphe 38 (2) (les membres du sous-comité sont réputés maintenus).
4. L'article 41 (divulgation des preuves).
5. L'article 42 (interdiction aux membres des sous-comités de communiquer).
6. L'article 43 (avis juridiques).
7. L'article 45 (témoins d'inconduite sexuelle).
8. L'article 48 (membres du sous-comité qui participent).
9. L'article 53 (communication des preuves).

Dispositions relatives à la procédure

Hearings closed

66.—(1) A hearing shall, subject to subsection (2), be closed to the public.

66 (1) Sous réserve du paragraphe (2), les audiences sont tenues à huis clos.

Audiences à huis clos

Open on request of member in some cases

(2) A hearing shall be open to the public if the person who is alleged to be incapacitated requests it in a written notice received by the Registrar before the day the hearing commences, unless the panel is satisfied that,

(2) Une audience est publique si la personne dont il est allégué qu'elle est frappée d'incapacité en fait la demande par un avis écrit que le registrateur reçoit avant la date à laquelle commence l'audience, sauf si le sous-comité est convaincu que, selon le cas :

Audience publique sur demande du membre dans certains cas

- (a) matters involving public security may be disclosed;
- (b) financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected other than the person whose capacity is being investigated or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;
- (c) a person involved in a criminal proceeding or civil suit may be prejudiced; or
- (d) the safety of any person may be jeopardized.

- a) des questions touchant à la sécurité publique risquent d'être divulguées;
- b) risquent d'être divulguées lors de l'audience des questions financières, personnelles ou autres de nature telle qu'il vaut mieux, compte tenu des circonstances, éviter leur divulgation dans l'intérêt de toute personne intéressée, à l'exception de la personne dont la capacité fait l'objet d'une enquête, ou dans l'intérêt public qu'adhérer au principe selon lequel les audiences doivent être publiques;
- c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;
- d) la sécurité de quiconque risque d'être mise en danger.

Orders

67.—(1) If a panel finds that a member is incapacitated, it shall make an order doing any one or more of the following:

67 (1) Si un sous-comité conclut qu'un membre est frappé d'incapacité, il doit, par ordonnance :

Ordonnances

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.

1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre.
2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie.

Idem

(2) In making an order under subsection (1), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.

(2) Lorsqu'il rend une ordonnance en vertu du paragraphe (1), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppres-

Idem

APPEALS TO COURT

68.—(1) A party to proceedings before the Board concerning a registration hearing or review or to proceedings before a panel of the Discipline or Fitness to Practise Committee, other than a hearing of an application under subsection 70 (1), may appeal from the decision of the Board or panel to the Divisional Court.

(2) An appeal under subsection (1) may be made on questions of law or fact or both.

(3) In an appeal under subsection (1), the Court has all the powers of the Board or panel that dealt with the subject-matter of the proceedings.

69. An order made by a panel of the Discipline Committee on the grounds of incompetence or by a panel of the Fitness to Practise Committee on the grounds of incapacity, directing the Registrar to revoke, suspend or impose terms, limitations or conditions on a member's certificate, takes effect immediately despite any appeal.

REINSTATEMENT

70.—(1) A person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings may apply in writing to the Registrar to have a new certificate issued or the suspension removed.

(2) An application under subsection (1) shall not be made earlier than,

- (a) one year after the revocation or suspension; or
- (b) six months after a previous application under subsection (1).

71.—(1) The Registrar shall refer the application, if the revocation or suspension was on the grounds of,

- (a) professional misconduct or incompetence, to the Discipline Committee; or
- (b) incapacity, to the Fitness to Practise Committee.

(2) The chair of a committee to which an application is referred shall select a panel from among the members of the committee to hold a hearing of the application.

(3) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Discipline Committee:

1. Subsection 21 (4) (findings of fact).
2. Subsection 37 (2) (composition).
3. Subsection 37 (3) (composition).
4. Subsection 37 (5) (quorum).
5. Section 42 (no communication by panel members).

sion des conditions et restrictions dont est assorti son certificat d'inscription.

APPELS PORTÉS DEVANT LA COUR

68 (1) Toute partie à une instance devant la Commission concernant une audience ou un réexamen relatifs à une inscription ou toute partie à une instance devant un sous-comité du comité de discipline ou du comité d'aptitude professionnelle, à l'exclusion de l'audition d'une demande visée au paragraphe 70 (1), peut interjeter appel de la décision de la Commission ou du sous-comité devant la Cour divisionnaire.

(2) L'appel interjeté en vertu du paragraphe (1) est recevable à l'égard de questions de droit ou de questions de fait, ou des deux.

(3) Dans le cadre d'un appel interjeté en vertu du paragraphe (1), la Cour est investie de tous les pouvoirs de la Commission ou du sous-comité qui a traité de l'objet de l'instance.

69 L'ordonnance rendue par un sous-comité du comité de discipline pour cause d'incompétence, ou par un sous-comité du comité d'aptitude professionnelle pour cause d'incapacité, et qui enjoint au registrateur de révoquer ou de suspendre le certificat d'un membre, ou de l'assortir de restrictions ou de conditions, entre en vigueur immédiatement même s'il y a appel.

REMISE EN VIGUEUR

70 (1) La personne dont le certificat d'inscription a été révoqué ou suspendu par suite de procédures disciplinaires ou de procédures pour incapacité peut demander par écrit au registrateur qu'un nouveau certificat lui soit délivré ou que la suspension soit annulée.

(2) La demande prévue au paragraphe (1) ne peut être présentée avant l'écoulement de l'un des délais suivants :

- a) un an après la révocation ou la suspension;
- b) six mois après la présentation de la dernière demande présentée en vertu du paragraphe (1).

71 (1) Le registrateur renvoie la demande :

- a) au comité de discipline, si la révocation ou la suspension a pour motif une faute professionnelle ou l'incompétence;
- b) au comité d'aptitude professionnelle, si la révocation ou la suspension a pour motif l'incapacité.

(2) Le président du comité auquel une demande est renvoyée choisit, parmi les membres du comité, les membres du sous-comité chargé de procéder à l'audience relative à la demande.

(3) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à l'audience relative à une demande par un sous-comité du comité de discipline :

1. Le paragraphe 21 (4) (conclusions de fait).
2. Le paragraphe 37 (2) (composition).
3. Le paragraphe 37 (3) (composition).
4. Le paragraphe 37 (5) (quorum).
5. L'article 42 (interdiction aux membres des sous-comités de communiquer).

Appeals from decisions of the Board

Basis of appeal

Court's powers

No stay of certain orders pending appeal

Applications for reinstatement

Time of application

Referral to Committee

Hearings

Procedural provisions

Appel des décisions de la Commission

Fondement de l'appel

Pouvoirs de la Cour

Entrée en vigueur de certaines ordonnances

Demandes de remise en vigueur

Délai de présentation de la demande

Renvoi au comité compétent

Audiences

Dispositions relatives à la procédure

6. Section 43 (legal advice).
7. Section 44 (hearings open).
8. Section 45 (sexual misconduct witnesses).
9. Section 46 (transcript of hearings).
10. Section 48 (members of panel who participate).
11. Section 53 (release of evidence).

Idem

(4) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Fitness to Practise Committee:

1. Subsection 21 (4) (findings of fact).
2. Section 42 (no communication by panel members).
3. Section 43 (legal advice).
4. Section 66 (hearings closed).
5. Section 45 (sexual misconduct witnesses).
6. Section 46 (transcript of hearings).
7. Section 48 (members of panel who participate).
8. Section 53 (release of evidence).
9. Subsection 62 (2) (composition).
10. Subsection 62 (3) (quorum).

Order

(5) A panel may, after a hearing, make an order doing any one or more of the following:

1. Directing the Registrar to issue a certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration.

Decision

(6) A panel that held a hearing of an application shall give its decision and reasons in writing to the applicant and the Registrar.

Orders without hearing

72. The Council or Executive Committee may, without a hearing, with respect to a person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings, make an order doing any one or more of the following:

1. Directing the Registrar to issue a new certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration if an order is made under paragraph 1 or 2.

REGISTRAR'S POWERS OF INVESTIGATION

Investigators

73. The Registrar may appoint one or more investigators to determine whether a member has committed an act of professional misconduct or is incompetent if.

- (a) the Registrar believes on reasonable and probable grounds that the member has committed an act of professional misconduct or is

6. L'article 43 (avis juridiques).
7. L'article 44 (audiences publiques).
8. L'article 45 (témoins d'inconduite sexuelle).
9. L'article 46 (transcription des audiences).
10. L'article 48 (membres du sous-comité qui participent).
11. L'article 53 (communication des preuves).

Idem

(4) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à l'audience relative à une demande par un sous-comité du comité d'aptitude professionnelle :

1. Le paragraphe 21 (4) (conclusions de fait).
2. L'article 42 (interdiction aux membres des sous-comités de communiquer).
3. L'article 43 (avis juridiques).
4. L'article 66 (audiences à huis clos).
5. L'article 45 (témoins d'inconduite sexuelle).
6. L'article 46 (transcription des audiences).
7. L'article 48 (membres du sous-comité qui participent).
8. L'article 53 (communication des preuves).
9. Le paragraphe 62 (2) (composition).
10. Le paragraphe 62 (3) (quorum).

(5) À la suite d'une audience, le sous-comité peut, par ordonnance :

1. Enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur de la demande.
2. Enjoindre au registrateur d'annuler la suspension du certificat d'inscription de l'auteur de la demande.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription de l'auteur de la demande.

Ordonnance

(6) Le sous-comité qui tient une audience relative à une demande communique sa décision motivée par écrit à l'auteur de la demande et au registrateur.

Décision

72 Dans le cas d'une personne dont le certificat d'inscription a été révoqué ou suspendu par suite de procédures disciplinaires ou de procédures pour incapacité, le conseil ou le bureau peut, par ordonnance et sans qu'une audience soit tenue :

Ordonnances sans audience

1. Enjoindre au registrateur de délivrer un nouveau certificat d'inscription à l'auteur de la demande.
2. Enjoindre au registrateur d'annuler la suspension du certificat d'inscription de l'auteur de la demande.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription de l'auteur de la demande si une ordonnance est rendue en vertu de la disposition 1 ou 2.

POUVOIRS D'ENQUÊTE DU REGISTRATEUR

73 Le registrateur peut nommer un ou plusieurs enquêteurs chargés d'établir si un membre a commis une faute professionnelle ou est incompetent, dans les cas suivants :

Enquêteurs

- a) le registrateur croit, en se fondant sur des motifs raisonnables et probables, que le membre a commis une faute professionnelle

incompetent and the Executive Committee approves of the appointment;

- (b) the Executive Committee has received a report from the Quality Assurance Committee with respect to the member and has requested the Registrar to conduct an investigation; or
- (c) the Complaints Committee has received a written complaint about the member and has requested the Registrar to conduct an investigation.

ou est incompétent, et le bureau approuve la nomination;

- b) le bureau a reçu un rapport du comité d'assurance de la qualité concernant le membre et a demandé au registrateur de mener une enquête;
- c) le comité des plaintes a reçu une plainte par écrit au sujet du membre et a demandé au registrateur de mener une enquête.

Powers of investigators	74. —(1) An investigator may inquire into and examine the practice of the member to be investigated and has, for the purposes of the investigation, all the powers of a commission under Part II of the <i>Public Inquiries Act</i> .	74 (1) L'enquêteur peut enquêter sur les activités professionnelles du membre qui fait l'objet d'une enquête et, pour les besoins de l'enquête, est investi de tous les pouvoirs d'une commission en vertu de la partie II de la loi intitulée <i>Public Inquiries Act</i> («Loi sur les enquêtes publiques»).	Pouvoirs des enquêteurs
Idem	(2) An investigator may, on the production of his or her appointment, enter at any reasonable time the business premises of the member and may examine anything found there that is relevant to the investigation.	(2) L'enquêteur peut, sur production d'une attestation de sa nomination, pénétrer, à toute heure raisonnable, dans le lieu de travail du membre et examiner tout ce qui s'avère pertinent à l'enquête.	Idem
Obstruction prohibited	(3) No person shall obstruct an investigator or withhold or conceal from him or her or destroy anything that is relevant to the investigation.	(3) Nul ne doit entraver le travail d'un enquêteur, ni garder par-devers soi, lui dissimuler ou détruire quoi que ce soit qui s'avère pertinent.	Interdiction d'entraver
Conflicts	(4) This section applies despite any provision in any Act relating to the confidentiality of health records.	(4) Le présent article s'applique malgré les dispositions d'autres lois relatives à la confidentialité des dossiers médicaux.	Conflicts
Entries and searches	75. —(1) A justice of the peace may, on the application of the investigator, issue a warrant authorizing an investigator to enter and search a place and examine anything that is relevant to the investigation if the justice of the peace is satisfied that the investigator has been properly appointed and that there are reasonable and probable grounds for believing that, <ul style="list-style-type: none"> (a) the member being investigated has committed an act of professional misconduct or is incompetent; and (b) there is something relevant to the investigation at the place. 	75 (1) Un juge de paix peut délivrer à l'enquêteur qui en fait la demande un mandat l'autorisant à pénétrer dans un lieu et à y perquisitionner, ainsi qu'à examiner tout ce qui s'avère pertinent, s'il est convaincu que l'enquêteur a été nommé de façon régulière et qu'il existe des motifs raisonnables et probables de croire que : <ul style="list-style-type: none"> a) d'une part, le membre qui fait l'objet de l'enquête a commis une faute professionnelle ou est incompétent; b) d'autre part, il se trouve des choses pertinentes dans ce lieu. 	Perquisitions
Searches by day unless stated	(2) A warrant issued under subsection (1) does not authorize an entry or search after sunset and before sunrise unless it is expressly stated in the warrant.	(2) Le mandat délivré aux termes du paragraphe (1) n'a pas pour effet d'autoriser de perquisition avant le lever du soleil et après le coucher du soleil, sauf indication contraire expresse dans le mandat.	Perquisition de jour sauf indication contraire
Assistance and entry by force	(3) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by other persons and may enter a place by force.	(3) L'enquêteur qui pénètre dans un lieu et y perquisitionne en vertu d'un mandat délivré aux termes du paragraphe (1) peut être aidé d'autres personnes et avoir recours à la force pour y pénétrer.	Aide et recours à la force
Investigator to show identification	(4) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) shall produce his or her identification, on request, to any person at the place.	(4) L'enquêteur qui pénètre dans un lieu et y perquisitionne en vertu d'un mandat délivré aux termes du paragraphe (1) est tenu de présenter une pièce d'identité à toute personne qui se trouve sur les lieux et qui en fait la demande.	Obligation de l'enquêteur de présenter une pièce d'identité
Copying of documents and objects	76. —(1) An investigator may copy, at the College's expense, a document or object that an investigator may examine under subsection 74 (2) or under the authority of a warrant issued under subsection 75 (1).	76 (1) L'enquêteur peut, aux frais de l'ordre, faire une copie des documents ou des objets qu'il peut examiner en vertu du paragraphe 74 (2) ou d'un mandat délivré aux termes du paragraphe 75 (1).	Reproduction de documents et d'objets
Removal for documents and objects	(2) An investigator may remove a document or object described in subsection (1) if, <ul style="list-style-type: none"> (a) it is not practicable to copy it in the place where it is examined; or (b) a copy of it is not sufficient for the purposes of the investigation. 	(2) L'enquêteur peut enlever les documents ou objets visés au paragraphe (1) si, selon le cas : <ul style="list-style-type: none"> a) il n'est pas possible d'en faire une copie sur les lieux mêmes; b) une copie de ceux-ci ne suffit pas aux fins de l'enquête. 	Enlèvement de documents et d'objets
Return of documents and objects or copies	(3) If it is practicable to copy a document or object removed under subsection (2), the investigator shall,	(3) S'il est possible de faire une copie des documents ou objets enlevés en vertu du paragraphe (2), l'enquêteur :	Restitution des documents et objets ou des copies

	(a) if it was removed under clause (2) (a), return the document or object within a reasonable time; or	a) s'ils ont été enlevés en vertu de l'alinéa (2) a), restitue les documents ou objets dans un délai raisonnable;	
	(b) if it was removed under clause (2) (b), provide the person who was in possession of the document or object with a copy of it within a reasonable time.	b) s'ils ont été enlevés en vertu de l'alinéa (2) b), fournit à la personne qui était en possession des documents ou des objets une copie de ceux-ci, dans un délai raisonnable.	
Copy as evidence	(4) A copy of a document or object certified by an investigator to be a true copy shall be received in evidence in any proceeding to the same extent and shall have the same evidentiary value as the document or object itself.	(4) Les copies des documents ou des objets qui sont certifiées conformes aux originaux par un enquêteur sont recevables en preuve dans toute instance dans la même mesure que les originaux et ont la même valeur probante que ceux-ci.	Copies à titre de preuve
Definition	(5) In this section, "document" means a record of information in any form and includes any part of it.	(5) Dans le présent article, «document» s'entend de tout élément d'information sous quelque forme que ce soit et, notamment, d'une partie de celui-ci.	Définition
Report of investigation	77. The Registrar shall report the results of an investigation to,	77 Le registrateur présente un rapport faisant état du résultat de l'enquête à l'un ou l'autre des organes suivants, selon le cas :	Rapport d'enquête
	(a) the Executive Committee if the investigator was appointed under clause 73 (a) or (b);	a) le bureau, si l'enquêteur a été nommé aux termes de l'alinéa 73 a) ou b);	
	(b) the Complaints Committee if the investigator was appointed under clause 73 (c), at the request of the Complaints Committee; or	b) le comité des plaintes, si l'enquêteur a été nommé aux termes de l'alinéa 73 c), à la demande du comité des plaintes;	
	(c) the Board if the investigator was appointed under clause 73 (c) by the Board exercising the Registrar's powers under subsection 27 (4).	c) la Commission, si l'enquêteur a été nommé aux termes de l'alinéa 73 c) par la Commission qui exerçait les pouvoirs du registrateur aux termes du paragraphe 27 (4).	
	QUALITY ASSURANCE COMMITTEE	COMITÉ D'ASSURANCE DE LA QUALITÉ	
Quality assurance program required	78. The Council shall make regulations under paragraph 22 of subsection 91 (1) prescribing a quality assurance program.	78 Le conseil prend des règlements en application de la disposition 22 du paragraphe 91 (1) prescrivant un programme d'assurance de la qualité.	Programme d'assurance de la qualité requis
Assessors	79. The Quality Assurance Committee may appoint assessors for the purposes of a quality assurance program.	79 Le comité d'assurance de la qualité peut nommer des évaluateurs aux fins du programme d'assurance de la qualité.	Évaluateurs
Co-operation with Committee and assessors	80.—(1) Every member shall co-operate with the Quality Assurance Committee and with any assessor it appoints and in particular every member shall,	80 (1) Chaque membre doit collaborer avec le comité d'assurance de la qualité, ainsi qu'avec tout évaluateur nommé par le comité, et, entre autres :	Collaboration entre le comité et les évaluateurs
	(a) permit the assessor to enter and inspect the premises where the member practises;	a) permettre à l'évaluateur de pénétrer dans les locaux où il exerce sa profession et de les inspecter;	
	(b) permit the assessor to inspect the member's records of the care of patients;	b) permettre à l'évaluateur d'examiner ses dossiers relativement aux soins qu'il donne à ses patients;	
	(c) give the Committee or the assessor the information in respect of the care of patients or in respect of the member's records of the care of patients the Committee or assessor requests in the form the Committee or assessor specifies;	c) fournir au comité ou à l'évaluateur les renseignements que l'un ou l'autre demande et sous la forme que l'un ou l'autre précise, relativement aux soins qu'il donne à ses patients ou aux dossiers qu'il tient à cet égard;	
	(d) confer with the Committee or the assessor if requested to do so by either of them; and	d) s'entretenir avec le comité ou l'évaluateur si l'un ou l'autre le lui demande;	
	(e) participate in a program designed to evaluate the knowledge, skill and judgment of the member, if requested to do so by the Committee.	e) participer à un programme visant à évaluer ses connaissances, sa compétence et son jugement, si le comité le lui demande.	
Co-operation with assessors	(2) A person shall co-operate with assessors as required by subsections (3) and (4) if,	(2) Est tenu de collaborer avec les évaluateurs, comme l'exige les paragraphes (3) et (4), quiconque :	Collaboration avec les évaluateurs
	(a) the person employs a member;	a) est l'employeur du membre;	
	(b) the person is a partner of or is otherwise associated with a member for the purpose of offering and providing health services;	b) est l'associé du membre ou a d'autres liens d'association avec lui aux fins d'offrir et de fournir des services de santé;	
	(c) the person procures employment for a member; or	c) trouve de l'emploi pour le membre;	

(d) the person is a hospital that has granted privileges to a member.

d) est un hôpital qui a accordé des droits de traitement au membre.

Inspection of premises

(3) A person described in subsection (2) who controls premises where a member practises shall allow an assessor to enter and inspect the premises.

(3) La personne visée au paragraphe (2) et qui a le contrôle des locaux dans lesquels le membre exerce sa profession permet à l'évaluateur de pénétrer dans les locaux et de les inspecter.

Inspection des locaux

Inspection of records

(4) A person described in subsection (2) who controls records relating to a member's care of patients shall allow an assessor to inspect the records.

(4) La personne visée au paragraphe (2) et qui a le contrôle des dossiers relatifs aux soins donnés par le membre à ses patients permet à l'évaluateur d'examiner les dossiers.

Examen des dossiers

Conflict

(5) This section applies despite any provision in any Act relating to the confidentiality of health records.

(5) Le présent article s'applique malgré les dispositions d'autres lois relatives à la confidentialité des dossiers médicaux.

Conflit

Confidentiality of information

81.—(1) Except as provided in this section, the Quality Assurance Committee and any assessor appointed by it shall not disclose, to any other committee, information that,

81 (1) Sauf disposition contraire du présent article, le comité d'assurance de la qualité et tout évaluateur nommé par ce dernier ne communiquent à aucun autre comité :

Caractère confidentiel des renseignements

(a) was given by the member; or

a) les renseignements qu'a fournis le membre;

(b) relates to the member and was obtained under section 80.

b) les renseignements qui concernent le membre et qui ont été obtenus aux termes de l'article 80.

Exception if member gave false information

(2) Information described in subsection (1) may be disclosed for the purpose of showing that the member knowingly gave false information to the Quality Assurance Committee or an assessor.

(2) Les renseignements visés au paragraphe (1) peuvent être communiqués en vue de montrer que le membre a fourni sciemment de faux renseignements au comité d'assurance de la qualité ou à un évaluateur.

Exception en cas de faux renseignements

Referrals to Executive Committee

(3) If the Quality Assurance Committee is of the opinion, based on an assessment, that a member may have committed an act of professional misconduct or may be incompetent or incapacitated, the Committee may disclose the name of the member and allegations against the member to the Executive Committee.

(3) Si le comité d'assurance de la qualité est d'avis, en se fondant sur une évaluation, qu'un membre a pu commettre une faute professionnelle ou qu'il peut être incompétent ou frappé d'incapacité, il peut communiquer au bureau son nom, ainsi que les allégations faites contre lui.

Renvoi au bureau

Use in other Committees

(4) Information that was disclosed contrary to subsection (1) shall not be used against the member to whom it relates in a proceeding before the Discipline or Fitness to Practise Committees.

(4) Les renseignements qui ont été communiqués contrairement au paragraphe (1) ne doivent pas être utilisés contre le membre auquel ils se rapportent dans une instance devant le comité de discipline ou le comité d'aptitude professionnelle.

Utilisation des renseignements confidentiels

MISCELLANEOUS

DISPOSITIONS DIVERSES

Right to use French

82.—(1) A person has the right to use French in all dealings with the College.

82 (1) Toute personne a le droit d'utiliser le français dans ses rapports avec l'ordre.

Droit d'utilisation du français

Council to ensure right

(2) The Council shall take all reasonable measures and make all reasonable plans to ensure that persons may use French in all dealings with the College.

(2) Le conseil prend toutes les mesures raisonnables et élabore tous les plans raisonnables pour faire en sorte que les personnes puissent utiliser le français dans tous leurs rapports avec l'ordre.

Droit garanti par le conseil

Definition

(3) In this section, "dealings" means any service or procedure available to the public or to members and includes giving or receiving communications, information or notices, making applications, taking examinations or tests and participating in programs or in hearings or reviews.

(3) Dans le présent article, le terme « rapports » s'entend de tout service offert au public ou aux membres ainsi que de toute formalité administrative, et s'entend en outre du fait de donner ou de recevoir des communications, des renseignements ou des avis, de présenter des demandes, de passer des examens ou des tests, et de prendre part à des programmes, à des audiences ou à des réexamens.

Définition

Limitation

(4) A person's right under subsection (1) is subject to the limits that are reasonable in the circumstances.

(4) Le droit prévu au paragraphe (1) est assujéti à des limites qui soient raisonnables dans les circonstances.

Droit restreint

Injunctions

83. The College may apply to the Ontario Court (General Division) for an order directing a person to comply with a provision of the health profession Act, this Code, the *Regulated Health Professions Act, 1991* or the regulations under those Acts.

83 L'ordre peut, par voie de requête, demander à la Cour de l'Ontario (Division générale) qu'elle rende une ordonnance enjoignant à quiconque de se conformer à une disposition de la loi sur une profession de la santé, du présent code, de la *Loi de 1991 sur les professions de la santé réglementées* ou des règlements pris en application de ces lois.

Injonctions

Evidence of Registrar

84. A statement purporting to be certified by the Registrar under the seal of the College as a statement of information from the records kept by the Registrar in the course of his or her duties is admis-

84 L'état qui donne des renseignements provenant des dossiers que le registrateur tient dans l'exercice de ses fonctions et qui se présente comme étant certifié par le registrateur sous le sceau de l'or-

Preuves émanant du registrateur

sible in court as proof, in the absence of evidence to the contrary, of the information in it without proof of the Registrar's appointment or signature or of the seal of the College.

dre est recevable devant le tribunal comme preuve, en l'absence de preuve contraire, des renseignements qui y figurent sans qu'il soit nécessaire de prouver l'authenticité de la nomination ou de la signature du registrateur, ni celle du sceau de l'ordre.

Limitation period

85.—(1) No person who is or was a member is liable to any action arising out of negligence or malpractice in respect of professional services requested of or rendered by the person unless the action is commenced within one year after the date when the person commencing the action knew or ought to have known the fact or facts upon which the negligence or malpractice is alleged.

85 (1) Quiconque est ou a été membre ne peut être poursuivi pour négligence professionnelle ou autre à l'égard des services professionnels qui lui ont été demandés ou qu'il a fournis, à moins que l'action ne soit introduite dans un délai d'un an après la date à laquelle la personne qui l'introduit a appris ou aurait dû apprendre le fait ou les faits sur lesquels repose l'allégation de négligence professionnelle ou autre.

Délai de prescription

Transition

(2) During the first year this section is in force, it does not operate to shorten the time period, provided by statutory law as it was immediately before this section comes into force, during which an action could be brought.

(2) Pendant la première année où il est en vigueur, le présent article n'a pas pour effet d'abréger le délai d'introduction d'une action prévu par le droit législatif tel qu'il existait immédiatement avant l'entrée en vigueur du présent article.

Transition

Reporting of members

86.—(1) A person who terminates the employment or revokes, suspends or imposes restrictions on the privileges of a member or who dissolves a partnership or association with a member for reasons of professional misconduct, incompetence or incapacity shall file with the Registrar within thirty days after the termination, revocation, suspension, imposition or dissolution a written report setting out the reasons.

86 (1) Quiconque met fin à l'emploi d'un membre, lui retire ses privilèges, les suspend ou les assortit de restrictions, ou dissout la société en nom collectif ou l'association qu'il forme avec le membre, pour des motifs de faute professionnelle, d'incompétence ou d'incapacité, dépose auprès du registrateur, dans les trente jours suivant l'accomplissement d'un de ces actes, un rapport écrit énonçant les motifs de sa décision.

Dépôt de rapports au sujet des membres

Application

(2) This section applies to every person, other than a patient, who employs or offers privileges to a member or associates in partnership or otherwise with a member for the purpose of offering health services.

(2) Le présent article s'applique à toute personne, à l'exception d'un patient, qui emploie un membre ou qui s'associe à un membre dans une société en nom collectif ou autrement, ou qui lui offre des privilèges aux fins de la prestation de services de santé.

Demande

Immunity for reports

(3) No action or other proceeding shall be instituted against a person for making a report in good faith under this section.

(3) Sont irrecevables les actions ou autres instances introduites contre les personnes qui présentent un rapport de bonne foi aux termes du présent article.

Immunité touchant les rapports

Service by mail

87.—(1) A notice or a decision to be given under the health profession Act, this Code or the regulations to a person may be given by mail.

87 (1) Les avis ou les décisions qui doivent être donnés à des personnes aux termes de la loi sur une profession de la santé, du présent code ou des règlements peuvent être envoyés par la poste.

Signification par la poste

Idem

(2) If a notice or decision under the health profession Act, this Code or the regulations is sent by prepaid first class mail addressed to the person at the person's last known address, there is a rebuttable presumption that the notice was received by the person on the fifth day after the notice was mailed.

(2) Si l'avis ou la décision visé par la loi sur une profession de la santé, le présent code ou les règlements est envoyé par courrier affranchi de première classe à la personne, à sa dernière adresse connue, il existe une présomption réfutable selon laquelle la personne a reçu l'avis ou la décision le cinquième jour suivant sa mise à la poste.

Idem

Making false representations to obtain certificates

88.—(1) Every person who makes a representation, knowing it to be false, for the purpose of having a certificate of registration issued is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

88 (1) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque fait une déclaration qu'il sait fausse en vue de faire délivrer un certificat d'inscription.

Fausse déclarations faites pour obtenir un certificat

Assisting the making of false representation

(2) Every person who knowingly assists a person in committing an offence under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque aide sciemment une personne à commettre l'infraction visée au paragraphe (1).

Aide dans la commission de l'infraction

Offence

89.—(1) Every person who contravenes an order made under section 44 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.

89 (1) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ pour une première infraction, et d'une amende d'au plus 20 000 \$ pour une infraction subséquente, quiconque contrevient à une ordonnance rendue en vertu de l'article 44.

Infraction

Idem

(2) Every person who contravenes subsection 74 (3) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque contrevient au paragraphe 74 (3).

Idem

Idem

(3) Every person who contravenes subsection 80 (3), (4) or 86 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000

(3) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction ou d'au plus

Idem

for a first offence or not more than \$10,000 for a subsequent offence.

By-laws

90.—(1) The Council may make by-laws relating to the administrative and internal affairs of the College and, without limiting the generality of the foregoing, the Council may make by-laws,

- (a) adopting a seal for 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 the President and Vice-President of the College, the selection of the chairs of the committees, the filling of a vacancy in those offices, and setting out the duties and powers of the President, Vice-President and the chairs;
- (f) respecting the calling, holding and conducting of the Council meetings and respecting the duties of the Council's members;
- (g) respecting the calling, holding and conducting of meetings of the members;
- (h) providing for the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and for the payment of the expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of committees other than the committees required by section 9;
- (j) delegating to the Executive Committee powers and duties of the Council, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics for the members;
- (l) providing for the appointment of inspectors for the purposes of regulations made under paragraph 17 of subsection 91 (1);
- (m) providing procedures for the making, amending and revoking of by-laws;
- (n) prescribing forms and providing for their use;
- (o) respecting the management of the property of the College;
- (p) authorizing the College to make arrangements for the indemnity of members against professional liability and providing levies to be paid by members;
- (q) respecting membership of the College in a national organization of bodies with similar functions, the payment of annual assessments and representation at meetings; and
- (r) authorizing the making of grants to advance scientific knowledge or the education of persons wishing to practise the profession, to maintain or improve the standards of practice of the profession or to provide public information about, and encourage interest in, the past and present role of the profession in society.

10 000 \$ pour une infraction subséquente quiconque contrevient au paragraphe 80 (3) ou (4), ou 86 (1).

90 (1) Le conseil peut adopter des règlements administratifs concernant les affaires administratives et internes de l'ordre pour, notamment :

Règlements administratifs

- a) adopter le sceau de l'ordre;
- b) prévoir la passation des documents par l'ordre;
- c) traiter des affaires bancaires et financières;
- d) déterminer l'exercice financier de l'ordre et prévoir la vérification de ses comptes et de ses opérations;
- e) prévoir la marche à suivre en ce qui concerne l'élection du président et du vice-président de l'ordre, le choix des présidents des comités et la façon de combler les vacances de ces postes, et énoncer les fonctions et les pouvoirs des titulaires de ces postes;
- f) traiter de la convocation, de la tenue et du déroulement des réunions du conseil, ainsi que des fonctions de ses membres;
- g) traiter de la convocation, de la tenue et du déroulement des réunions des membres;
- h) fixer la rémunération de ses membres et des membres des comités, à l'exception des personnes nommées par le lieutenant-gouverneur en conseil, et prévoir le paiement de ses dépenses et de celles des comités dans l'exercice de leurs activités;
- i) prévoir la nomination et la composition des comités autres que ceux prévus à l'article 9, ainsi que leurs pouvoirs et leurs fonctions;
- j) déléguer au bureau ses pouvoirs et ses fonctions, à l'exception du pouvoir de prendre, de modifier ou d'abroger les règlements et les règlements administratifs;
- k) prévoir un code de déontologie pour les membres;
- l) prévoir la nomination d'inspecteurs aux fins des règlements pris en application de la disposition 17 du paragraphe 91 (1);
- m) prévoir une marche à suivre pour adopter, modifier et abroger les règlements administratifs;
- n) prescrire des formules et prévoir les modalités de leur emploi;
- o) traiter de la gestion des biens de l'ordre;
- p) autoriser l'ordre à conclure des ententes aux fins de la protection des membres contre la responsabilité professionnelle et prévoir les contributions que doivent payer les membres;
- q) traiter de l'affiliation de l'ordre à une association nationale regroupant des organismes chargés de fonctions analogues, du paiement des cotisations annuelles et de la représentation aux réunions;
- r) autoriser l'octroi de subventions en vue de faire avancer la connaissance scientifique ou de promouvoir l'éducation des personnes qui désirent exercer la profession, de maintenir ou de rehausser les normes d'exercice de la profession ou de renseigner le public sur le rôle passé et présent de la profession au sein

Meetings by telecommuni-
cations, etc.

(2) A by-law made under clause (1) (f) or (g) may provide for meetings to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously.

Copies of
by-laws

(3) A copy of the by-laws made by the Council shall be given to the Minister and to each member and shall be available for public inspection in the office of the College.

Unanimous
by-laws, etc.

(4) A by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council called, constituted and held for the purpose.

Regulations

91.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. respecting the election of Council members including the requirements for members to be able to vote;
2. respecting the qualification and terms of office of Council members who are elected;
3. prescribing conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. respecting the qualifications, selection, appointment and terms of office of committee members who are not members of the Council;
5. respecting the filling of vacancies on the Council;
6. prescribing classes of certificates of registration and imposing terms, conditions and limitations on the certificates of registration of a class;
7. respecting the issuing, suspension, revocation and expiration of certificates of registration or classes of them;
8. prescribing standards and qualifications for the issue of certificates of registration;
9. prescribing registration requirements as non-exemptible requirements;
10. defining specialties in the profession, providing for certificates relating to those specialties, the qualifications for and suspension and revocation of those certificates and governing the use of prescribed terms, titles or designations by members indicating a specialization in the profession;
11. requiring, for purposes associated with the registration of members, the successful completion of examinations as set, from time to time, by the College, other persons or associations of persons;
12. respecting the maintenance of the register kept by the Registrar, prescribing information as information to be kept in the register, designating information kept in the register as public and providing for the issuing of certificates respecting the information contained in the register;

de la société, et d'encourager le public à s'y intéresser.

(2) Le règlement administratif adopté en vertu de l'alinéa (1) f) ou g) peut prévoir que des réunions soient tenues de façon que tous les participants puissent communiquer les uns avec les autres simultanément et instantanément.

(3) Une copie des règlements administratifs adoptés par le conseil est envoyée au ministre ainsi qu'à chaque membre, et est mise à la disposition du public aux fins de consultation dans les bureaux de l'ordre.

(4) Les règlements administratifs ou les résolutions que signent tous les membres du conseil sont aussi valides et exécutoires que s'ils avaient été adoptés à une réunion du conseil convoquée, formée et tenue à cette fin.

91 (1) Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen par le ministre, le conseil peut, par règlement :

1. traiter de l'élection de ses membres ainsi que des exigences auxquelles ils doivent satisfaire pour pouvoir voter;
2. traiter des qualités requises et du mandat de ses membres qui sont élus;
3. prescrire les conditions qui rendent les membres élus incapables de siéger au conseil et qui régissent la façon de combler les vacances au sein du conseil;
4. traiter des qualités requises, du choix, de la nomination et du mandat des membres des comités qui ne sont pas membres du conseil;
5. traiter de la façon de combler les vacances au sein du conseil;
6. prescrire les catégories de certificats d'inscription et fixer les conditions et les restrictions dont sont assortis les certificats d'inscription d'une catégorie donnée;
7. traiter de la délivrance, de la suspension, de la révocation et de l'expiration des certificats d'inscription ou des catégories de ceux-ci;
8. prescrire les normes et les conditions de délivrance des certificats d'inscription;
9. prescrire les exigences d'inscription auxquelles il est impossible de se soustraire;
10. définir les spécialités de la profession, prévoir les certificats relatifs à ces spécialités et les qualités nécessaires à leur obtention, prévoir la suspension et la révocation de ces certificats, et régir l'emploi par les membres des termes, désignations ou titres prescrits qui indiquent une spécialisation dans la profession;
11. exiger, aux fins reliées à l'inscription des membres, la réussite aux examens qu'établit, de temps à autre, l'ordre, d'autres personnes ou d'autres associations de personnes;
12. traiter de la tenue du tableau que dresse le registraire, prescrire les renseignements devant y être consignés, désigner comme étant de caractère public certains renseignements consignés au tableau et prévoir la délivrance de certificats relativement aux renseignements figurant au tableau;

Réunions à l'aide des télécommunications

Copie des règlements administratifs

Unanimité des règlements administratifs

Règlements

- | | |
|---|--|
| <p>13. respecting the reporting and publication of decisions of panels;</p> <p>14. prescribing the standards of practice of the profession and prohibiting members from acting beyond the scope of practice of the profession in the course of practising the profession;</p> <p>15. respecting the promotion or advertising of the practice of the profession;</p> <p>16. requiring members to keep prescribed records in respect of their practices;</p> <p>17. requiring and providing for the inspection and examination of premises used in connection with the practice of the profession and of equipment, books, accounts, reports and records of members relating to their practices;</p> <p>18. prescribing what constitutes a conflict of interest in the practice of the profession and regulating or prohibiting the practice of the profession in cases in which there is a conflict of interest;</p> <p>19. prescribing what constitutes a conflict of interest for members of the Council or a committee and regulating or prohibiting the carrying out of the duties of those members in cases in which there is a conflict of interest;</p> <p>20. providing for a meeting of a Committee or a panel that is held for any purpose other than for the conducting of a hearing to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously;</p> <p>21. defining professional misconduct for the purpose of clause 49 (1) (c);</p> <p>22. prescribing a quality assurance program;</p> <p>23. regulating or prohibiting the use of terms, titles and designations by members in respect of their practices;</p> <p>24. providing for the compilation of statistical information with respect to services provided by members and requiring members to provide the information necessary for the compilation;</p> <p>25. requiring members to give the College information about the location of the places they practise the profession, the services they provide there and the names and business addresses and telephone numbers of their associates, partners and employees and prescribing the form and manner in which the information shall be given;</p> <p>26. requiring members to give the College information about their participation in continuing education programs and prescribing the form and manner in which the information shall be given;</p> <p>27. respecting the duties and office of the Registrar;</p> <p>28. requiring members to pay prescribed annual fees and prescribed fees for registration, examinations and continuing education pro-</p> | <p>13. traiter de la façon de rendre compte des décisions des sous-comités et de leur publication;</p> <p>14. prescrire les normes d'exercice de la profession et interdire aux membres d'outrepasser, dans l'exercice de leur profession, les limites du champ d'application de celle-ci;</p> <p>15. traiter de la promotion de l'exercice de la profession, ou de la publicité à cet égard;</p> <p>16. exiger des membres qu'ils tiennent les dossiers prescrits relativement à l'exercice de leur profession;</p> <p>17. exiger et prévoir l'inspection des locaux servant à l'exercice de la profession et de l'équipement, et l'examen des livres, comptes, rapports et dossiers des membres relatifs à l'exercice de leur profession;</p> <p>18. prescrire ce qui constitue un conflit d'intérêts dans l'exercice de la profession et réglementer ou interdire l'exercice de la profession en cas de conflit d'intérêts;</p> <p>19. prescrire ce qui constitue un conflit d'intérêts pour ses membres ou les membres d'un comité, et réglementer ou interdire l'exercice des fonctions de ces membres en cas de conflit d'intérêts;</p> <p>20. prévoir que des réunions soient tenues par les comités ou les sous-comités, à d'autres fins que la tenue d'une audience, de façon que tous les participants puissent communiquer les uns avec les autres simultanément et instantanément;</p> <p>21. définir le terme «faute professionnelle» pour l'application de l'alinéa 49 (1) c);</p> <p>22. prescrire un programme d'assurance de la qualité;</p> <p>23. réglementer ou interdire l'emploi par les membres de certains termes, titres ou désignations relativement à l'exercice de leur profession;</p> <p>24. prévoir la collecte de renseignements statistiques sur les services fournis par les membres et exiger de ces derniers qu'ils fournissent les renseignements nécessaires à cette collecte;</p> <p>25. exiger des membres qu'ils fournissent à l'ordre des renseignements sur l'emplacement des lieux où ils exercent leur profession, sur les services qu'ils y fournissent, ainsi que les noms, adresses et numéros de téléphone de leurs associés et employés, et prescrire la forme et la manière selon lesquelles ces renseignements doivent être fournis;</p> <p>26. exiger des membres qu'ils fournissent à l'ordre des renseignements au sujet de leur participation à des programmes d'éducation permanente et prescrire la forme et la manière selon lesquelles ces renseignements doivent être fournis;</p> <p>27. traiter des fonctions et du poste du registra-</p> <p>28. exiger des membres qu'ils acquittent les cotisations annuelles prescrites, ainsi que les droits prescrits pour l'inscription, l'examen et</p> |
|---|--|

grams and for anything the Registrar is required or authorized to do and requiring members to pay prescribed penalties for the late payment of any fee;

29. providing for the exemption of any member from the regulations made by the Council;
30. requiring members to have professional liability insurance satisfying prescribed requirements and to give proof of the insurance to the Registrar in the prescribed manner;
31. respecting the designation of life or honorary members of the College and prescribing their rights and privileges;
32. respecting the giving of notice of meetings and hearings that are to be open to the public;
33. prescribing anything that is referred to in the health profession Act or this Code as being prescribed;
34. prescribing forms for the purposes of the health profession Act or this Code and providing for their use.

Idem

(2) Regulations made under paragraph 22 of subsection (1) may require members to participate in continuing education programs.

Scope of regulations

(3) A regulation may be general or particular in its application.

la scolarité relatifs aux programmes d'éducation permanente, et les frais relatifs à tout ce que le registrateur doit ou peut faire, et exiger des membres qu'ils versent les amendes prescrites en cas d'acquiescement des droits en retard;

29. prévoir l'exemption de tout membre de l'application des règlements qu'il prend;
30. exiger des membres qu'ils aient une assurance-responsabilité professionnelle qui satisfasse aux exigences prescrites et qu'ils en fournissent la preuve au registrateur de la manière prescrite;
31. traiter de la désignation des membres à vie ou des membres honoraires de l'ordre et prescrire leurs droits et privilèges;
32. traiter de la communication des avis de réunions et d'audiences publiques;
33. prescrire tout ce qui est indiqué comme étant prescrit dans la loi sur une profession de la santé et le présent code;
34. prescrire les formules pour l'application de la loi sur une profession de la santé ou du présent code, et prévoir les modalités de leur emploi.

Idem

(2) Les règlements pris en application de la disposition 22 du paragraphe (1) peuvent exiger des membres qu'ils participent à des programmes d'éducation permanente.

(3) Les règlements peuvent avoir une portée générale ou particulière.

Portée des règlements

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 43

**An Act respecting the regulation
of Health Professions and other
matters concerning Health
Professions**

The Hon. F. Lankin
Minister of Health

Projet de loi 43

**Loi concernant la réglementation des
professions de la santé et d'autres
questions relatives aux professions
de la santé**

L'honorable F. Lankin
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

EXPLANATORY NOTE

The Bill provides for the regulation of health professions and the delivery of health care services.

The health professions to be regulated are set out in Schedule 1 together with the health profession Acts specific to each profession. Each profession will have a College which will govern the profession in accordance with its health profession Act and the Health Professions Procedural Code set out in Schedule 2. The Health Professions Board is continued and serves as a body to hear appeals and review decisions made by committees of the Colleges. The Bill provides for an Advisory Council to advise the Minister on matters relating to the regulation of health professions.

The delivery of health care services is regulated by a scheme that controls certain acts when they are done in the course of providing health care services. The controlled acts are set out in subsection 27 (2). In the course of providing health care services only members of health professions that are authorized to perform these controlled acts may do so. Some exceptions to this restriction are set out and further exceptions can be prescribed by regulation. The controlled acts that each health profession is authorized to perform will be set out in its health profession Act.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation des professions de la santé et la prestation des soins médicaux.

Les professions de la santé qui seront réglementées sont énoncées à l'annexe 1 avec les lois sur les professions de la santé qui leur correspondent. Chaque profession aura un ordre qui la régira conformément à la loi sur la profession de la santé qui lui correspond et au Code des professions de la santé énoncé à l'annexe 2. La Commission des professions de la santé est maintenue et constitue un organisme chargé d'entendre les appels et de réexaminer les décisions rendues par les comités des ordres. Le projet de loi prévoit la création d'un Conseil consultatif chargé de conseiller le ministre sur des questions relatives à la réglementation des professions de la santé.

La prestation des soins médicaux est réglementée par un système qui gouverne certains actes lorsqu'ils sont accomplis dans le cadre de la prestation de soins médicaux. Les actes autorisés sont énoncés au paragraphe 27 (2). Dans le cadre de la prestation de soins de santé, seuls les membres des professions de la santé qui sont habilités à accomplir ces actes autorisés peuvent le faire. Les actes autorisés que chaque profession de la santé est habilitée à accomplir seront énoncés par la loi sur la profession de la santé. Quelques exceptions à cette restriction sont énoncées et d'autres peuvent être prescrites par règlement. Les actes autorisés que les membres des professions de la santé sont habilités à accomplir sont énoncés dans la loi sur une profession de la santé pertinente.

**An Act respecting the regulation
of Health Professions and other
matters concerning Health
Professions**

**Loi concernant la réglementation des
professions de la santé et d'autres
questions relatives aux professions
de la santé**

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Annexe 1—Professions de la santé autonomes
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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:

Definitions

1.—(1) In this Act,

“Advisory Council” means the Health Professions Regulatory Advisory Council; (“Conseil consultatif”)

“Board” means the Health Professions Board; (“Commission”)

“Code” means the Health Professions Procedural Code in Schedule 2; (“Code”)

“College” means the College of a health profession or group of health professions established or continued under a health profession Act; (“ordre”)

“Council” means the Council of a College; (“conseil”)

“health profession” means a health profession set out in Schedule 1; (“profession de la santé”)

“health profession Act” means an Act named in Schedule 1; (“loi sur une profession de la santé”)

“member” means a member of a College; (“membre”)

“Minister” means the Minister of Health. (“ministre”)

Hearing not required unless referred to

(2) Nothing in this Act shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act* unless the holding of a hearing is specifically referred to.

Administration of Act

2. The Minister is responsible for the administration of this Act.

Duty of Minister

3. It is the duty of the Minister to ensure that the health professions are regulated and co-ordinated in the public interest, that appropriate standards of practice are developed and maintained and that individuals have access to services provided by the

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

«Code» Le Code des professions de la santé, qui constitue l'annexe 2. («Code»)

«Commission» La Commission des professions de la santé. («Board»)

«conseil» Le conseil d'un ordre. («Council»)

«Conseil consultatif» Le Conseil consultatif de réglementation des professions de la santé. («Advisory Council»)

«loi sur une profession de la santé» Loi mentionnée à l'annexe 1. («health profession Act»)

«membre» Membre d'un ordre. («member»)

«ministre» Le ministre de la Santé. («Minister»)

«ordre» Ordre d'une profession de la santé ou d'un groupe de professions de la santé, créé ou maintenu en vertu d'une loi sur une profession de la santé. («College»).

«profession de la santé» Profession de la santé mentionnée à l'annexe 1. («health profession»)

Définitions

Audience n requise sauf mention contraire

(2) Aucune des dispositions de la présente loi ne doit s'interpréter comme exigeant la tenue d'une audience au sens de la loi intitulée *Statutory Powers Procedure Act* («Loi sur l'exercice des compétences légales»), à moins qu'il ne soit fait explicitement mention de la tenue d'une audience.

2 Le ministre est chargé de l'application de la présente loi.

Application de la Loi

3 Il incombe au ministre de garantir la réglementation et la coordination des professions de la santé dans l'intérêt public, l'établissement et le respect de normes d'exercice appropriées ainsi que la possibilité pour les particuliers d'avoir accès aux services des

Fonction du ministre

health professions of their choice and that they are treated with sensitivity and respect in their dealings with health professionals, the Colleges and the Board.

4. The Code shall be deemed to be part of each health profession Act.

5.—(1) The Minister may,

- (a) inquire into or require a Council to inquire into the state of practice of a health profession in a locality or institution;
- (b) review a Council's activities and require the Council to provide reports and information;
- (c) require a Council to make, amend or revoke a regulation under a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (d) require a Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act, the health profession Acts or the *Drug and Pharmacies Regulation Act*.

(2) If the Minister requires a Council to do anything under subsection (1), the Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(3) If the Minister requires a Council to make, amend or revoke a regulation under clause (1) (c) and the Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(4) Subsection (3) does not give the Lieutenant Governor in Council authority to do anything that the Council does not have authority to do.

(5) The Minister may pay a College for expenses incurred in complying with a requirement under subsection (1).

6.—(1) Each College, the Advisory Council and the Board shall report annually to the Minister on its activities and financial affairs.

(2) The Advisory Council shall report to the Minister, within five years after this section comes into force, on the effectiveness of,

professions de la santé de leur choix et d'être traités avec sensibilité et respect dans leurs rapports avec les professionnels de la santé, les ordres et la Commission.

4 Le Code est réputé faire partie de chaque loi sur une profession de la santé.

5 (1) Le ministre peut :

- a) faire enquête ou exiger d'un conseil qu'il fasse enquête sur l'exercice d'une profession de la santé dans une localité ou un établissement;
- b) exercer un contrôle sur les activités d'un conseil et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- c) exiger d'un conseil qu'il prenne, modifie ou abroge un règlement pris en application d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»);
- d) exiger d'un conseil qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi, des lois sur les professions de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»).

(2) Si le ministre exige d'un conseil qu'il prenne l'une ou l'autre mesure prévue au paragraphe (1), le conseil doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(3) Si le ministre exige d'un conseil qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (1) c) et que le conseil n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(4) Le paragraphe (3) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil n'est pas habilité à faire.

(5) Le ministre peut rembourser un ordre des frais engagés pour satisfaire à une exigence prévue au paragraphe (1).

6 (1) Chacun des ordres, le Conseil consultatif et la Commission présentent chaque année au ministre un rapport sur leurs activités et leur situation financière respectives.

(2) Dans les cinq ans suivant l'entrée en vigueur du présent article, le Conseil consultatif présente au ministre un rapport sur l'efficacité :

Code

Pouvoirs du ministre

Obligation du conseil de satisfaire à l'exigence du ministre

Règlements

Idem

Frais des ordres

Rapport annuel

Rapport quinquennal

Code

Pouvoirs of Minister

Council to comply with Minister's request

Regulations

Idem

Expenses of Colleges

Annual report

Five year report

- (a) each College's patient relations and quality assurance programs; and
- (b) each College's complaints and discipline procedures with respect to professional misconduct of a sexual nature. ▲

- a) d'une part, des programmes de relations avec les patients et d'assurance de la qualité de chaque ordre;
- b) d'autre part, des procédures relatives aux plaintes et à la discipline en ce qui concerne les fautes professionnelles d'ordre sexuel. ▲

Report
before Legis-
lature

(3) The Minister shall submit the reports of the Colleges, the Advisory Council and the Board to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next session.

(3) Le ministre présente les rapports des ordres, du Conseil consultatif et de la Commission au lieutenant-gouverneur en conseil et les dépose ensuite devant l'Assemblée législative si elle siège. Si celle-ci ne siège pas, il les dépose à la session suivante.

Présentation
des rapports
devant la
Législature

ADVISORY COUNCIL

CONSEIL CONSULTATIF

Advisory
Council

7.—(1) The Advisory Council is established under the name Health Professions Regulatory Advisory Council in English and Conseil consultatif de réglementation des professions de la santé in French.

7 (1) Le Conseil consultatif est créé et porte le nom de Conseil consultatif de réglementation des professions de la santé en français et de Health Professions Regulatory Advisory Council en anglais.

Conseil con-
sultatif

Composition

(2) The Advisory Council shall be composed of at least five and no more than seven persons who shall be appointed by the Lieutenant Governor in Council on the Minister's recommendation.

(2) Le Conseil consultatif se compose d'au moins cinq et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil, sur la recommandation du ministre.

Composition

Chair and
vice-chair

(3) The Lieutenant Governor in Council shall designate one member of the Advisory Council to be the chair and one to be the vice-chair.

(3) Le lieutenant-gouverneur en conseil désigne un des membres du Conseil consultatif à la présidence et un autre à la vice-présidence.

Président e
vice-préside

Qualification
of members

8. A person may not be appointed as a member of the Advisory Council if the person,

8 Ne peut être nommée membre du Conseil consultatif la personne qui :

Restrictions
s'appliquan
aux membr

(a) is employed in the public service of Ontario or by a Crown agency as defined in the *Crown Agency Act*; or

a) est un employé de la fonction publique de l'Ontario ou d'un organisme de la Couronne tel que le définit la loi intitulée *Crown Agency Act* («*Loi sur les organismes de la Couronne*»);

(b) is or has been a member of a Council or College.

b) est ou a été membre d'un conseil ou d'un ordre.

Terms of
members

9.—(1) Members of the Advisory Council shall be appointed for terms of two years.

9 (1) Les membres du Conseil consultatif sont nommés pour deux ans.

Mandat de
membres

Replacement
members

(2) A person appointed to replace a member of the Advisory Council before the member's term expires shall hold office for the remainder of the term.

(2) Quiconque est nommé pour remplacer un membre du Conseil consultatif avant l'expiration du mandat de ce dernier reste en fonction jusqu'à la fin du mandat.

Membres s-
pléants

Reappoint-
ments

(3) Members of the Advisory Council are eligible for reappointment.

(3) Le mandat des membres du Conseil consultatif peut être reconduit.

Reconduit
de mandat

Initial
members

(4) The initial members of the Advisory Council may be appointed for terms of one, two or three years.

(4) Les premiers membres du Conseil consultatif peuvent être nommés pour un, deux ou trois ans.

Premiers
membres

Remunera-
tion and
expenses

10. The members of the Advisory Council shall be paid the remuneration and expenses the Lieutenant Governor in Council determines.

10 Les membres du Conseil consultatif reçoivent la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

Rémunérat
et indemni

Duties of
Advisory
Council

11.—(1) The Advisory Council's duties are to advise the Minister on,

11 (1) Le Conseil consultatif a pour fonctions de conseiller le ministre sur les questions suivantes :

Fonctions
Conseil co
sultatif

- (a) whether unregulated professions should be regulated;
- (b) whether regulated professions should no longer be regulated;
- (c) suggested amendments to this Act, a health profession Act or a regulation under any of those Acts and suggested regulations under any of those Acts;
- (d) matters concerning the quality assurance programs undertaken by Colleges; and
- (e) any matter the Minister refers to the Advisory Council relating to the regulation of the health professions, including any matter described in clauses (a) to (d).

- a) la nécessité de réglementer les professions non réglementées;
- b) la nécessité de cesser de réglementer les professions déjà réglementées;
- c) les propositions de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, et les propositions de règlements pris en application de ces lois;
- d) les questions concernant les programmes d'assurance de la qualité mis sur pied par les ordres;
- e) toute question relative à la réglementation des professions de la santé que le ministre soumet au Conseil consultatif, y compris toute question visée aux alinéas a) à d).

➡ (2) It is the Advisory Council's duty to monitor each College's patient relations program and to advise the Minister about its effectiveness. ⬆

➡ (2) Le Conseil consultatif est également chargé de surveiller le programme de relations avec les patients de chacun des ordres et de donner au ministre des avis sur l'efficacité de chacun de ces programmes. ⬆

12. The Minister shall refer to the Advisory Council any issue within the matters described in clauses 11 (1) (a) to (d) that a Council or person requests the Minister to refer to the Advisory Council unless, in the Minister's opinion, the request is not made in good faith or is frivolous or vexatious.

12 À la demande d'un conseil ou d'une personne, le ministre soumet au Conseil consultatif toute question en litige faisant partie des questions visées aux alinéas 11 (1) a) à d), à moins qu'à son avis, la demande ne soit pas faite de bonne foi ou soit frivole ou vexatoire.

13.—(1) If the Minister refers a suggested amendment to this Act, a health profession Act or a regulation under any of those Acts or a suggested regulation under any of those Acts to the Advisory Council, the Minister shall give notice of the suggestion to the Council of every College within ten days after referring it.

13 (1) Le ministre qui soumet au Conseil consultatif une proposition de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, ou qui soumet une proposition de règlement pris en application de ces lois, en avise le conseil de chaque ordre dans les dix jours qui suivent.

(2) A Council may make written submissions to the Advisory Council with respect to a suggestion within forty-five days after receiving the Minister's notice of the suggestion or within any longer period the Advisory Council may specify.

(2) Les conseils peuvent présenter au Conseil consultatif des observations par écrit à l'égard d'une proposition, dans les quarante-cinq jours suivant la réception de l'avis de proposition du ministre ou dans tout autre délai plus long que peut fixer le Conseil consultatif.

➡ **14.** The Function of the Advisory Council is advisory only and no failure to refer a matter or to comply with any other requirement relating to a referral renders anything invalid. ⬆

➡ **14** Le rôle du Conseil consultatif est purement consultatif et le défaut de soumettre une question ou de se conformer à toute autre exigence relative à la soumission de questions n'a pas d'effet invalidant. ⬆

15.—(1) The Advisory Council shall sit in Ontario where and when the chair designates.

15 (1) Le Conseil consultatif siège en Ontario aux dates, heures et lieux que fixe le président.

(2) The Advisory Council shall conduct its proceedings in the manner it considers appropriate.

(2) Le Conseil consultatif mène ses travaux de la manière qu'il juge appropriée.

16.—(1) The Advisory Council may employ, under the *Public Service Act*, per-

16 (1) Le Conseil consultatif peut employer, aux termes de la loi intitulée

Additional duty

Fonction supplémentaire

Referrals to the Advisory Council

Présentation de questions au Conseil consultatif

Notice of amendments to Councils

Avis de modification adressé aux conseils

Submissions to Advisory Council

Présentation d'observations au Conseil consultatif

Function is advisory only

Rôle purement consultatif

Procedure

Procédure

idem

Idem

Employees

Employés

sons it considers necessary to carry out its duties.

Public Service Act («*Loi sur la fonction publique*»), le personnel qu'il juge nécessaire pour s'acquitter de ses fonctions.

Experts

(2) The Advisory Council may engage experts or professional advisors to assist it.

(2) Le Conseil consultatif peut engager des experts ou des conseillers professionnels pour l'aider. Experts

Secretary

17.—(1) The Advisory Council shall appoint one of its employees as the Secretary.

17 (1) Le Conseil consultatif nomme secrétaire un de ses employés. Secrétaire

Duties

(2) The Secretary's duties are,

(2) Les fonctions du secrétaire sont les suivantes : Fonctions

(a) to keep a record of matters that the Minister has referred to the Advisory Council;

a) conserver un dossier des questions que le ministre a soumises au Conseil consultatif;

(b) to have the custody and care of the records and documents of the Advisory Council;

b) veiller à la conservation des dossiers et documents du Conseil consultatif;

(c) to give written notice of suggested amendments to this Act, a health profession Act or a regulation under any of those Acts and suggested regulations under any of those Acts that have been referred to the Advisory Council to persons who have filed, with the Secretary, a request to be notified; and

c) aviser par écrit des propositions de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, ainsi que des propositions de règlements pris en application de ces lois, qui ont été soumises au Conseil consultatif, les personnes ayant déposé auprès du secrétaire une demande à cet effet;

(d) to carry out the functions and duties assigned by the Minister or the Advisory Council.

d) remplir les fonctions et les obligations assignées par le ministre ou le Conseil consultatif.

HEALTH PROFESSIONS BOARD

COMMISSION DES PROFESSIONS DE LA SANTÉ

Health Professions Board

18.—(1) The Health Disciplines Board is continued under the name Health Professions Board in English and Commission des professions de la santé in French.

18 (1) Le Conseil des sciences de la santé est maintenu sous le nom de Commission des professions de la santé en français et sous le nom de Health Professions Board en anglais. Commission des professions de la santé

Composition

(2) The Board shall be composed of at least twelve and no more than twenty members who shall be appointed by the Lieutenant Governor in Council on the Minister's recommendation.

(2) La Commission se compose d'au moins douze et d'au plus vingt membres que nomme le lieutenant-gouverneur en conseil, sur la recommandation du ministre. Composition

Chair and vice-chair

(3) The Lieutenant Governor in Council shall designate one member of the Board to be the chair and one to be the vice-chair.

(3) Le lieutenant-gouverneur en conseil désigne un des membres de la Commission à la présidence et un autre à la vice-présidence. Président et vice-président

Additional vice-chairs

(4) The chair may from time to time designate additional members to be vice-chairs.

(4) Le président peut, de temps à autre, désigner des membres supplémentaires à la vice-présidence. Autres vice-présidents

Qualifications of members

19. A person may not be appointed as a member of the Board if the person,

19 Ne peut être nommée membre de la Commission la personne qui : Restrictions s'appliquant aux membres

(a) is employed in the public service of Ontario or by a Crown agency as defined in the *Crown Agency Act*; or

a) est un employé de la fonction publique de l'Ontario ou d'un organisme de la Couronne tel que le définit la loi intitulée *Crown Agency Act* («*Loi sur les organismes de la Couronne*»);

(b) is or has been a member of a Council or College.

b) est ou a été membre d'un conseil ou d'un ordre.

20.—(1) Members of the Board shall be appointed for terms not exceeding three years.

20 (1) Les membres de la Commission sont nommés pour une période maximale de trois ans.

(2) A person appointed to replace a member of the Board before the member's term expires shall hold office for the remainder of the term.

(2) Quiconque est nommé pour remplacer un membre de la Commission avant l'expiration du mandat de ce dernier reste en fonction jusqu'à la fin du mandat.

(3) Members of the Board are eligible for reappointment.

(3) Le mandat des membres de la Commission peut être reconduit.

21. The members of the Board shall be paid the remuneration and expenses the Lieutenant Governor in Council determines.

21 Les membres de la Commission reçoivent la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

22. The Board may adopt a seal.

22 La Commission peut adopter un sceau.

23. The Board's duties are to conduct the hearings and reviews and to perform the duties that are assigned to it under this or any other Act.

23 La Commission a pour fonctions de tenir des audiences, de procéder à des réexamens et d'exercer les fonctions qui lui sont assignées aux termes de la présente loi ou de toute autre loi.

24.—(1) The Board may employ, under the *Public Service Act*, persons it considers necessary to carry out its duties.

24 (1) La Commission peut employer, aux termes de la loi intitulée *Public Service Act* («*Loi sur la fonction publique*»), le personnel qu'elle juge nécessaire pour s'acquitter de ses fonctions.

(2) The Board may engage persons who are not employed in the public service of Ontario to carry out investigations under subsection 28 (3) of the Code.

(2) La Commission peut employer des personnes qui ne sont pas des employés de la fonction publique de l'Ontario pour mener des enquêtes aux termes du paragraphe 28 (3) du Code.

(3) The Board may engage persons who are not employed in the public service of Ontario to provide expert or professional advice in connection with a registration hearing, complaint review or registration review.

(3) La Commission peut engager des personnes qui ne sont pas des employés de la fonction publique de l'Ontario pour fournir des avis d'experts ou de professionnels dans le cadre d'audiences relatives à des inscriptions, d'examen de plaintes ou d'examen d'inscriptions.

(4) A person engaged under subsection (3) shall be independent of the parties and, in the case of a complaint review, of the Complaints Committee.

(4) Toute personne engagée en vertu du paragraphe (3) est indépendante des parties et, dans le cas de l'examen d'une plainte, du comité des plaintes.

(5) The nature of any advice, including legal advice, given by a person engaged under subsection (3) shall be made known to the parties and they may make submissions with respect to the advice.

(5) La teneur de tout avis, notamment d'un avis juridique, que donne une personne engagée en vertu du paragraphe (3) est communiquée aux parties, qui peuvent présenter des observations sur cet avis.

25.—(1) A proceeding before the Board shall be considered and determined by a panel of the Board selected by the chair.

25 (1) Une instance introduite devant la Commission est instruite et tranchée par un sous-comité de la Commission choisi par le président.

(2) A panel shall be composed of at least three members, one of whom shall be the chair or a vice-chair of the Board.

(2) Le sous-comité se compose d'au moins trois membres, dont l'un est le président ou un vice-président de la Commission.

(3) A panel shall have an uneven number of members.

(3) Le sous-comité se compose d'un nombre impair de membres.

(4) Three members of a panel constitute a quorum.

(4) Trois membres constituent le quorum d'un sous-comité.

Terms of members

Mandat des membres

Replacement members

Membres suppléants

Reappointments

Reconduction de mandat

Remuneration and expenses

Rémunération et indemnités

Seal

Sceau

Duties

Fonctions

Employees

Employés

Investigators

Enquêteurs

Experts

Experts

Independence of experts

Indépendance des experts

Advice disclosed

Divulgence des avis

Panel

Sous-comités

Composition

Composition

Panel

Idem

Quorum

Quorum

Exception

(5) If a member of a panel is unable to continue to serve on the panel after a proceeding before the panel has commenced, the panel may continue the proceeding despite subsections (2), (3) and (4).

(5) Si un membre d'un sous-comité est dans l'impossibilité de continuer à y siéger après qu'une instance a été introduite devant le sous-comité, ce dernier peut poursuivre l'instruction de l'instance malgré les paragraphes (2), (3) et (4).

Exception

Extension of time limits

26.—(1) If the Board is satisfied that no person will be unduly prejudiced, it may, on reasonable grounds, extend any time limit with respect to,

- (a) the obligation, under subsection 28 (1) of the Code, of a panel of a Complaints Committee to dispose of a complaint against a member;
- (b) a Registrar's obligation to give to the Board, under subsection 32 (1) of the Code, a record of an investigation of a complaint against a member and the documents and things upon which a decision was made with respect to the complaint;
- (c) a requirement, under subsection 21 (1) of the Code, for a review or hearing by the Board; or
- (d) a request, under subsection 29 (2) of the Code, for a review by the Board.

26 (1) Si la Commission est convaincue que nul ne sera indûment lésé, elle peut, en se fondant sur des motifs raisonnables, proroger les délais relatifs :

Prorogation des délais

- a) à l'obligation d'un sous-comité d'un comité des plaintes, prévue au paragraphe 28 (1) du Code, de statuer sur une plainte déposée contre un membre;
- b) à l'obligation du registraire, prévue au paragraphe 32 (1) du Code, de remettre à la Commission un compte rendu d'enquête sur toute plainte déposée contre un membre, ainsi que les documents et choses sur lesquels a été fondée une décision relative à la plainte;
- c) à l'exigence, prévue au paragraphe 21 (1) du Code, quant au réexamen d'une demande ou à la tenue d'une audience par la Commission;
- d) à une demande de réexamen par la Commission, prévue au paragraphe 29 (2) du Code.

Limitation

(2) The Board shall not extend the time limit set out in subsection 29 (3) of the Code for more than sixty days.

(2) La Commission ne proroge pas le délai fixé au paragraphe 29 (3) du Code pour plus de soixante jours.

Restriction

PROHIBITIONS

Controlled acts restricted

27.—(1) No person shall perform a controlled act set out in subsection (2) in the course of providing health care services to an individual unless,

- (a) the person is a member authorized by a health profession Act to perform the controlled act; or
- (b) the performance of the controlled act has been delegated in accordance with section 28 to the person by a member described in clause (a).

Controlled acts

(2) A "controlled act" is any one of the following done with respect to an individual:

1. Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis. ▲

INTERDICTIONS

27 (1) Lorsqu'il donne des soins médicaux à un particulier, nul ne doit accomplir un des actes autorisés visés au paragraphe (2) sauf dans les cas suivants :

Restrictions relatives aux actes autorisés

- a) il est membre autorisé à accomplir cet acte par une loi sur une profession de la santé;
- b) l'exécution de l'acte autorisé lui a été déléguée conformément à l'article 28 par un membre visé à l'alinéa a).

(2) Par «acte autorisé», on entend l'un ou l'autre des actes suivants accomplis à l'égard d'un particulier :

Actes autorisés

1. La communication à un particulier, ou à son représentant, d'un diagnostic attribuant ses symptômes à tels maladies ou troubles, lorsque les circonstances laissent raisonnablement prévoir que le particulier ou son représentant s'appuiera sur ce diagnostic. ▲

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| <p>2. Performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth.</p> <p>3. Setting or casting a fracture of a bone or a dislocation of a joint.</p> <p>4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.</p> <p>5. Administering a substance by injection or inhalation.</p> <p>6. Putting an instrument, hand or finger,</p> <p style="padding-left: 20px;">i. beyond the external ear canal,</p> <p style="padding-left: 20px;">ii. beyond the point in the nasal passages where they normally narrow,</p> <p style="padding-left: 20px;">iii. beyond the larynx,</p> <p style="padding-left: 20px;">iv. beyond the opening of the urethra,</p> <p style="padding-left: 20px;">v. beyond the labia majora,</p> <p style="padding-left: 20px;">vi. beyond the anal verge, or</p> <p style="padding-left: 20px;">vii. into an artificial opening into the body.</p> <p>7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.</p> <p>8. Prescribing, dispensing, selling or compounding a drug as defined in clause 113 (1) (d) of the <i>Drug and Pharmacies Regulation Act</i>, or supervising the part of a pharmacy where such drugs are kept.</p> <p>9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.</p> <p>10. Prescribing a hearing aid for a hearing impaired person.</p> <p>11. Fitting or dispensing a dental prosthesis, orthodontic <u>or periodontal</u> appliance or a device used inside the mouth</p> | <p>2. La pratique d'interventions sur le tissu situé sous le derme, sous la surface des muqueuses, à la surface de la cornée ou des dents, ou au-delà, y compris le détartrage des dents.</p> <p>3. L'immobilisation plâtrée des fractures ou des luxations articulaires, ou leur consolidation ou réduction.</p> <p>4. La manipulation des articulations de la colonne vertébrale au-delà de l'arc de mouvement physiologique habituel d'un particulier au moyen d'impulsions rapides de faible amplitude.</p> <p>5. L'administration de substances par voie d'injection ou d'inhalation.</p> <p>6. L'introduction d'un instrument, d'une main ou d'un doigt :</p> <p style="padding-left: 20px;">i. au-delà du conduit auditif externe,</p> <p style="padding-left: 20px;">ii. au-delà du point de rétrécissement normal des fosses nasales,</p> <p style="padding-left: 20px;">iii. au-delà du larynx,</p> <p style="padding-left: 20px;">iv. au-delà du méat urinaire,</p> <p style="padding-left: 20px;">v. au-delà des grandes lèvres,</p> <p style="padding-left: 20px;">vi. au-delà de la marge de l'anus,</p> <p style="padding-left: 20px;">vii. dans une ouverture artificielle dans le corps.</p> <p>7. L'application des formes d'énergie prescrites par les règlements pris en application de la présente loi ou le fait d'en ordonner l'application.</p> <p>8. La prescription, la délivrance, la vente ou la composition de médicaments au sens de la définition qu'en donne le paragraphe 113 (1) de la loi intitulée <i>Drug and Pharmacies Regulation Act</i> («<i>Loi sur la réglementation des médicaments et des pharmacies</i>»), ou la surveillance de la section d'une pharmacie où sont conservés ces médicaments.</p> <p>9. La prescription ou la délivrance d'appareils de correction visuelle pour les malvoyants, de verres de contact ou de lunettes, autres que de simples lentilles grossissantes, dans le cas de troubles visuels ou oculaires.</p> <p>10. La prescription d'appareils de correction auditive aux personnes malentendantes.</p> <p>11. L'appareillage ou la délivrance de prothèses dentaires, d'appareils d'orthodontie <u>ou de périodontie</u>, ou de dispositifs qui se portent dans la bouche en</p> |
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to protect teeth from abnormal functioning.

12. Managing labour or conducting the delivery of a baby.
13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response.

vue de prévenir tout fonctionnement anormal de la denture.

12. La direction du travail des parturientes ou la pratique d'accouchements.
13. L'administration de tests de provocation d'allergie d'un type particulier selon lesquels un résultat positif constitue une réaction allergique significative.

Exemptions

(3) An act by a person is not a contravention of subsection (1) if the person is exempted by the regulations under this Act or if the act is done in the course of an activity exempted by the regulations under this Act.

(3) Ne constitue pas une contravention au paragraphe (1) l'acte qu'accomplit une personne exemptée par les règlements pris en application de la présente loi ou l'acte accompli dans le cadre d'une activité soustraite à l'application des règlements pris en application de la présente loi.

Exemptions

Delegation of controlled act

28.—(1) The delegation of a controlled act by a member must be in accordance with any applicable regulations under the health profession Act governing the member's profession.

28 (1) La délégation de l'exécution d'un acte autorisé par un membre doit être faite conformément à tout règlement applicable pris en application de la loi sur une profession de la santé qui régit la profession du membre.

Délégation d'actes autorisés

Idem

(2) The delegation of a controlled act to a member must be in accordance with any applicable regulations under the health profession Act governing the member's profession.

(2) La délégation de l'exécution d'un acte autorisé à un membre doit être faite conformément à tout règlement applicable pris en application de la loi sur une profession de la santé qui régit la profession du membre.

Idem

Exceptions

29.—(1) An act by a person is not a contravention of subsection 27 (1) if it is done in the course of,

29 (1) Ne constitue pas une contravention au paragraphe 27 (1) l'acte accompli par une personne dans le cadre de l'une ou l'autre des activités suivantes :

Exceptions

- (a) rendering first aid or temporary assistance in an emergency;
- (b) fulfilling the requirements to become a member of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession;
- (c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;
- (d) treating a member of the person's household and the act is a controlled act set out in paragraph 1, 5 or 6 of subsection 27 (2); or
- (e) assisting a person with his or her routine activities of living and the act is a controlled act set out in paragraph 5 or 6 of subsection 27 (2).

- a) l'administration des premiers soins ou l'octroi d'une aide temporaire en cas d'urgence;
- b) la satisfaction des exigences prévues pour devenir membre d'une profession de la santé, si l'acte entre dans l'exercice de la profession et est accompli sous la surveillance ou la direction d'un membre de la profession;
- c) le traitement d'une personne par la prière ou par d'autres moyens spirituels, conformément à la doctrine religieuse de la personne qui donne le traitement;
- d) le traitement d'un membre du ménage de la personne, si l'acte est un acte autorisé visé à la disposition 1, 5 ou 6 du paragraphe 27 (2);
- e) l'aide prêtée à une personne dans l'accomplissement de ses activités de la vie quotidienne, si l'acte est un acte autorisé visé à la disposition 5 ou 6 du paragraphe 27 (2).

Counselling

(2) Subsection 27 (1) does not apply with respect to a communication made in the course of counselling about emotional, social, educational or spiritual matters as long as it

(2) Le paragraphe 27 (1) ne s'applique pas aux communications faites au cours de consultations portant sur des questions affectives, sociales, éducatives ou spirituelles, tant

Consultatio

is not a communication that a health profession Act authorizes members to make.

30.—(1) No person, other than a member treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious physical harm may result from the treatment or advice or from an omission from them.

(2) Subsection (1) does not apply with respect to treatment by a person who is acting under the direction of or in collaboration with a member if the treatment is within the scope of practice of the member's profession.

(3) Subsection (1) does not apply with respect to an act by a person if the act is a controlled act that was delegated under section 28 to the person by a member authorized by a health profession Act to do the controlled act.

(4) Subsection (1) does not apply with respect to counselling about emotional, social, educational or spiritual matters.

(5) Subsection (1) does not apply with respect to anything done by a person in the course of,

- (a) rendering first aid or temporary assistance in an emergency;
- (b) fulfilling the requirements to become a member of a health profession if the person is acting within the scope of practice of the profession under the supervision or direction of a member of the profession;
- (c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;
- (d) treating a member of the person's household; or
- (e) assisting a person with his or her routine activities of living.

(6) Subsection (1) does not apply with respect to an activity or person that is exempted by the regulations. ▲

31. No person shall dispense a hearing aid for a hearing impaired person except under a prescription by a member authorized by a

qu'il ne s'agit pas de communications que les membres sont autorisés à faire en vertu d'une loi sur une profession de la santé.

30 (1) Aucune personne, autre qu'un membre qui donne un traitement ou des conseils entrant dans l'exercice de sa profession, ne doit donner de traitement ou de conseils à une personne en ce qui concerne sa santé dans des circonstances où il est raisonnable de prévoir que des lésions corporelles graves puissent découler du traitement ou des conseils ou d'une omission dans le traitement ou les conseils.

(2) Le paragraphe (1) ne s'applique pas au traitement donné par une personne qui agit sous la direction d'un membre ou en collaboration avec lui si le traitement entre dans l'exercice de la profession du membre.

(3) Le paragraphe (1) ne s'applique pas à un acte accompli par une personne si l'acte est un acte autorisé dont l'exécution a été déléguée à la personne en vertu de l'article 28 par un membre autorisé à accomplir cet acte par une loi sur une profession de la santé.

(4) Le paragraphe (1) ne s'applique pas aux consultations qui portent sur des questions affectives, sociales, éducatives ou spirituelles.

(5) Le paragraphe (1) ne s'applique pas à un acte accompli par une personne dans le cadre de l'une ou l'autre des activités suivantes :

- a) l'administration des premiers soins ou l'octroi d'une aide temporaire en cas d'urgence;
- b) la satisfaction des exigences prévues pour devenir membre d'une profession de la santé si la personne agit dans le cadre de l'exercice de la profession sous la surveillance ou la direction d'un membre de la profession;
- c) le traitement d'une personne par la prière ou par d'autres moyens spirituels, conformément à la doctrine religieuse de la personne qui donne le traitement;
- d) le traitement d'un membre du ménage de la personne;
- e) la prestation d'une aide à une personne dans ses activités de la vie quotidienne.

(6) Le paragraphe (1) ne s'applique pas aux activités ni aux personnes que les règlements soustraient à son application. ▲

31 Nul ne doit délivrer un appareil de correction auditive à une personne malentendante sauf en vertu d'une ordonnance d'un membre autorisé, par une loi sur une profes-

Treatment, etc., where risk of harm

Supervision by member

Delegation

Counselling

Exceptions

Exemption

Dispensing hearing aids

Traitement et autre s'il y a risque de lésion

Surveillance par un membre

Délégation

Consultations

Exceptions

Exemption

Délivrance d'appareils de correction auditive

health profession Act to prescribe a hearing aid for a hearing impaired person.

sion de la santé, à prescrire de tels appareils aux personnes malentendantes.

Dental devices, etc.

32.—(1) No person shall design, construct, repair or alter a dental prosthetic, restorative or orthodontic device unless,

32 (1) Nul ne doit concevoir, confectionner, réparer ou modifier des prothèses dentaires de reconstitution ou d'orthodontie sauf dans les cas suivants :

Prothèses dentaires

(a) the technical aspects of the design, construction, repair or alteration are supervised by a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario; or

a) les aspects techniques de la conception, de la confection, de la réparation ou de la modification sont supervisés par un membre de l'Ordre des technologues dentaires de l'Ontario ou de l'Ordre royal des chirurgiens dentistes de l'Ontario;

(b) the person is a member of a College mentioned in clause (a).

b) la personne est membre d'un ordre mentionné à l'alinéa a).

Employers

(2) A person who employs a person to design, construct, repair or alter a dental prosthetic, restorative or orthodontic device shall ensure that subsection (1) is complied with.

(2) Une personne qui emploie une autre personne pour que celle-ci conçoive, confectionne, répare ou modifie une prothèse dentaire de reconstitution ou d'orthodontie veille à ce que le paragraphe (1) soit observé.

Employeurs

Supervisors

(3) No person shall supervise the technical aspects of the design, construction, repair or alteration of a dental prosthetic, restorative or orthodontic device unless he or she is a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario.

(3) Nul ne doit superviser les aspects techniques de la conception, de la confection, de la réparation ou de la modification de prothèses dentaires de reconstitution ou d'orthodontie à moins d'être membre de l'Ordre des technologues dentaires de l'Ontario ou de l'Ordre royal des chirurgiens dentistes de l'Ontario.

Superviseurs

Denturists

(4) This section does not apply with respect to the design, construction, repair or alteration of removable dentures for the patients of a member of the College of Denturists of Ontario if the member does the designing, construction, repair or alteration or supervises their technical aspects.

(4) Le présent article ne s'applique pas à la conception, à la confection, à la réparation ou à la modification de prothèses amovibles pour les patients d'un membre de l'Ordre des denturologistes de l'Ontario si c'est le membre qui l'effectue ou qui en supervise les aspects techniques.

Denturologistes

Exceptions

(5) This section does not apply with respect to anything done in a hospital as defined in the *Public Hospitals Act* or in a clinic associated with a university's faculty of dentistry or the denturism program of a college of applied arts and technology.

(5) Le présent article ne s'applique à aucune activité ayant lieu dans un hôpital tel que le définit la loi intitulée *Public Hospitals Act* («*Loi sur les hôpitaux publics*») ou dans une clinique reliée à une faculté de dentisterie d'une université, ou faisant partie d'un programme de denturologie d'un collège d'arts appliqués et de technologie.

Exceptions

Restriction of title "doctor"

33.—(1) Except as allowed in the regulations under this Act, no person shall use the title "doctor", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

33 (1) Sauf dans la mesure permise par les règlements pris en application de la présente loi, nul ne doit employer le titre de «docteur», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Restriction d'emploi du titre de «docteur»

Idem

(2) Subsection (1) does not apply to a person who is a member of,

(2) Le paragraphe (1) ne s'applique pas à une personne qui est membre d'un des ordres suivants :

Idem

(a) the College of Chiropractors of Ontario;

a) l'Ordre des chiropraticiens de l'Ontario;

(b) the College of Optometrists of Ontario;

b) l'Ordre des optométristes de l'Ontario;

- (c) the College of Physicians and Surgeons of Ontario;
- (d) the College of Psychologists of Ontario; or
- (e) the Royal College of Dental Surgeons of Ontario.

- c) l'Ordre des médecins et chirurgiens de l'Ontario;
- d) l'Ordre des psychologues de l'Ontario;
- e) l'Ordre royal des chirurgiens dentistes de l'Ontario.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Holding out as a College

34.—(1) No corporation shall falsely hold itself out as a body that regulates, under statutory authority, individuals who provide health care.

34 (1) Aucune personne morale ne doit se présenter faussement comme un organisme régissant, en vertu d'une autorisation législative, des particuliers qui dispensent des soins médicaux.

Interdiction de se présenter comme un ordre

Idem

(2) No individual shall hold himself or herself out as a member, employee or agent of a body that the individual falsely represents as or knows is falsely represented as regulating, under statutory authority, individuals who provide health care.

(2) Aucun particulier ne doit se présenter comme un membre, un employé ou un mandataire d'un organisme qu'il présente faussement comme un organisme régissant, en vertu d'une autorisation législative, des particuliers qui dispensent des soins médicaux, ou qu'il sait être présenté faussement comme tel.

Idem

MISCELLANEOUS

35.—(1) This Act does not apply to,

- (a) aboriginal healers providing traditional healing services to aboriginal persons or members of an aboriginal community; or
- (b) aboriginal midwives providing traditional midwifery services to aboriginal persons or members of an aboriginal community.

(2) Despite subsection (1), an aboriginal healer or aboriginal midwife who is a member of a College is subject to the jurisdiction of the College.

(3) In this section,

"aboriginal healer" means an aboriginal person who provides traditional healing services; ("guérisseur autochtone")

"aboriginal midwife" means an aboriginal person who provides traditional midwifery services. ("sage-femme autochtone")

36.—(1) Every person employed, retained or appointed for the purpose of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every member of a Council or committee of a College shall preserve secrecy with respect to all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person except,

DISPOSITIONS DIVERSES

35 (1) La présente loi ne s'applique pas aux personnes suivantes :

- a) les guérisseurs autochtones qui offrent des services traditionnels de guérisseur aux autochtones ou aux membres d'une communauté autochtone;
- b) les sages-femmes autochtones qui offrent des services traditionnels de sage-femme aux autochtones ou aux membres d'une communauté autochtone.

(2) Malgré le paragraphe (1), un guérisseur autochtone ou une sage-femme autochtone qui est membre d'un ordre est soumis à la compétence de l'ordre.

(3) Les définitions qui suivent s'appliquent au présent article.

«guérisseur autochtone» Autochtone qui offre des services traditionnels de guérisseur. («aboriginal healer»)

«sage-femme autochtone» Autochtone qui offre des services traditionnels de sage-femme. («aboriginal midwife»)

36 (1) Quiconque est employé, engagé ou nommé aux fins de l'application de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («Loi sur la réglementation des médicaments et des pharmacies»), ainsi que les membres d'un conseil ou d'un des comités d'un ordre, sont tenus au secret à l'égard de tout renseignement venant à leur connaissance dans l'exercice de leurs fonc-

Non-application aux guérisseurs et sages-femmes autochtones

Sousmission à la compétence de l'ordre

Définitions

Secret professionnel

Exemption, aboriginal healers and midwives

Jurisdictions of Colleges

Definitions

Confidentiality

- (a) to the extent that the information is available to the public under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (b) in connection with the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;
- (c) to a body that governs a health profession in a jurisdiction other than Ontario;
- (d) as may be required for the administration of the *Health Insurance Act*, *Independent Health Facilities Act, 1989* or the *Prescription Drug Cost Regulation Act, 1986*;
- (e) to the counsel of the person who is required to preserve secrecy; or
- (f) with the written consent of the person to whom the information relates.

Not compellable

(2) No person or member described in subsection (1) shall be compelled to give testimony in a civil proceeding with regard to matters that come to his or her knowledge in the course of his or her duties.

Evidence in civil proceedings

(3) No record of a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, no report, document or thing prepared for or statement given at such a proceeding and no order or decision made in such a proceeding is admissible in a civil proceeding other than a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*.

tions et n'en divulguent rien à qui que ce soit, sauf :

- a) dans la mesure où les renseignements sont accessibles au public en vertu de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»);
- b) à l'égard de l'application de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), de même qu'à l'égard, notamment, de tout ce qui se rapporte à l'inscription des membres, aux plaintes concernant les membres, aux allégations d'incapacité, d'incompétence ou de faute professionnelle des membres ou à l'égard de la direction de la profession;
- c) à un organisme qui régit une profession de la santé dans un ressort autre que l'Ontario;
- (d) de la façon que peut l'exiger l'application de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), de celle intitulée *Independent Health Facilities Act, 1989* («*Loi de 1989 sur les établissements de santé autonomes*») ou de celle intitulée *Prescription Drug Cost Regulation Act, 1986* («*Loi de 1986 sur la réglementation des prix des médicaments délivrés sur ordonnance*»);
- e) à l'avocat de la personne qui est tenue au secret;
- f) avec le consentement écrit de la personne à laquelle se rapportent les renseignements.

(2) Aucune personne ni aucun membre visés au paragraphe (1) ne doivent être contraints à témoigner dans une instance civile en ce qui concerne les questions qui viennent à leur connaissance dans l'exercice de leurs fonctions.

(3) Les dossiers des instances introduites aux termes de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), les rapports, documents ou choses préparés aux fins de ces instances, les déclarations faites au cours de ces instances, ainsi que les ordonnances ou décisions rendues au cours de ces instances ne sont pas recevables en preuve dans le cadre d'instances civiles qui ne sont pas introduites aux termes de la présente loi, d'une loi sur une pro-

Interdiction de contraindre

Preuves dans les instances civiles

Onus of
proof to
show regis-
tration

37. A person who is charged with an offence to which registration under a health profession Act would be a defence shall be deemed, in the absence of evidence to the contrary, to have not been registered.

Immunity

38. No action or other proceeding for damages shall be instituted against the Advisory Council, the Board, a College, a Council, or a member, officer, employee, agent or appointee of the Advisory Council, the Board, a College, a Council, a committee of a Council or a panel of a committee of a Council for an act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a health profession Act, the *Drug and Pharmacies Regulation Act* or a regulation or a by-law under those Acts or for any neglect or default in the performance or exercise in good faith of the duty or power.

Service by
mail

39.—(1) A notice to be given under this Act to a person may be given by mail.

Idem

(2) If a notice under this Act is sent by prepaid first class mail addressed to the person at the person's last known address there is a rebuttable presumption that the notice was received by the person on the fifth day after the notice was mailed.

Offence

40.—(1) Every person who contravenes subsection 27 (1) or 30 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who contravenes section 31, 32 or 33 or subsection 34 (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

Idem

(3) Every person who contravenes subsection 34 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.

Responsi-
bility of
employment
agencies

41. Every person who procures employment for an individual and who knows that the individual cannot perform the duties of

profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»).

37 Quiconque est inculpé d'une infraction à l'égard de laquelle l'inscription en vertu d'une loi sur une profession de la santé constituerait une défense est réputé, en l'absence de preuve contraire, n'avoir pas été inscrit.

38 Sont irrecevables les actions ou autres instances en dommages-intérêts engagées contre le Conseil consultatif, la Commission, un ordre, un conseil, ou un membre, un dirigeant, un employé, un mandataire ou un délégué du Conseil consultatif, de la Commission, d'un ordre, d'un conseil, d'un comité d'un conseil ou d'un sous-comité d'un tel comité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice d'une fonction ou d'un pouvoir que leur confèrent la présente loi, une loi sur une profession de la santé, la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*») ou un règlement ou règlement administratif pris en application de ces lois, ou à l'égard de toute négligence ou omission commise dans l'exercice de bonne foi de cette fonction ou de ce pouvoir.

39 (1) L'avis devant être donné à quiconque aux termes de la présente loi peut être signifié par la poste.

(2) Si un avis prévu par la présente loi est envoyé par courrier affranchi de première classe à la dernière adresse connue du destinataire, il existe une présomption réfutable selon laquelle cet avis a été reçu par le destinataire le cinquième jour qui suit sa mise à la poste.

40 (1) Quiconque contrevient au paragraphe 27 (1) ou 30 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$ et d'un emprisonnement d'au plus six mois, ou d'une seule de ces peines.

(2) Quiconque contrevient à l'article 31, 32 ou 33, ou au paragraphe 34 (2), est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

(3) Quiconque contrevient au paragraphe 34 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ pour une première infraction, et d'une amende d'au plus 20 000 \$ pour une infraction subséquente.

41 Toute personne qui trouve de l'emploi pour un particulier et qui sait que ce dernier ne peut pas s'acquitter des fonctions du poste

Fardeau de la
preuve quant
à l'inscription

Immunité

Signification
par la poste

Idem

Infraction

Idem

Idem

Responsabi-
lité des
bureaux de
placement

the position without contravening subsection 27 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Responsi-
bility of
employers

42.—(1) The employer of a person who contravenes subsection 27 (1) while acting within the scope of his or her employment is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Responsi-
bility of
directors of
corporate
employers

(2) In addition, if the employer described in subsection (1) is a corporation, every director of the corporation who approved of, permitted or acquiesced in the contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Exception

(3) Subsection (2) does not apply with respect to a corporation that operates a public hospital within the meaning of the *Public Hospitals Act* or to a corporation to which Part III of the *Corporations Act* applies. ▲

Regulations

43.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing forms of energy for the purposes of paragraph 7 of subsection 27 (2);
- (b) exempting a person or activity from subsection 27 (1) or 30 (1);
- (c) attaching conditions to an exemption in a regulation made under clause (b);
- (d) allowing the use of the title “doctor”, a variation or abbreviation or an equivalent in another language.

Scope of
regulations

(2) A regulation may be general or particular in its application.

Definition

(3) In clause (1) (d), “abbreviation” includes an abbreviation of a variation.

References
to health
professionals

44. A reference in an Act or regulation to a person described in Column 1 of the Table shall be deemed to be a reference to a person described opposite in Column 2.

Repeals

45. The following are repealed:

1. The *Chiropody Act*.
2. The *Dental Technicians Act*.
3. The *Denture Therapists Act*.

sans contrevenir au paragraphe 27 (1) est coupable d’une infraction et passible, sur déclaration de culpabilité, d’une amende d’au plus 25 000 \$.

Responsabi-
lité des
employeurs

42 (1) L’employeur d’une personne qui contrevient au paragraphe 27 (1) dans le cadre de son emploi est coupable d’une infraction et passible, sur déclaration de culpabilité, d’une amende d’au plus 25 000 \$.

Responsabi-
lité des admi-
nistrateurs

(2) De plus, si l’employeur visé au paragraphe (1) est une personne morale, tout administrateur de la personne morale qui approuve ou permet la contravention, ou y acquiesce, est coupable d’une infraction et passible, sur déclaration de culpabilité, d’une amende d’au plus 25 000 \$.

Exception

(3) Le paragraphe (2) ne s’applique pas à la personne morale qui exploite un hôpital public au sens de la loi intitulée *Public Hospitals Act* («*Loi sur les hôpitaux publics*») ni à la personne morale à laquelle s’applique la partie III de la loi intitulée *Corporations Act* («*Loi sur les personnes morales*»). ▲

Règlements

43 (1) Sous réserve de l’approbation du lieutenant-gouverneur en conseil, le ministre peut, par règlement :

- a) prescrire des formes d’énergie pour l’application de la disposition 7 du paragraphe 27 (2);
- b) soustraire des personnes ou des activités à l’application du paragraphe 27 (1) ou 30 (1);
- c) assortir de conditions les exemptions prévues par tout règlement pris en application de l’alinéa b);
- d) autoriser l’emploi du titre de «docteur», une variante ou une abréviation, ou un équivalent dans une autre langue.

Portée des
règlements

(2) Les règlements peuvent avoir une portée générale ou particulière.

Définition

(3) À l’alinéa (1) d), le terme «abréviation» s’entend en outre de l’abréviation d’une variante.

Mention de
professionnels
de la santé

44 La mention, dans une loi ou un règlement, d’une des personnes énumérées dans la colonne 1 du tableau est réputée la mention de la personne figurant en regard à la colonne 2.

Abrogation de
lois

45 Les lois et l’article suivants sont abrogés :

1. La loi intitulée *Chiropody Act* («*Loi sur les podologues*»).
2. La loi intitulée *Dental Technicians Act* («*Loi sur les techniciens dentaires*»).
3. La loi intitulée *Denture Therapists Act* («*Loi sur les denturologues*»).

4. The *Ophthalmic Dispensers Act* and section 49 of the *Equality Rights Statute Law Amendment Act, 1986*.
5. The *Psychologists Registration Act* and the *Psychologists Registration Amendment Act, 1988*.
6. The *Radiological Technicians Act*.

Revocations

46. The following regulations made under the *Drugless Practitioners Act* are revoked:

1. Regulation 248 (Chiropractors) of Revised Regulations of Ontario, 1980.
2. Regulation 249 (Classifications) of Revised Regulations of Ontario, 1980.
3. Regulation 251 (Masseurs) of Revised Regulations of Ontario, 1980.
4. Regulation 252 (Osteopaths) of Revised Regulations of Ontario, 1980.
5. Regulation 253 (Physiotherapists) of Revised Regulations of Ontario, 1980.

47.—(1) The following are repealed:

1. The *Health Disciplines Act*, except clauses 1 (1) (a) and (c), subsection 1 (3), section 2, clauses 113 (1) (a) to (m), (o), (p), (q) and (r), subsection 113 (2), section 114, clauses 119 (1) (d) and (j), clause 120 (1) (l), sections 135 to 161, subsection 162 (3) and sections 163 and 164.
2. The *Health Disciplines Amendment Act, 1983*.
3. Section 15 of the *Prescription Drug Cost Regulation Act, 1986*.
4. The *Health Disciplines Amendment Act, 1986*.

4. La loi intitulée *Ophthalmic Dispensers Act* («*Loi sur les opticiens d'ordonnances*») et l'article 49 de la loi intitulée *Equality Rights Statute Law Amendment Act, 1986* («*Loi de 1986 modifiant des lois sur les droits à l'égalité*»).
5. La loi intitulée *Psychologists Registration Act* («*Loi sur l'inscription des psychologues*») et la loi intitulée *Psychologists Registration Amendment Act, 1988* («*Loi de 1988 modifiant la Loi sur l'inscription des psychologues*»).
6. La loi intitulée *Radiological Technicians Act* («*Loi sur les techniciens en radiologie*»).

Abrogation de règlements

46 Les règlements suivants, pris en application de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), sont abrogés :

1. Le Règlement 248 (chiropraticiens) des Règlements refondus de l'Ontario de 1980.
2. Le Règlement 249 (classifications) des Règlements refondus de l'Ontario de 1980.
3. Le Règlement 251 (masseurs) des Règlements refondus de l'Ontario de 1980.
4. Le Règlement 252 (ostéopraticiens) des Règlements refondus de l'Ontario de 1980.
5. Le Règlement 253 (physiothérapeutes) des Règlements refondus de l'Ontario de 1980.

47 (1) Les lois et l'article suivants sont abrogés :

1. La loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), à l'exclusion des alinéas 1 (1) (a) et (c), du paragraphe 1 (3), de l'article 2, des alinéas 113 (1) (a) à (m), (o), (p), (q) et (r), du paragraphe 113 (2), de l'article 114, des alinéas 119 (1) (d) et (j), de l'alinéa 120 (1) (l), des articles 135 à 161, du paragraphe 162 (3) et des articles 163 et 164.
2. La loi intitulée *Health Disciplines Amendment Act, 1983* («*Loi de 1983 modifiant la Loi sur les sciences de la santé*»).
3. L'article 15 de la loi intitulée *Prescription Drug Cost Regulation Act, 1986* («*Loi de 1986 sur la réglementation des prix des médicaments*»).
4. La loi intitulée *Health Disciplines Amendment Act, 1986* («*Loi de 1986 modifiant la Loi sur les sciences de la santé*»).

(2) The title of the *Health Disciplines Act* is repealed and the following substituted:

(2) Le titre de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*») est abrogé et remplacé par ce qui suit :

DRUG AND PHARMACIES REGULATION ACT

DRUG AND PHARMACIES REGULATION ACT

(3) Clause 1 (1) (a) of the *Drug and Pharmacies Regulation Act* is repealed and the following substituted:

(3) L'alinéa 1 (1) (a) de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*») est abrogé et remplacé par ce qui suit :

(a) "Board" means the Health Professions Board continued under the *Regulated Health Professions Act, 1991*.

(4) Subsection 113 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 28, section 15, is further amended by renumbering clause (a) as clause (aa) and by adding the following clause:

(4) Le paragraphe 113 (1) de la Loi, tel qu'il est modifié par l'article 15 du chapitre 28 des Lois de l'Ontario de 1986, est modifié de nouveau par substitution, à la désignation d'alinéa (a), de la désignation d'alinéa (aa) et par adjonction de l'alinéa suivant :

(a) "Accreditation Committee" means the Accreditation Committee of the Council.

(5) Subsection 113 (1) is further amended by adding the following clauses:

(5) Le paragraphe 113 (1) est modifié de nouveau par adjonction des alinéas suivants :

(ca) "Discipline Committee" means the Discipline Committee of the Council;

(da) "Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*.

(6) Clauses 113 (1) (f), (g), (j) and (q) of the Act are repealed and the following substituted:

(6) Les alinéas 113 (1) (f), (g), (j) et (q) de la Loi sont abrogés et remplacés par ce qui suit :

(f) "intern" means a person who is registered as an intern under the *Pharmacy Act, 1991*;

(g) "licence" means a certificate of registration issued under the *Pharmacy Act, 1991*;

(j) "pharmacist" means a member;

(q) "registered pharmacy student" means a person registered as a student under the *Pharmacy Act, 1991*.

(7) Subclause 114 (1) (b) (iii) of the Act is repealed and the following substituted:

(7) Le sous-alinéa 114 (1) (b) (iii) de la Loi est abrogé et remplacé par ce qui suit :

(iii) a live stock medicine within the meaning of the *Live Stock Medicines Act* by a person licensed under that Act.

(8) Subsection 114 (2) of the Act is amended by striking out "this Act" in the second line and substituting "a health profession Act as defined in the *Regulated Health Professions Act, 1991*".

(8) Le paragraphe 114 (2) de la Loi est modifié par substitution, aux mots «this Act» à la deuxième ligne, des mots «a health profession Act as defined in the *Regulated Health Professions Act, 1991*».

(9) Section 114 of the Act is amended by adding the following subsection:

(9) L'article 114 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(3) Nothing in this Part prevents any person from selling, to a member of the College of Chiropractors of Ontario, the College

of Dental Hygienists of Ontario, the College of Midwives of Ontario or the College of Optometrists of Ontario, a drug that the member may use in the course of engaging in the practice of his or her profession.

(10) Clause 119 (1) (d) of the Act is amended by striking out "licences and registrations" in the third line and substituting "certificates of accreditation".

(11) Clause 119 (1) (j) of the Act is amended by striking out "and the practice of pharmacists" in the third line.

(12) Subsection 135 (4) of the Act is repealed and the following substituted:

Procedure

(4) The provisions of the Health Professions Procedural Code dealing with applications to the Registration Committee and hearings, reviews and appeals from decisions of panels of the Registration Committee apply, with necessary modifications and subject to subsection (5), to applications referred to the Accreditation Committee as though the Accreditation Committee were a panel.

Idem

(5) The following provisions of the Health Professions Procedural Code do not apply to applications referred to the Accreditation Committee:

1. Paragraphs 2, 3 and 5 of subsection 18 (2).
2. Paragraph 2 of subsection 22 (6).

(13) Subsections 136 (2) and (3) of the Act are repealed and the following substituted:

Procedure

(2) The provisions of the Health Professions Procedural Code dealing with allegations of a member's professional misconduct referred to the Discipline Committee and hearings, reviews and appeals from decisions of panels of the Discipline Committee apply, with necessary modifications and subject to subsection (3), to allegations referred to the Discipline Committee under subsection (1).

Idem

(3) Subsection (3a) applies, instead of subsections 51 (1) and (2) of the Health Professions Procedural Code, to allegations referred to the Discipline Committee under subsection (1).

Orders

(3a) If a panel of the Discipline Committee finds a person who has been issued a certificate of accreditation in respect of a pharmacy has established or operated the pharmacy in contravention of this Act or the regulations, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the person's certificate.
2. Directing the Registrar to suspend the person's certificate for a specified period of time.
3. Requiring the person to pay a fine of not more than \$25,000 to the Treasurer of Ontario.

(14) Section 139 of the Act is amended by striking out "as a pharmacist" in the first line.

(15) Subsection 142 (3) of the Act is repealed and the following substituted:

Displaying
licence

(3) Every manager of a pharmacy shall publicly display his or her licence in the pharmacy. ▲

(10) L'alinéa 119 (1) (d) de la Loi est modifié par substitution, aux mots «licences and registrations» à la troisième ligne, des mots «certificates of accreditation».

(11) L'alinéa 119 (1) (j) de la Loi est modifié par suppression des mots «and the practice of pharmacists» à la troisième ligne.

(12) Le paragraphe 135 (4) de la Loi est abrogé et remplacé par ce qui suit :

(13) Les paragraphes 136 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(14) L'article 139 de la Loi est modifié par suppression des mots «as a pharmacist» à la première ligne.

(15) Le paragraphe 142 (3) de la Loi est abrogé et remplacé par ce qui suit :

(16) Subsection 152 (2) of the Act is amended by striking out "six" in the second line and substituting "two".

(17) Section 161 of the Act is amended by striking out "licence or" in the first line and in the third line.

48. *The Ontario Dietetic Association Act, 1958* is repealed.

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

50. The short title of this Act is the *Regulated Health Professions Act, 1991*.

(16) Le paragraphe 152 (2) de la Loi est modifié par substitution, au mot «six» à la deuxième ligne, du mot «two».

(17) L'article 161 de la Loi est modifié par suppression des mots «licence or» à la première ligne et à la troisième ligne.

48 La loi intitulée *The Ontario Dietetic Association Act, 1958* est abrogée.

49 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

50 Le titre abrégé de la présente loi est *Loi de 1991 sur les professions de la santé réglementées*.

Commencement

Short title

Entrée en vigueur

Titre abrégé

TABLE

Column 1	Column 2
1. person registered as a chiropodist under the <i>Chiropody Act</i>	member of the College of Chiropodists of Ontario
2. person registered as a dental technician under the <i>Dental Technicians Act</i>	member of the College of Dental Technologists of Ontario
3. person licensed as a denture therapist under the <i>Denture Therapists Act</i>	member of the College of Denturists of Ontario
4. person registered as a chiropractor under the <i>Drugless Practitioners Act</i>	member of the College of Chiropractors of Ontario
5. person registered as a masseur under the <i>Drugless Practitioners Act</i>	member of the College of Massage Therapists of Ontario
6. person registered as an osteopath under the <i>Drugless Practitioners Act</i>	member of the College of Physicians and Surgeons of Ontario classed as an osteopath
7. person registered as a physiotherapist under the <i>Drugless Practitioners Act</i>	member of the College of Physiotherapists of Ontario

TABLEAU

Colonne 1	Colonne 2
1. personne inscrite à titre de podologue aux termes de la loi intitulée <i>Chiropody Act</i> (« <i>Loi sur les podologues</i> »)	membre de l'Ordre des podologues de l'Ontario
2. personne inscrite à titre de technicien dentaire aux termes de la loi intitulée <i>Dental Technicians Act</i> (« <i>Loi sur les techniciens dentaires</i> »)	membre de l'Ordre des <u>technologues</u> dentaires de l'Ontario
3. personne titulaire d'un permis l'autorisant à exercer la profession de denturologue aux termes de la loi intitulée <i>Denture Therapists Act</i> (« <i>Loi sur les denturologues</i> »)	membre de l'Ordre des <u>denturologistes</u> de l'Ontario
4. personne inscrite à titre de chiropraticien aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des chiropraticiens de l'Ontario
5. personne inscrite à titre de masseur aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des massothérapeutes de l'Ontario
6. personne inscrite à titre d'ostéopraticien aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des médecins et chirurgiens de l'Ontario, appartenant à la catégorie des ostéopraticiens
7. personne inscrite à titre de physiothérapeute aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des physiothérapeutes de l'Ontario

8. person registered as a dental hygienist under Part II of the <i>Health Disciplines Act</i>	member of the College of Dental Hygienists of Ontario	8. personne inscrite à titre d'hygiéniste dentaire aux termes de la partie II de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des hygiénistes dentaires de l'Ontario
9. person licensed under Part II of the <i>Health Disciplines Act</i>	member of the Royal College of Dental Surgeons of Ontario	9. personne titulaire d'un permis délivré en vertu de la partie II de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre royal des chirurgiens dentistes de l'Ontario
10. person licensed under Part III of the <i>Health Disciplines Act</i>	member of the College of Physicians and Surgeons of Ontario	10. personne titulaire d'un permis délivré en vertu de la partie III de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des médecins et chirurgiens de l'Ontario
11. person who is the holder of a certificate issued under Part IV of the <i>Health Disciplines Act</i>	member of the College of Nurses of Ontario	11. personne titulaire d'un certificat délivré en vertu de la partie IV de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des infirmières et infirmiers de l'Ontario
12. person licensed under Part V of the <i>Health Disciplines Act</i>	member of the College of Optometrists of Ontario	12. personne titulaire d'un permis délivré en vertu de la partie V de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des optométristes de l'Ontario
13. person licensed under Part VI of the <i>Health Disciplines Act</i>	member of the Ontario College of Pharmacists	13. personne titulaire d'un permis délivré en vertu de la partie VI de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des pharmaciens de l'Ontario
14. person registered under the <i>Ophthalmic Dispensers Act</i>	member of the College of Opticians of Ontario	14. personne inscrite aux termes de la loi intitulée <i>Ophthalmic Dispensers Act</i> (« <i>Loi sur les opticiens d'ordonnances</i> »)	membre de l'Ordre des opticiens de l'Ontario
15. person registered under the <i>Psychologists Registration Act</i>	member of the College of Psychologists of Ontario	15. personne inscrite aux termes de la loi intitulée <i>Psychologists Registration Act</i> (« <i>Loi sur l'inscription des psychologues</i> »)	membre de l'Ordre des psychologues de l'Ontario
16. person registered under the <i>Radiological Technicians Act</i>	member of the College of Medical Radiation Technologists of Ontario	16. personne inscrite aux termes de la loi intitulée <i>Radiological Technicians Act</i> (« <i>Loi sur les techniciens en radiologie</i> »)	membre de l'Ordre des <u>technologues</u> en radiation médicale de l'Ontario

SCHEDULE 1

ANNEXE 1

SELF GOVERNING HEALTH PROFESSIONS

PROFESSIONS DE LA SANTÉ AUTONOMES

<i>Health Profession Acts</i>	<i>Health Profession</i>	<i>Lois sur les professions de la santé</i>	<i>Profession de la santé</i>
Audiology and Speech-Language Pathology Act, 1991	Audiology and Speech-Language Pathology	Loi de 1991 sur les <u>audiologistes</u> et les orthophonistes	Audiologie et orthophonie
Chiropractic Act, 1991	Chiropractic	Loi de 1991 sur les chiropraticiens	Chiropratique
Dental Hygiene Act, 1991	Dental Hygiene	Loi de 1991 sur les dentistes	Dentisterie
Dental Technology Act, 1991	Dental Technology	Loi de 1991 sur les <u>denturologistes</u>	Denturologie
Dentistry Act, 1991	Dentistry	Loi de 1991 sur les diététistes	Diététique
Denturism Act, 1991	Denturism	Loi de 1991 sur les ergothérapeutes	Ergothérapie
Dietetics Act, 1991	Dietetics	Loi de 1991 sur les hygiénistes dentaires	Hygiène dentaire
Massage Therapy Act, 1991	Massage Therapy	Loi de 1991 sur les infirmières et infirmiers	Soins infirmiers
Medical Laboratory Technology Act, 1991	Medical Laboratory Technology	Loi de 1991 sur les inhalothérapeutes	Inhalothérapie
Medical Radiation Technology Act, 1991	Medical Radiation Technology	Loi de 1991 sur les massothérapeutes	Massothérapie
Medicine Act, 1991	Medicine	Loi de 1991 sur les médecins	Médecine
Midwifery Act, 1991	Midwifery	Loi de 1991 sur les opticiens	Profession d'opticien
Nursing Act, 1991	Nursing	Loi de 1991 sur les optométristes	Optométrie
Occupational Therapy Act, 1991	Occupational Therapy	Loi de 1991 sur les pharmaciens	Pharmacie
Opticianry Act, 1991	Opticianry	Loi de 1991 sur les physiothérapeutes	Physiothérapie
Optometry Act, 1991	Optometry	Loi de 1991 sur les podologues	Podologie
Pharmacy Act, 1991	Pharmacy	Loi de 1991 sur les psychologues	Psychologie
Physiotherapy Act, 1991	Physiotherapy	Loi de 1991 sur les sages-femmes	Profession de sage-femme
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Respiratory Therapy Act, 1991	Respiratory Therapy	Loi de 1991 sur les <u>technologues</u> dentaires	Technologie dentaire
		Loi de 1991 sur les <u>technologues</u> en radiation médicale	Technologie de radiation médicale

SCHEDULE 2

HEALTH PROFESSIONS PROCEDURAL CODE

Note: This Code is deemed by section 4 of the *Regulated Health Professions Act, 1991* to be part of each health profession Act

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ANNEXE 2

CODE DES PROFESSIONS DE LA SANTÉ

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Definitions

1.—(1) In this Code,

“Board” means the Health Professions Board; (“Commission”)

“by-laws” means by-laws made by the Council; (“règlements administratifs”)

“certificate of registration” means a certificate of registration issued by the Registrar; (“certificat d’inscription”)

“Council” means the Council of the College; (“conseil”)

“drug” means drug as defined in clause 113 (1) (d) of the *Drug and Pharmacies Regulation Act*; (“médicament”)

“incapacitated” means, in relation to a member, that the member is suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the member no longer be permitted to practise or that the member’s practice be restricted; (“frappé d’incapacité”)

“member” means a member of the College; (“membre”)

“Minister” means the Minister of Health; (“ministre”)

“patient relations program” means a program to enhance relations between members and patients; (“programme de relations avec les patients”)

“prescribed” means prescribed in the regulations; (“prescrit”)

“quality assurance program” means a program to assure the quality of the practice of the profession and to promote continuing competence among the members; (“programme d’assurance de la qualité”)

“Registrar” means the Registrar of the College; (“registrateur”)

“registration” means the issuance of a certificate of registration. (“inscription”)

(2) Nothing in the health profession Act or this Code shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act* unless the holding of a hearing is specifically referred to.

COLLEGE

College is body corporate

2.—(1) The College is a body corporate without share capital with all the powers of a natural person.

Corporations Act

(2) The *Corporations Act* does not apply in respect to the College.

Objects of College

3.—(1) The College has the following objects:

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the *Regulated Health Professions Act, 1991* and the regulations and by-laws.
2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.

Definitions

1 (1) Les définitions qui suivent s’appliquent au présent code.

«certificat d’inscription» Certificat d’inscription délivré par le registrateur. («certificate of registration»)

«Commission» La Commission des professions de la santé. («Board»)

«conseil» Le conseil de l’ordre. («Council»)

«frappé d’incapacité» Se dit d’un membre atteint d’une affection physique ou mentale ou de troubles physiques ou mentaux qui sont tels qu’il convient, dans l’intérêt public, de ne plus l’autoriser à exercer sa profession ou de restreindre ses activités professionnelles. («incapacitated»)

«inscription» La délivrance d’un certificat d’inscription. («registration»)

«médicament» Médicament, tel que le définit l’alinéa 113 (1) d) de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»). («drug»)

«membre» Membre d’un ordre. («member»)

«ministre» Le ministre de la Santé. («Minister»)

«prescrit» Prescrit par les règlements. («prescribed»)

«programme d’assurance de la qualité» Programme visant à assurer la qualité de l’exercice de la profession et à promouvoir le maintien de la compétence parmi les membres. («quality assurance program»)

«programme de relations avec les patients» Programme visant à améliorer les relations entre les membres et les patients. («patient relations program»)

«registrateur» Le registrateur de l’ordre. («Registrar»)

«règlements administratifs» Règlements administratifs adoptés par le conseil. («by-laws»)

(2) Aucune des dispositions de la loi sur une profession de la santé ou du présent code ne doit s’interpréter comme exigeant la tenue d’une audience au sens de la loi intitulée *Statutory Powers Procedure Act* («*Loi sur l’exercice des compétences légales*»), à moins qu’il ne soit fait explicitement mention de la tenue d’une audience.

Audience non requise sauf mention contraire

ORDRE

2 (1) L’ordre est une personne morale sans capital-actions, dotée de tous les pouvoirs d’une personne physique.

Personne morale

(2) La loi intitulée *Corporations Act* («*Loi sur les personnes morales*») ne s’applique pas en ce qui concerne l’ordre.

«Loi sur les personnes morales»

3 (1) Les objets de l’ordre sont les suivants :

Objets de l’ordre

1. Réglementer l’exercice de la profession et régir l’activité des membres conformément à la loi sur une profession de la santé, au présent code et à la *Loi de 1991 sur les professions de la santé réglementées*, ainsi qu’aux règlements et règlements administratifs.
2. Élaborer et maintenir des normes d’admissibilité applicables aux personnes auxquelles un certificat d’inscription est délivré.

3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.
4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing competence among the members.
5. To develop, establish and maintain standards of professional ethics for the members.
6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Code and the *Regulated Health Professions Act, 1991*.
7. To administer the health profession Act, this Code and the *Regulated Health Professions Act, 1991* as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College.
8. Any other objects relating to human health care that the Council considers desirable.

3. Élaborer et maintenir des programmes et des normes d'exercice pour assurer la qualité de l'exercice de la profession.
4. Élaborer et maintenir des normes de connaissance et de compétence, ainsi que des programmes, pour promouvoir le maintien de la compétence parmi les membres.
5. Élaborer et maintenir des normes de déontologie applicables aux membres.
6. Élaborer et maintenir des programmes visant à aider les particuliers à exercer leurs droits aux termes du présent code et de la *Loi de 1991 sur les professions de la santé réglementées*.
7. Appliquer la loi sur une profession de la santé, le présent code et la *Loi de 1991 sur les professions de la santé réglementées* dans la mesure où elle se rapporte à la profession, et exercer les autres fonctions qui lui sont imposées et les autres pouvoirs qui lui sont conférés.
8. Poursuivre tout autre objet ayant trait aux soins des êtres humains que le conseil juge souhaitable.

Duty	(2) In carrying out its objects, the College has a duty to serve and protect the public interest.	(2) Dans la poursuite de ses objets, l'ordre est tenu de servir et de protéger l'intérêt public.	Obligation
Council	4. The College shall have a Council that shall be its board of directors and that shall manage and administer its affairs.	4 L'ordre comprend un conseil qui est son conseil d'administration et qui gère ses affaires.	Conseil
Terms	5.—(1) No term of a Council member who is elected shall exceed three years.	5 (1) Le mandat des membres d'un conseil qui sont élus ne peut dépasser trois ans.	Mandat
Multiple terms	(2) A person may be a Council member for more than one term but no person who is elected may be a Council member for more than nine consecutive years.	(2) Les membres d'un conseil peuvent siéger pendant plus d'un mandat. Cependant, les personnes qui sont élues ne peuvent pas être membres d'un conseil pendant plus de neuf années consécutives.	Cumul de mandats
Quorum	6. A majority of the members of the Council constitute a quorum.	6 La majorité des membres du conseil constitue le quorum.	Quorum
Meetings	7.—(1) The meetings of the Council shall be open to the public and reasonable notice shall be given to the members of the College and to the public.	7 (1) Les réunions du conseil sont publiques et un préavis suffisant en est donné aux membres de l'ordre ainsi qu'au public.	Réunions
Exclusion of public	(2) Despite subsection (1), the Council may exclude the public from any meeting or part of a meeting if it is satisfied that, <ol style="list-style-type: none"> (a) matters involving public security may be disclosed; (b) financial or personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public; (c) a person involved in a criminal proceeding or civil suit or proceeding may be prejudiced; (d) personnel matters or property acquisitions will be discussed; (e) instructions will be given to or opinions received from the solicitors for the College; or (f) the Council will deliberate whether to exclude the public from a meeting or whether to make an order under subsection (3). 	(2) Malgré le paragraphe (1), le conseil peut tenir à huis clos toute réunion ou toute partie de réunion s'il est convaincu que, selon le cas : <ol style="list-style-type: none"> a) des questions touchant à la sécurité publique risquent d'être divulguées; b) risquent d'être divulguées des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel les réunions doivent être publiques; c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée; d) des questions de personnel ou l'acquisition de biens feront l'objet de discussions; e) des instructions seront données aux procureurs représentant l'ordre ou ces derniers donneront des avis; f) le conseil délibérera sur la question de savoir s'il doit tenir une réunion à huis clos ou s'il doit rendre une ordonnance en vertu du paragraphe (3). 	Réunion à huis clos

Orders preventing public disclosure

(3) In situations in which the Council may exclude the public from meetings, it may make orders it considers necessary to prevent the public disclosure of matters disclosed in the meeting, including banning publication or broadcasting of those matters.

(3) Dans les cas où le conseil peut tenir des réunions à huis clos, il peut rendre les ordonnances qu'il estime nécessaires pour empêcher la divulgation dans le public des questions dont il a été fait état lors de la réunion, et notamment proscrire la publication ou la radiodiffusion de ces questions.

Ordonnances interdisant la divulgation

Reasons noted in minutes

(4) If the Council excludes the public from a meeting or makes an order under subsection (3), it shall have its reasons for doing so noted in the minutes of the meeting.

(4) Si le conseil tient une réunion à huis clos ou rend une ordonnance en vertu du paragraphe (3), il fait en sorte que les motifs à l'appui de sa décision soient consignés dans le procès-verbal de la réunion.

Motifs consignés dans le procès-verbal

Remuneration and expenses

8. Council members appointed by the Lieutenant Governor in Council shall be paid, by the Minister of Health, the expenses and remuneration the Lieutenant Governor in Council determines.

8 Les membres du conseil nommés par le lieutenant-gouverneur en conseil reçoivent, du ministre de la Santé, la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

Rémunération et indemnités

Employees

9.—(1) The Council may employ persons it considers advisable.

9 (1) Le conseil peut engager le personnel qu'il juge souhaitable.

Personnel

Registrar

(2) The Council shall appoint one of its employees as the Registrar.

(2) Le conseil nomme un de ses employés registra-
trateur.

Registra-
trateur

Committees

10.—(1) The College shall have the following committees:

10 (1) L'ordre a les comités suivants :

Comités

1. Executive Committee.
2. Registration Committee.
3. Complaints Committee.
4. Discipline Committee.
5. Fitness to Practise Committee.
6. Quality Assurance Committee.
7. Patient Relations Committee.

1. Le bureau.
2. Le comité d'inscription.
3. Le comité des plaintes.
4. Le comité de discipline.
5. Le comité d'aptitude professionnelle.
6. Le comité d'assurance de la qualité.
7. Le comité des relations avec les patients.

Appointment

(2) The Council shall appoint the members of the committees.

(2) Le conseil nomme les membres des comités.

Nomination

Composition

(3) The composition of the committees shall be in accordance with the regulations.

(3) La composition des comités est conforme aux règlements.

Composition

Annual reports

11.—(1) Each committee named in subsection 10 (1) shall annually submit a report of its activities to the Council.

11 (1) Chacun des comités mentionnés au paragraphe 10 (1) présente tous les ans un rapport sur ses activités au conseil.

Rapports annuels

Exclusions from reports

(2) The Executive Committee shall not submit a report that contains information, other than information of a general statistical nature, relating to,

(2) Le rapport que présente le bureau ne contient pas de renseignements concernant l'une des questions suivantes, sauf s'il s'agit de renseignements d'une nature statistique générale :

Renseignements exclus des rapports

- (a) a referral by the Executive Committee to the Discipline or Fitness to Practise Committee until a panel of the Discipline or Fitness to Practise Committee disposes of the matter;
- (b) an approval for the Registrar to appoint an investigator until the investigation is completed and reported by the Registrar and the Executive Committee decides not to make a referral with respect to the matter to the Discipline Committee or, if the Executive Committee makes a referral with respect to the matter to the Discipline Committee, until a panel of the Discipline Committee disposes of the matter; or
- (c) an interim order made by the Executive Committee in respect of a member until a panel of the Discipline Committee disposes of the matter.

- a) le renvoi d'une question par le bureau au comité de discipline ou au comité d'aptitude professionnelle jusqu'à ce qu'un sous-comité d'un de ces comités tranche la question;
- b) l'autorisation donnée au registra-
trateur de nommer un enquêteur jusqu'à ce que l'enquête soit terminée, qu'un compte rendu en ait été donné par le registra-
trateur et que le bureau décide de ne pas renvoyer la question au comité de discipline ou, s'il la lui renvoie, jusqu'à ce qu'un sous-comité du comité de discipline tranche la question;
- c) une ordonnance provisoire rendue par le bureau à l'égard d'un membre jusqu'à ce qu'un sous-comité du comité de discipline tranche la question.

Executive Committee's exercise of Council's powers

12.—(1) Between the meetings of the Council, the Executive Committee has all the powers of the Council with respect to any matter that, in the Committee's opinion, requires immediate attention, other than the power to make, amend or revoke a regulation or by-law.

12 (1) Entre les réunions du conseil, le bureau a tous les pouvoirs du conseil à l'égard de toute question qui, à son avis, requiert une attention immédiate, à l'exclusion du pouvoir de prendre, de modifier ou d'abroger un règlement ou un règlement administratif.

Exercice des pouvoirs du conseil par le bureau

Report to Council

(2) If the Executive Committee exercises a power of the Council under subsection (1), it shall report

(2) Si le bureau exerce un des pouvoirs du conseil en vertu du paragraphe (1), il présente au conseil, à

Rapport adressé au conseil

on its actions to the Council at the Council's next meeting.

Members **13.**—(1) A person registered by the College is a member.

Suspended members (2) A person whose certificate of registration is suspended is not a member.

Continuing jurisdiction **14.**—(1) A person whose certificate of registration is revoked or who resigns as a member continues to be subject to the jurisdiction of the College for professional misconduct referable to the time when the person was a member.

Idem (2) A person whose certificate of registration is suspended continues to be subject to the jurisdiction of the College for incapacity and for professional misconduct or incompetence referable to the time when the person was a member or to the period of the suspension.

REGISTRATION

Registration **15.**—(1) If a person applies to the Registrar for registration, the Registrar shall,

- (a) register the applicant; or
- (b) refer the application to the Registration Committee.

Referrals to Registration Committee (2) The Registrar shall refer an application for registration to the Registration Committee if the Registrar,

- (a) has doubts, on reasonable grounds, about the sufficiency of the applicant's capacity, training, experience or education;
- (b) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant does not consent to the imposition; or
- (c) proposes to refuse the application.

Notice to applicant (3) If the Registrar refers an application to the Registration Committee, he or she shall give the applicant notice of the statutory grounds for the referral and of the applicant's right to make written submissions under subsection 18 (1).

Terms, etc., attached on consent (4) If the Registrar is of the opinion that a certificate of registration should be issued to an applicant with terms, conditions or limitations imposed and the applicant consents to the imposition, the Registrar may do so with the approval of a panel of the Registration Committee selected by the chair for the purpose.

Panels for consent (5) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (4).

Disclosure of application file **16.**—(1) The Registrar shall give an applicant for registration, at his or her request, all the information and a copy of each document the College has that is relevant to the application.

Exception (2) The Registrar may refuse to give an applicant anything that may, in the Registrar's opinion, jeopardize the safety of any person.

Panels **17.**—(1) An application for registration referred to the Registration Committee or an application referred back to the Registration Committee by the Board shall be reviewed by a panel selected by the chair from among the members of the Committee.

Idem (2) A panel shall be composed of at least three persons, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

sa réunion suivante, un rapport sur les mesures qu'il a prises en vertu de ce pouvoir.

Membres **13** (1) Quiconque est inscrit par l'ordre en est membre.

Personne suspendue (2) La personne dont le certificat d'inscription est suspendu n'est pas membre.

Autorité continue **14** (1) La personne dont le certificat d'inscription est révoqué ou qui se démet de ses fonctions de membre continue de relever de l'autorité de l'ordre pour ce qui est d'une faute professionnelle se rapportant à l'époque où elle était membre.

Idem (2) La personne dont le certificat d'inscription est suspendu continue de relever de l'autorité de l'ordre pour ce qui est d'une incapacité et pour ce qui est d'une faute professionnelle ou d'incompétence se rapportant à l'époque où elle était membre ou à la période de la suspension.

INSCRIPTION

Inscription **15** (1) Si une personne présente une demande d'inscription au registrateur, ce dernier :

- a) soit inscrit l'auteur de la demande;
- b) soit renvoie la demande au comité d'inscription.

Renvoi de demandes au comité d'inscription (2) Le registrateur renvoie une demande d'inscription au comité d'inscription si, selon le cas :

- a) il a des doutes, en se fondant sur des motifs raisonnables, sur la suffisance de la capacité, de la formation, de l'expérience ou de la scolarité de l'auteur de la demande;
- b) il est d'avis que le certificat d'inscription de l'auteur de la demande devrait être assorti de conditions ou de restrictions et que ce dernier s'y oppose;
- c) il se propose de refuser la demande.

Avis adressé à l'auteur de la demande (3) Si le registrateur renvoie une demande au comité d'inscription, il avise l'auteur de la demande des motifs légaux du renvoi et du droit qu'a ce dernier de présenter des observations par écrit en vertu du paragraphe 18 (1).

Acceptation des conditions ou restrictions imposées (4) Si le registrateur est d'avis que devrait être délivré à l'auteur d'une demande un certificat d'inscription assorti de conditions ou de restrictions et que ce dernier y consent, le registrateur peut le délivrer sous réserve de l'approbation d'un sous-comité du comité d'inscription dont les membres sont choisis par le président à cette fin.

Approbation du sous-comité (5) Les paragraphes 17 (2) et (3) s'appliquent au sous-comité visé au paragraphe (4).

Communication des renseignements relatifs à la demande **16** (1) Le registrateur communique à l'auteur d'une demande d'inscription qui en fait la demande tous les renseignements, ainsi qu'une copie de chaque document que possède l'ordre, qui se rapportent à la demande.

Exception (2) Le registrateur peut refuser de communiquer à l'auteur d'une demande tout ce qui pourrait, à son avis, mettre en danger la sécurité de quiconque.

Sous-comités **17** (1) La demande d'inscription renvoyée au comité d'inscription ou la demande renvoyée au comité d'inscription par la Commission est examinée par un sous-comité dont les membres sont choisis par le président parmi les membres du comité.

Idem (2) Le sous-comité se compose d'au moins trois personnes, dont l'une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

Quorum	(3) Three members of a panel constitute a quorum.	(3) Trois membres constituent le quorum d'un sous-comité.	Quorum
Consideration by panel	18. —(1) An applicant may make written submissions to the panel within thirty days after receiving notice under subsection 15 (3) or within any longer period the Registrar may specify in the notice.	18 (1) L'auteur d'une demande peut présenter des observations par écrit au sous-comité dans les trente jours suivant la réception de l'avis prévu au paragraphe 15 (3) ou dans tout autre délai plus long que peut fixer le registrateur dans l'avis.	Examen par le sous-comité
Orders by panel	(2) After considering the application and the submissions, the panel may make an order doing any one or more of the following:	(2) Après examen de la demande et des observations, le sous-comité peut, par ordonnance :	Ordonnances du sous-comité
	1. Directing the Registrar to issue a certificate of registration.	1. Enjoindre au registrateur de délivrer un certificat d'inscription.	
	2. Directing the Registrar to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.	2. Enjoindre au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux examens établis ou approuvés par le sous-comité.	
	3. Directing the Registrar to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.	3. Enjoindre au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux cours de formation supplémentaires indiqués par le sous-comité.	
	4. Directing the Registrar to impose specified terms, conditions and limitations on a certificate of registration of the applicant and specifying a limitation on the applicant's right to apply under subsection 19 (1).	4. Enjoindre au registrateur d'assortir le certificat d'inscription de l'auteur de la demande des conditions et des restrictions précisées et d'indiquer les restrictions s'appliquant au droit qu'a l'auteur de la demande de présenter une demande en vertu du paragraphe 19 (1).	
	5. Directing the Registrar to refuse to issue a certificate of registration.	5. Enjoindre au registrateur de refuser de délivrer un certificat d'inscription.	
Idem	(3) A panel, in making an order under subsection (2), may direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement unless the requirement is prescribed as a non-exemptible requirement.	(3) Le sous-comité qui rend une ordonnance en vertu du paragraphe (2) peut enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur d'une demande qui ne satisfait pas à une exigence d'inscription, à moins qu'il ne s'agisse d'une exigence prescrite comme étant une exigence à laquelle on ne peut se soustraire.	Idem
Order on consent	(4) The panel may, with the consent of the applicant, direct the Registrar to issue a certificate of registration with the terms, conditions and limitations specified by the panel imposed.	(4) Le sous-comité peut enjoindre au registrateur de délivrer un certificat d'inscription assorti des conditions et des restrictions précisées par le sous-comité, si l'auteur de la demande y consent.	Ordonnance sur consentement
Application for variation	19. —(1) A member may apply to the Registration Committee for an order directing the Registrar to remove or modify any term, condition or limitation imposed on the member's certificate of registration as a result of a registration proceeding.	19 (1) Un membre peut demander au comité d'inscription que soit rendue une ordonnance enjoignant au registrateur de supprimer ou de modifier toute condition ou restriction dont est assorti son certificat d'inscription par suite d'une procédure relative à une inscription.	Demande de modification d'ordonnance
Limitations	(2) The right to apply under subsection (1) is subject to any limitation in the order imposing the term, condition or limitation or to which the member consented and to any limitation made under subsection (7) in the disposition of a previous application under this section.	(2) Le droit de présenter une demande en vertu du paragraphe (1) est assujéti à toute restriction prévue par l'ordonnance qui impose la condition ou la restriction ou à laquelle le membre a acquiescé et à toute restriction imposée en vertu du paragraphe (7) lorsqu'il est statué sur une demande antérieure faite en vertu du présent article.	Restrictions
Panels	(3) An application to the Registration Committee under subsection (1) or an application referred back to the Registration Committee by the Board shall be reviewed by a panel selected by the chair from among the members of the Committee.	(3) La demande présentée au comité d'inscription en vertu du paragraphe (1) ou celle renvoyée au comité d'inscription par la Commission est examinée par un sous-comité dont les membres sont choisis par le président parmi les membres du comité.	Sous-comités
Idem	(4) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (3).	(4) Les paragraphes 17 (2) et (3) s'appliquent au sous-comité visé au paragraphe (3).	Idem
Submissions	(5) An applicant may make written submissions to the panel.	(5) L'auteur d'une demande peut présenter des observations par écrit au sous-comité.	Observations
Orders	(6) After considering the application and the submissions, the panel may make an order doing any one or more of the following:	(6) Après examen de la demande et des observations, le sous-comité peut, par ordonnance :	Ordonnances
	1. Refusing the application.	1. Refuser la demande.	

	<p>2. Directing the Registrar to remove any term, condition or limitation imposed on the certificate of registration.</p> <p>3. Directing the Registrar to impose terms, conditions or limitations on the certificate of registration.</p>	<p>2. Enjoindre au registrateur de supprimer toute condition ou restriction dont est assorti le certificat d'inscription.</p> <p>3. Enjoindre au registrateur d'assortir de conditions ou de restrictions le certificat d'inscription.</p>	
Limitations on applications	<p>(7) The panel, in disposing of an application under this section, may fix a period of time not longer than six months during which the applicant may not apply under subsection (1).</p>	<p>(7) Le sous-comité, lorsqu'il statue sur une demande aux termes du présent article, peut fixer un délai maximal de six mois dans lequel l'auteur de la demande ne peut présenter de demande en vertu du paragraphe (1).</p>	Restrictions relatives aux demandes
Notice of orders	<p>20.—(1) A panel shall give the applicant notice of an order it makes under subsection 18 (2) or 19 (6) and written reasons for it if the order,</p> <p>(a) directs the Registrar to refuse to issue a certificate of registration;</p> <p>(b) directs the Registrar to issue a certificate of registration if the applicant successfully completes examinations or additional training;</p> <p>(c) directs the Registrar to impose terms, conditions and limitations on a certificate of registration of the applicant; or</p> <p>(d) refuses an application for an order removing or modifying any term, condition or limitation imposed on a certificate of registration.</p>	<p>20 (1) Le sous-comité avise l'auteur de la demande de l'ordonnance qu'il rend en vertu du paragraphe 18 (2) ou 19 (6) et des motifs écrits à l'appui de celle-ci si l'ordonnance, selon le cas :</p> <p>a) enjoint au registrateur de refuser de délivrer un certificat d'inscription;</p> <p>b) enjoint au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux examens ou aux cours de formation supplémentaires;</p> <p>c) enjoint au registrateur d'assortir de conditions et de restrictions le certificat d'inscription de l'auteur de la demande;</p> <p>d) refuse une demande d'ordonnance visant à supprimer ou à modifier toute condition ou restriction dont est assorti un certificat d'inscription.</p>	Avis d'ordonnance
Contents of notice	<p>(2) A notice under subsection (1) shall inform the applicant of the order and of the provisions of subsections 21 (1) and (2).</p>	<p>(2) L'avis prévu au paragraphe (1) informe l'auteur de la demande de l'ordonnance et des dispositions des paragraphes 21 (1) et (2).</p>	Contenu de l'avis
Appeal to Board	<p>21.—(1) An applicant who has been given a notice under subsection 20 (1) of an order may require the Board to hold a review of the application and the documentary evidence in support of it, or a hearing of the application, by giving the Board and the Registration Committee notice in accordance with subsection (2).</p>	<p>21 (1) L'auteur d'une demande qui a reçu un avis d'ordonnance aux termes du paragraphe 20 (1) peut exiger de la Commission qu'elle réexamine sa demande et les éléments de preuve documentaire à l'appui de celle-ci, ou qu'elle tienne une audience relativement à sa demande, en remettant à la Commission et au comité d'inscription un avis à cet effet, conformément au paragraphe (2).</p>	Appel porté devant la Commission
Requirements of notice	<p>(2) A notice under subsection (1) shall be a written notice, given within thirty days after the notice under subsection 20 (1) was given, specifying whether a review or a hearing is required.</p>	<p>(2) L'avis prévu au paragraphe (1) est donné par écrit dans les trente jours suivant la date à laquelle l'avis prévu au paragraphe 20 (1) a été donné, et précise si l'auteur de la demande exige un réexamen ou une audience.</p>	Exigences de remise de l'avis, et contenu
Order, etc., to Board	<p>(3) If the Registration Committee receives a notice that an applicant requires a hearing or review, it shall, <u>within fifteen days after receiving the notice</u>, give the Board a copy of the order made with respect to the application, the reasons for it and the documents and things upon which the decision to make the order was based.</p>	<p>(3) Le comité d'inscription qui reçoit un avis de l'auteur d'une demande selon lequel ce dernier exige une audience ou un réexamen remet à la Commission, <u>dans les quinze jours suivant la réception de l'avis</u>, une copie de l'ordonnance rendue au sujet de la demande, les motifs à l'appui de celle-ci, ainsi que les documents et choses sur lesquels la décision de rendre l'ordonnance était fondée.</p>	Copie de l'ordonnance, etc., à la Commission
When order may be carried out	<p>(4) An order of a panel, notice of which is required under subsection 20 (1), may be carried out only when,</p> <p>(a) the applicant has given the Registrar notice that the applicant will not be requiring a review or hearing;</p> <p>(b) thirty-five days have passed since the notice of the order was given under subsection 20 (1) without the applicant requiring a review or hearing; or</p> <p>(c) the Board has confirmed the order.</p>	<p>(4) L'ordonnance d'un sous-comité, qui doit faire l'objet d'un avis aux termes du paragraphe 20 (1), ne peut être exécutée que lorsque se réalise l'une ou l'autre des éventualités suivantes :</p> <p>a) l'auteur de la demande a informé le registrateur, au moyen d'un avis, qu'il n'exigera pas de réexamen ni d'audience;</p> <p>b) trente-cinq jours se sont écoulés depuis que l'avis d'ordonnance a été donné aux termes du paragraphe 20 (1) sans que l'auteur de la demande ait exigé de réexamen ou d'audience;</p> <p>c) la Commission a confirmé l'ordonnance.</p>	Moment où l'ordonnance peut être exécutée

Registration hearings or reviews	<p>22.—(1) This section applies to a hearing or review by the Board required by an applicant under subsection 21 (1).</p>	<p>22 (1) Le présent article s'applique à l'audience tenue ou au réexamen effectué par la Commission, et qu'exige l'auteur d'une demande en vertu du paragraphe 21 (1).</p>	Audiences ou réexamens relatifs à l'inscription
Procedural provisions	<p>(2) The following provisions apply with necessary modifications to a hearing or review:</p>	<p>(2) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à une audience ou à un réexamen :</p>	Dispositions relatives à la procédure
	<ol style="list-style-type: none"> 1. Subsection 38 (4) (exclusion from panel). 2. Section 42 (disclosure of evidence). 3. Section 43 (no communication by panel members). 4. Section 50 (members of panel who participate). 5. Section 55 (release of evidence). 	<ol style="list-style-type: none"> 1. Le paragraphe 38 (4) (exclusion). 2. L'article 42 (divulgarion des preuves). 3. L'article 43 (interdiction aux membres des sous-comités de communiquer). 4. L'article 50 (membres du sous-comité qui participent). 5. L'article 55 (communication des preuves). 	
Idem	<p>(3) The following provisions also apply with necessary modifications to a hearing:</p>	<p>(3) Les dispositions suivantes s'appliquent également, avec les adaptations nécessaires, à une audience :</p>	Idem
	<ol style="list-style-type: none"> 1. Section 45 (hearings open). 2. Section 47 (sexual misconduct witnesses). 3. Section 48 (transcript of hearings). 	<ol style="list-style-type: none"> 1. L'article 45 (audiences publiques). 2. L'article 47 (témoins d'inconduite sexuelle). 3. L'article 48 (transcription des audiences). 	
Findings of fact	<p>(4) The findings of fact in a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the <i>Statutory Powers Procedure Act</i>.</p>	<p>(4) Lors d'une audience, les conclusions de fait se fondent uniquement sur les preuves admissibles ou les questions dont il peut être pris connaissance en vertu des articles 15 et 16 de la loi intitulée <i>Statutory Powers Procedure Act</i> («<i>Loi sur l'exercice des compétences légales</i>»).</p>	Conclusions de fait
Idem	<p>(5) The findings of fact in a review shall be based exclusively on the application and documentary evidence admissible or matters that may be noticed under sections 15 and 16 of the <i>Statutory Powers Procedure Act</i>.</p>	<p>(5) Lors d'un réexamen, les conclusions de fait se fondent uniquement sur la demande et les éléments de preuve documentaire admissibles ou sur les questions dont il peut être pris connaissance en vertu des articles 15 et 16 de la loi intitulée <i>Statutory Powers Procedure Act</i> («<i>Loi sur l'exercice des compétences légales</i>»).</p>	Idem
Disposal by Board	<p>(6) The Board shall, after the hearing or review, make an order doing any one or more of the following:</p>	<p>(6) À la suite de l'audience ou du réexamen, la Commission rend une ordonnance dans l'un ou l'autre, ou plusieurs, des buts suivants :</p>	Décision de la Commission
	<ol style="list-style-type: none"> 1. Confirming the order made by the panel. 2. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant if the applicant successfully completes any examinations or training the Registration Committee may specify. 3. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant and to impose any terms, conditions and limitations the Board considers appropriate. 4. Referring the matter back to the Registration Committee for further consideration by a panel, together with any recommendations the Board considers appropriate. 	<ol style="list-style-type: none"> 1. Confirmer l'ordonnance rendue par le sous-comité. 2. Exiger du comité d'inscription qu'il rende une ordonnance enjoignant au registraire de délivrer un certificat d'inscription à l'auteur de la demande si ce dernier réussit aux examens ou aux cours de formation que le comité d'inscription peut préciser. 3. Exiger du comité d'inscription qu'il rende une ordonnance enjoignant au registraire de délivrer un certificat d'inscription à l'auteur de la demande et de l'assortir des conditions et des restrictions qu'elle estime opportunes. 4. Renvoyer la question au comité d'inscription pour qu'un sous-comité l'examine de nouveau, en y joignant les recommandations qu'elle estime opportunes. 	
Idem	<p>(7) The Board may make an order under paragraph 3 of subsection (6) only if the Board finds that the applicant substantially qualifies for registration and that the panel has exercised its powers improperly.</p>	<p>(7) La Commission ne peut rendre d'ordonnance visée à la disposition 3 du paragraphe (6) que si elle constate que l'auteur de la demande satisfait pour l'essentiel aux exigences d'inscription et que le sous-comité a exercé ses pouvoirs de façon irrégulière.</p>	Idem
Limitation on order	<p>(8) The Board, in making an order under subsection (6), shall not require the Registration Committee to direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement that is prescribed as a non-exemptible requirement.</p>	<p>(8) Lorsqu'elle rend une ordonnance aux termes du paragraphe (6), la Commission n'exige pas du comité d'inscription qu'il enjoigne au registraire de délivrer un certificat d'inscription à l'auteur d'une demande qui ne satisfait pas à une exigence d'inscription prescrite comme étant une exigence à laquelle on ne peut se soustraire.</p>	Restriction applicable à l'ordonnance

Parties	(9) The College and the applicant are parties to a hearing or review.	(9) Sont parties à une audience ou à un réexamen l'ordre et l'auteur de la demande.	Parties
Register	23. —(1) The Registrar shall maintain a register.	23 (1) Le registrateur dresse un tableau.	Tableau
Contents of register	(2) The register shall contain,	(2) Le tableau contient les renseignements suivants :	Contenu du tableau :
	(a) each member's name, business address and business telephone number;	a) le nom, l'adresse professionnelle et le numéro de téléphone professionnel de chaque membre;	
	(b) each member's class of registration and specialist status;	b) la catégorie d'inscription et la qualité de spécialiste de chaque membre;	
	(c) the terms, conditions and limitations imposed on each certificate of registration;	c) les conditions et les restrictions dont est assorti chaque certificat d'inscription;	
	(d) a notation of every revocation and suspension of a certificate of registration;	d) l'indication de chaque révocation et de chaque suspension de certificat d'inscription;	
	(e) the result of every disciplinary and incapacity proceeding;	e) l'issue de chaque procédure disciplinaire et de chaque procédure pour incapacité;	
	(f) information that a panel of the Registration, Discipline or Fitness to Practise Committee specifies shall be included; and	f) les renseignements que précise un sous-comité du comité d'inscription, du comité de discipline ou du comité d'aptitude professionnelle;	
	(g) information that the regulations prescribe as information to be kept in the register.	g) les renseignements que les règlements prescrivent comme devant être conservés au tableau.	
Access to information	(3) A person may obtain, during normal business hours, the following information contained in the register:	(3) Quiconque peut obtenir, pendant les heures de bureau normales, les renseignements suivants figurant au tableau :	Accès aux renseignements
	1. Information described in clauses (2) (a) to (c).	1. Les renseignements visés aux alinéas (2) a) à c).	
	2. Information described in clause (2) (d) relating to a suspension that is in effect.	2. Les renseignements visés à l'alinéa (2) d) en ce qui concerne une suspension qui est en vigueur.	
	3. The results of every disciplinary and incapacity proceeding completed within three years before the time the register was prepared or last updated,	3. L'issue de chaque procédure disciplinaire et de chaque procédure pour incapacité qui a pris fin dans les trois ans ayant précédé la date à laquelle le tableau a été dressé ou mis à jour la dernière fois :	
	i. in which a member's certificate of registration was revoked or suspended or had terms, conditions or limitations imposed on it, or	i. soit au cours de laquelle le certificat d'inscription d'un membre a été révoqué ou suspendu ou a été assorti de conditions ou de restrictions,	
	ii. in which a member was required to pay a fine or attend to be reprimanded or in which an order was suspended if the results of the proceeding were directed to be included in the register by a panel of the Discipline or Fitness to Practise Committee.	ii. soit au cours de laquelle un membre a été tenu de verser une amende ou de comparaître pour être réprimandé, ou au cours de laquelle une ordonnance a été suspendue si un sous-comité du comité de discipline ou du comité d'aptitude professionnelle a ordonné de consigner au tableau l'issue de la procédure.	
	4. Information designated as public in the regulations.	4. Les renseignements désignés comme étant de nature publique dans les règlements.	
Panels specifying information in register	(4) In disposing of a matter, a panel of the Registration, Discipline or Fitness to Practise Committee may, for the purposes of clause (2) (f), specify information to be included in the register.	(4) Lorsqu'il tranche une question, un sous-comité du comité d'inscription, du comité de discipline ou du comité d'aptitude professionnelle peut, pour l'application de l'alinéa (2) f), préciser les renseignements devant figurer au tableau.	Renseignements précisés par les sous-comités
Panels directing results to be public	(5) In disposing of a matter, a panel of the Discipline or Fitness to Practise Committee may, for the purposes of subparagraph ii of paragraph 3 of subsection (3), direct that the results of the proceeding be included in the register.	(5) Lorsqu'il tranche une question, un sous-comité du comité de discipline ou du comité d'aptitude professionnelle peut, pour l'application de la sous-disposition ii de la disposition 3 du paragraphe (3), ordonner que l'issue de la procédure soit précisée au tableau.	Publication de l'issue sur ordre des sous-comités
Information from register	(6) The Registrar shall provide to a person, upon the payment of a reasonable charge, a copy of any information in the register the person may obtain.	(6) Le registrateur fournit à une personne, moyennant le versement de frais raisonnables, une	Renseignements figurant au tableau

Suspension for non-payment of fees

24. The Registrar may suspend a member's certificate of registration for failure to pay a prescribed fee after two months notice of the default and intention to suspend.

copie de tous les renseignements figurant au tableau qu'elle est autorisée à obtenir.

24 Le registrateur peut suspendre le certificat d'inscription d'un membre si ce dernier n'acquitte pas les droits prescrits deux mois après avoir reçu un avis de défaut de paiement et d'intention de suspendre.

Suspension pour cause de non-acquittement des droits

COMPLAINTS

Panel for investigation of complaints

25.—(1) A complaint filed with the Registrar regarding the conduct or actions of a member shall be investigated by a panel selected by the chair of the Complaints Committee from among the members of the Committee.

25 (1) Toute plainte relative à la conduite ou aux actes d'un membre qui est déposée auprès du registrateur fait l'objet d'une enquête par un sous-comité dont les membres sont choisis par le président du comité des plaintes parmi les membres du comité.

Sous-comité chargé de faire enquête sur les plaintes

Composition

(2) A panel shall be composed of at least three persons, at least one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) Le sous-comité se compose d'au moins trois personnes, dont au moins une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

Composition

Quorum

(3) Three members of a panel constitute a quorum.

(3) Trois membres constituent le quorum d'un sous-comité.

Quorum

Complaint must be recorded

(4) A panel shall not be selected unless the complaint is in writing or is recorded on a tape, film, disk or other medium.

(4) Un sous-comité ne peut être constitué que si la plainte est présentée par écrit ou enregistrée sur une bande, un film, un disque ou un autre support.

Rédaction ou enregistrement obligatoire de la plainte

Notice to member

(5) The Registrar shall give the member who is the subject of a complaint notice of the complaint and of the provisions of subsection 26 (1).

(5) Le registrateur avise de la plainte et des dispositions du paragraphe 26 (1) le membre qui fait l'objet de la plainte.

Avis adressé au membre

Consideration by panel

26.—(1) A member who is the subject of a complaint may make written submissions to the panel within thirty days after receiving notice under subsection 25 (5).

26 (1) Le membre qui fait l'objet d'une plainte peut présenter des observations par écrit au sous-comité dans les trente jours suivant la réception de l'avis visé au paragraphe 25 (5).

Examen par le sous-comité

Powers of panel

(2) A panel, after investigating a complaint regarding the conduct or actions of a member, considering the submissions of the member and considering or making reasonable efforts to consider all records and documents it considers relevant to the complaint, may do any one or more of the following:

(2) Après avoir fait enquête sur une plainte relative à la conduite ou aux actes d'un membre, avoir étudié les observations du membre et avoir examiné ou avoir fait des efforts raisonnables pour examiner tous les documents et éléments d'information qui, selon lui, se rapportent à la plainte, le sous-comité peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

Pouvoirs du sous-comité

1. Refer a specified allegation of the member's professional misconduct or incompetence to the Discipline Committee if the allegation is related to the complaint.
2. Refer the member to the Executive Committee for incapacity proceedings.
3. Require the member to appear before the panel or another panel of the Complaints Committee to be cautioned.
4. Take action it considers appropriate that is not inconsistent with the health profession Act, this Code, the regulations or by-laws.

1. Renvoyer toute allégation précisée de faute professionnelle ou d'incompétence du membre au comité de discipline, si elle se rapporte à la plainte.
2. Adresser le membre au bureau aux fins de procédures pour incapacité.
3. Exiger du membre qu'il se présente devant le sous-comité ou un autre sous-comité du comité des plaintes pour recevoir un avertissement.
4. Prendre toute mesure qu'il estime opportune et qui n'est pas incompatible avec la loi sur une profession de la santé, le présent code, les règlements ou les règlements administratifs.

Notice of decision

27. A panel shall give the complainant and the member who is the subject of the complaint,

27 Le sous-comité donne au plaignant et au membre qui fait l'objet de la plainte les documents suivants :

Avis de décision

- (a) a copy of its decision;
- (b) a copy of its reasons, if the panel decided to take no action with respect to a complaint or to do anything under paragraph 3 or 4 of subsection 26 (2); and
- (c) a notice advising the member and the complainant of any right to request a review they may have under subsection 29 (2).

- a) une copie de sa décision;
- b) une copie du texte des motifs, si le sous-comité a décidé de ne prendre aucune mesure à l'égard de la plainte ou de prendre la mesure prévue à la disposition 3 ou 4 du paragraphe 26 (2);
- c) un avis informant le membre et le plaignant de tout droit de demander un réexamen qui

		peut leur être conféré en vertu du paragraphe 29 (2).	
Timely disposal	28. —(1) A panel shall dispose of a complaint within 120 days after the filing of the complaint.	28 (1) Le sous-comité statue sur la plainte dans les 120 jours qui suivent son dépôt.	Délai
If complaint not disposed of	(2) If a complaint regarding the conduct or actions of a member has not been disposed of by a panel within 120 days after the filing of the complaint, the Board, on application of the member or the complainant, may require the Complaints Committee to ensure the complaint is disposed of.	(2) Si le sous-comité n'a pas statué sur la plainte relative à la conduite ou aux actes d'un membre dans les 120 jours qui suivent son dépôt, la Commission peut, à la demande du membre ou du plaignant, exiger du comité des plaintes qu'il fasse en sorte qu'il soit statué sur la plainte.	Cas où il n'est pas statué sur la plainte
If further delay	(3) If the complaint is not disposed of within sixty days after the Board's requirement, the Board shall investigate the complaint and make an order under subsection (5) within 120 days after the Board's requirement.	(3) S'il n'est toujours pas statué sur la plainte dans les soixante jours après que la Commission l'a exigé, cette dernière fait enquête sur la plainte et rend une ordonnance en vertu du paragraphe (5) dans les 120 jours après que la Commission a exigé qu'il soit statué sur la plainte.	Non-respect du délai prorogé
Board's investigatory powers	(4) In investigating a complaint, the Board has all the powers of a panel of the Complaints Committee and of the Registrar with respect to the investigation of the matter and, in particular, the Board may appoint an investigator under clause 75 (c).	(4) Lorsqu'elle fait enquête sur une plainte, la Commission est dotée des pouvoirs d'un sous-comité du comité des plaintes et de ceux du registraire à l'égard de l'enquête sur la question et peut, notamment, nommer un enquêteur en vertu de l'alinéa 75 c).	Pouvoirs d'enquête de la Commission
Powers of Board	(5) After an investigation, the Board may do any one or more of the following:	(5) Après son enquête, la Commission peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :	Pouvoirs de la Commission
	1. Refer the matter to the Complaints Committee.	1. Renvoyer la question au comité des plaintes.	
	2. Make recommendations the Board considers appropriate to the Complaints Committee.	2. Faire les recommandations qu'elle estime opportunes à l'intention du comité des plaintes.	
	3. Require the Complaints Committee or a panel to do anything the Committee or a panel may do under the health profession Act and this Code except to request the Registrar to conduct an investigation.	3. Exiger du comité des plaintes ou d'un sous-comité qu'il prenne toute mesure que le comité ou un sous-comité est habilité à prendre en vertu de la loi sur une profession de la santé et du présent code, sauf s'il s'agit de demander au registraire de mener une enquête.	
Review by Board	29. —(1) Subject to section 30, the Board shall review a decision of a panel of the Complaints Committee if the Board receives a request under subsection (2).	29 (1) Sous réserve de l'article 30, la Commission réexamine la décision d'un sous-comité du comité des plaintes si elle reçoit une demande aux termes du paragraphe (2).	Réexamen par la Commission
Request for review	(2) The complainant or the member who is the subject of the complaint may request the Board to review a decision of a panel of the Complaints Committee unless the decision was,	(2) Le plaignant ou le membre qui fait l'objet de la plainte peut demander à la Commission de réexaminer la décision d'un sous-comité du comité des plaintes, sauf si la décision :	Demande de réexamen
	(a) to refer an allegation of professional misconduct or incompetence to the Discipline Committee; or	a) soit <u>renvoyait</u> une allégation de faute professionnelle ou d'incompétence au comité de discipline;	
	(b) to refer the member to the Executive Committee for incapacity proceedings.	b) soit <u>adressait</u> le membre au bureau aux fins de procédures pour incapacité.	
Time limit	(3) A request for a review may be made only within thirty days after the receipt of the notice of the right to request a review given under clause 27 (c).	(3) La demande de réexamen ne peut être présentée que dans les trente jours suivant la réception de l'avis relatif au droit de demander un réexamen donné aux termes de l'alinéa 27 c).	Délai
Parties	(4) The complainant and the member who is the subject of the complaint are parties to a review.	(4) Sont parties à un réexamen le plaignant et le membre qui fait l'objet de la plainte.	Parties
When no review	30. —(1) The Board shall not review a decision if the party who requested the review withdraws the request and the other party consents.	30 (1) La Commission ne réexamine pas la décision si la partie qui demande le réexamen retire sa demande et que l'autre partie y consent.	Aucun réexamen
Request in bad faith, etc.	(2) If the Board considers a request to review a decision to have been frivolous, vexatious, made in bad faith or otherwise an abuse of process, it shall give the parties notice that it intends not to proceed with the review and that the parties have a right to make written submissions within thirty days after receiving the notice.	(2) Si la Commission estime qu'une demande de réexamen de décision est frivole, vexatoire ou faite de mauvaise foi, ou qu'elle constitue par ailleurs un usage abusif de la procédure, elle avise les parties de son intention de ne pas donner suite au réexamen et du droit qu'ont ces dernières de présenter des observations par écrit dans les trente jours suivant la réception de l'avis.	Demande faite de mauvaise foi

Idem	(3) If the Board is satisfied, after considering the written submissions of the parties, that a request was frivolous, vexatious, made in bad faith or otherwise an abuse of process, the Board shall not review the decision.	(3) Si la Commission est convaincue, après étude des observations écrites des parties, qu'une demande est frivole, vexatoire ou faite de mauvaise foi, ou qu'elle constitue par ailleurs un usage abusif de la procédure, elle ne réexamine pas la décision.	Idem
Personal representative as complainant	31. A complainant's personal representative may act as the complainant for the purposes of a review of the decision by the Board if the complainant dies or becomes incapacitated.	31 Le représentant d'un plaignant peut agir à titre de plaignant aux fins du réexamen de la décision par la Commission si le plaignant décède ou est frappé d'incapacité.	Représentant à titre de plaignant
Record of decision to be reviewed	32. —(1) If the Board is requested to review a decision, the Registrar shall give the Board, within fifteen days after the Board's request, a record of the investigation and the documents and things upon which the decision was based.	32 (1) Si demande est faite à la Commission de réexaminer une décision, le registraire lui remet dans les quinze jours suivant sa demande un compte rendu de l'enquête, ainsi que les documents et choses sur lesquels la décision était fondée.	Examen du compte rendu de la décision
Disclosure	(2) Before reviewing a decision, the Board shall disclose to the parties everything given to it by the Registrar under subsection (1).	(2) Avant de procéder au réexamen de la décision, la Commission divulgue auprès des parties tout ce que lui a remis le registraire aux termes du paragraphe (1).	Divuligation
Exceptions	(3) The Board may refuse to disclose anything that may, in its opinion, (a) disclose matters involving public security; (b) undermine the integrity of the complaint investigation and review process; (c) disclose financial or personal or other matters of such a nature that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that disclosure be made; (d) prejudice a person involved in a criminal proceeding or in a civil suit or proceeding; or (e) jeopardize the safety of any person.	(3) La Commission peut refuser de divulguer tout ce qui, à son avis, risque, selon le cas : a) d'entraîner la divulgation de questions touchant à la sécurité publique; b) d'ébranler l'intégrité du processus d'enquête sur la plainte et de réexamen; c) de divulguer des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel la divulgation doit avoir lieu; d) de léser une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile; e) de mettre en danger la sécurité de quiconque.	Exceptions
Conduct of review	33. —(1) In a review, the Board shall consider either or both of, (a) the adequacy of the investigation conducted; or (b) the reasonableness of the decision.	33 (1) Lors d'un réexamen, la Commission prend en considération l'un et l'autre, ou un seul, des éléments suivants : a) le caractère adéquat de l'enquête menée; b) le caractère raisonnable de la décision.	Procédure de réexamen
Procedure	(2) In conducting a review, the Board, (a) shall give the party requesting the review an opportunity to comment on the matters set out in clauses (1) (a) and (b) and the other party an opportunity to respond to those comments; (b) may require the College to send a representative; (c) may question the parties and the representative of the College; (d) may permit the parties to make representations with respect to issues raised by any questions asked under clause (c); and (e) shall not allow the parties or the representative of the College to question each other.	(2) Lorsqu'elle procède à un réexamen, la Commission : a) donne à la partie qui demande le réexamen la possibilité de faire des commentaires sur les questions énoncées aux alinéas (1) a) et b), et à l'autre partie la possibilité d'y répondre; b) peut exiger de l'ordre qu'il envoie un représentant; c) peut interroger les parties et le représentant de l'ordre; d) peut permettre aux parties de présenter des observations sur les questions soulevées par toute question posée en vertu de l'alinéa c); e) ne permet pas aux parties et au représentant de l'ordre de s'interroger mutuellement.	Procédure
Procedural provisions	34. The following provisions apply with necessary modifications to a review by the Board: 1. Section 43 (no communication by panel members). 2. Section 45 (hearings open). 3. Section 47 (sexual misconduct witnesses).	34 Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, aux réexamens effectués par la Commission : 1. L'article 43 (interdiction aux membres des sous-comités de communiquer). 2. L'article 45 (audiences publiques). 3. L'article 47 (témoins d'inconduite sexuelle).	Dispositions relatives à la procédure

	4. Section 50 (members of panel who participate).	4. L'article 50 (membres du sous-comité qui participent).	
	5. Section 55 (release of evidence).	5. L'article 55 (communication des preuves).	
Powers of Board	35. —(1) After conducting a review of a decision, the Board may do any one or more of the following:	35 (1) Après avoir effectué le réexamen d'une décision, la Commission peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :	Pouvoirs de la Commission
	1. Confirm all or part of the decision.	1. Confirmer la décision, en totalité ou en partie.	
	2. Make recommendations the Board considers appropriate to the Complaints Committee.	2. Faire les recommandations qu'elle estime opportunes à l'intention du comité des plaintes.	
	3. Require the Complaints Committee to do anything the Committee or a panel may do under the health profession Act and this Code except to request the Registrar to conduct an investigation.	3. Exiger du comité des plaintes qu'il prenne toute mesure qu'il est habilité à prendre en vertu de la loi sur une profession de la santé et du présent code, sauf s'il s'agit de demander au registraire de mener une enquête.	
Decision in writing	(2) The Board shall give its decision and reasons in writing to the parties and the Complaints Committee.	(2) La Commission communique sa décision motivée par écrit aux parties et au comité des plaintes.	Décision par écrit
	DISCIPLINE	DISCIPLINE	
Executive Committee referral	36. The Executive Committee may refer a specified allegation of a member's professional misconduct or incompetence to the Discipline Committee.	36 Le bureau peut renvoyer au comité de discipline toute allégation précisée de faute professionnelle ou d'incompétence d'un membre.	Renvoi des allégations par le bureau
Interim suspension	37. —(1) The Executive Committee may, subject to subsection (5), make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if,	37 (1) Le bureau peut, sous réserve du paragraphe (5), rendre une ordonnance provisoire enjoignant au registraire de suspendre le certificat d'inscription d'un membre ou de l'assortir de conditions ou de restrictions si :	Suspension provisoire
	(a) an allegation is referred to the Discipline Committee; and	a) d'une part, une allégation est renvoyée au comité de discipline;	
	(b) it is of the opinion that the conduct of the member exposes or is likely to expose his or her patients to harm or injury.	b) d'autre part, il est d'avis que la conduite du membre expose ou exposera vraisemblablement ses patients à un préjudice ou à des blessures.	
Procedure following interim suspension	(2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Discipline Committee,	(2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité de discipline :	Procédure suivant la suspension provisoire
	(a) the College shall prosecute the matter expeditiously; and	a) d'une part, l'ordre traite la question avec célérité;	
	(b) the Discipline Committee shall give precedence to the matter.	b) d'autre part, le comité de discipline donne priorité à la question.	
Duration of order	(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Discipline Committee.	(3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité de discipline.	Effet de l'ordonnance
Panel's order	(4) In a matter in which an order under subsection (1) was made, an order of a panel of the Discipline Committee directing the Registrar to revoke, suspend or impose conditions on a member's certificate takes effect immediately despite any appeal.	(4) Dans le cas d'une question à l'égard de laquelle a été rendue l'ordonnance prévue au paragraphe (1), l'ordonnance d'un sous-comité du comité de discipline enjoignant au registraire de révoquer ou de suspendre le certificat d'un membre, ou de l'assortir de conditions, prend effet immédiatement, même en cas d'appel.	Ordonnance d'un sous-comité
Restrictions on orders	(5) No order shall be made under subsection (1) with respect to a member by the Executive Committee unless the member has been given,	(5) Aucune ordonnance ne peut être rendue en vertu du paragraphe (1) à l'égard d'un membre par le bureau sans que le membre :	Restrictions relatives aux ordonnances
	(a) notice of the Committee's intention to make the order; and	a) ait été avisé de l'intention du bureau de rendre l'ordonnance;	
	(b) at least fourteen days to make written submissions to the Committee.	b) ait bénéficié d'un délai d'au moins quatorze jours pour présenter des observations par écrit au bureau.	
Panel for discipline hearing	38. —(1) The chair of the Discipline Committee shall select a panel from among the members of the Committee to hold a hearing of allegations of a member's professional misconduct or incompetence referred to the Committee by the Executive or Complaints Committee.	38 (1) Le président du comité de discipline constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur les allégations de faute professionnelle ou d'incompétence d'un membre, renvoyées au comité par le bureau ou par le comité des plaintes.	Sous-comité constitué pour les questions disciplinaires

Composition	(2) A panel shall be composed of at least three and no more than five persons, at least two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.	(2) Le sous-comité se compose d'au moins trois et d'au plus cinq personnes, dont au moins deux sont des personnes nommées au conseil par le lieutenant-gouverneur en conseil.	Composition
Idem	(3) <u>At least one</u> of the members of a panel shall be both a member of the College and a member of the Council.	(3) <u>Au moins un</u> des membres du sous-comité est à la fois membre de l'ordre et membre du conseil.	Idem
Exclusion from panel	(4) No person shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing.	(4) Ne peut être choisi pour faire partie du sous-comité quiconque a participé à l'enquête sur ce qui doit constituer l'objet de l'audience du sous-comité.	Exclusion
Quorum	(5) Three members of a panel, at least one of whom must be a member who was appointed to the Council by the Lieutenant Governor in Council, constitute a quorum.	(5) Trois membres, dont au moins un doit avoir été nommé au conseil par le lieutenant-gouverneur en conseil, constituent le quorum d'un sous-comité.	Quorum
Panel members deemed to continue	39. A member of a panel who ceases to be a member of the Discipline Committee after a hearing of a matter has commenced before the panel shall be deemed, for the purposes of dealing with that matter, to remain a member of the panel until the final disposition of the matter.	39 Le membre d'un sous-comité qui cesse d'être membre du comité de discipline après qu'a commencé l'audition d'une question devant le sous-comité est réputé, aux fins du règlement de la question, être toujours membre du sous-comité jusqu'à ce que la question soit tranchée de façon définitive.	Les membres du sous-comité sont réputés maintenus
Amendment of notice of hearing	40. A panel may at any time permit a notice of hearing of allegations against a member to be amended to correct errors or omissions of a minor or clerical nature if it is of the opinion that it is just and equitable to do so and the panel may make any order it considers necessary to prevent prejudice to the member.	40 Le sous-comité peut en tout temps permettre que l'avis d'audience relative aux allégations faites contre un membre soit modifié pour corriger les erreurs ou omissions mineures ou les coquilles qui s'y trouvent, s'il est d'avis qu'il est juste et équitable de ce faire. Le sous-comité peut rendre toute ordonnance qu'il estime nécessaire pour éviter tout préjudice au membre.	Modification des avis d'audience
Parties	41. The College and the member against whom allegations have been made are parties to a hearing.	41 Sont parties à l'audience l'ordre et le membre contre lequel des allégations ont été faites.	Parties
Disclosure of evidence	42. —(1) Evidence against a member is not admissible at a hearing of allegations against the member unless the member is given, at least ten days before the hearing, (a) in the case of written or documentary evidence, an opportunity to examine the evidence; (b) in the case of evidence of an expert, a copy of the expert's written report or if there is no written report, a written summary of the evidence; or (c) in the case of evidence of a witness, the identity of the witness.	42 (1) Les preuves contre un membre ne sont recevables lors de l'audition des allégations faites contre lui que si, au moins dix jours avant l'audience, il a été donné au membre, selon le cas : a) dans le cas d'éléments de preuve écrite ou documentaire, la possibilité de les examiner; b) dans le cas de preuves provenant d'un expert, une copie du rapport écrit de l'expert, ou à défaut d'un tel rapport, un sommaire écrit des preuves; c) dans le cas de preuves testimoniales, l'identité des témoins.	Divulgence des preuves
Exception	(2) A panel may, in its discretion, allow the introduction of evidence that is inadmissible under subsection (1) and may make directions it considers necessary to ensure that the member is not prejudiced.	(2) Le sous-comité peut, à sa discrétion, permettre la présentation de preuves qui ne sont pas recevables aux termes du paragraphe (1) et peut donner les directives qu'il estime nécessaires pour empêcher que le membre soit lésé.	Exception
No communication by panel members	43. No member of a panel holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or the party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication.	43 Aucun membre d'un sous-comité qui tient une audience ne peut s'entretenir, en dehors de l'audience, avec une partie ou son représentant à propos de l'objet de l'audience, sans que l'autre partie ait été avisée de l'objet de l'entretien et qu'il lui soit donné la possibilité d'y assister.	Interdiction aux membres des sous-comités de communiquer
Legal advice	44. If a panel obtains legal advice with respect to a hearing, it shall make the nature of the advice known to the parties and they may make submissions with respect to the advice.	44 Si un sous-comité obtient des avis juridiques relativement à une audience, il en fait connaître la nature aux parties et ces dernières peuvent présenter des observations à cet égard.	Avis juridiques
Hearings public	45. —(1) A hearing shall, subject to subsection (2), be open to the public.	45 (1) Sous réserve du paragraphe (2), les audiences sont publiques.	Audiences publiques
Exclusion of public	(2) <u>The panel may make an order that the public be excluded from a hearing or any part of it if the panel is satisfied that,</u> (a) matters involving public security may be disclosed;	(2) <u>Le sous-comité peut rendre une ordonnance portant qu'une audience ou une partie de celle-ci doit se tenir à huis clos s'il est convaincu que, selon le cas :</u> a) des questions touchant à la sécurité publique risquent d'être divulguées;	Huis clos

- (b) financial or personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;
- (c) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or
- (d) the safety of a person may be jeopardized.

- b) risquent d'être divulguées lors de l'audience des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel les audiences doivent être publiques;
- c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;
- d) la sécurité de quiconque risque d'être mise en danger.

Orders preventing public disclosure

(3) In situations in which the panel may make an order that the public be excluded from a hearing, it may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.

(3) Dans les cas où le sous-comité peut rendre une ordonnance portant que l'audience doit se tenir à huis clos, il peut rendre les ordonnances qu'il estime nécessaires pour empêcher la divulgation dans le public des questions dont il a été fait état lors de l'audience, et notamment proscrire la publication ou la radiodiffusion de ces questions.

Ordonnances interdisant la divulgation

Public information may be disclosed

(4) No order shall be made under subsection (3) that prevents the publication of anything that is contained in the register and available to the public.

(4) Nulle ordonnance empêchant la publication des renseignements qui figurent au tableau et qui sont accessibles au public ne peut être rendue en vertu du paragraphe (3).

Possibilité de divulguer les renseignements publics

Exclusion of public

(5) The panel may make an order that the public be excluded from the part of a hearing dealing with a motion for an order under subsection (2).

(5) Le sous-comité peut rendre une ordonnance portant que la partie de l'audience qui traite d'une motion visant à obtenir une ordonnance en vertu du paragraphe (2) doit se tenir à huis clos.

Huis clos

Orders with respect to matters in submissions

(6) The panel may make any order necessary to prevent the public disclosure of matters disclosed in the submissions relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.

(6) Le sous-comité peut rendre toute ordonnance nécessaire pour empêcher la divulgation dans le public des questions dont il est fait état dans les observations relatives à une motion visée au paragraphe (5), et notamment proscrire la publication ou la radiodiffusion de ces questions.

Ordonnances à l'égard des questions énoncées dans les observations

Reasons for order, etc.

(7) The panel shall ensure that any order it makes under this section and its reasons are available to the public in writing.

(7) Le sous-comité fait en sorte que toute ordonnance qu'il rend en vertu du présent article soit accessible au public sous forme écrite et accompagnée des motifs.

Motifs à l'appui de l'ordonnance

Reconsidering of order

(8) The panel may reconsider an order made under subsection (2) or (3) at the request of any person or on its own motion.

(8) Le sous-comité peut réexaminer toute ordonnance rendue en vertu du paragraphe (2) ou (3), à la demande de quiconque ou de sa propre initiative.

Réexamen de l'ordonnance

Exception to closed hearings

46. If a panel makes an order under subsection 45 (2) wholly or partly because of the desirability of avoiding disclosure of matters in the interest of a person affected, the panel may allow the person and his or her personal representative to attend the hearing.

46 Si un sous-comité rend l'ordonnance prévue au paragraphe 45 (2) en totalité ou en partie parce qu'il s'avère souhaitable d'éviter la divulgation de questions dans l'intérêt d'une personne intéressée, le sous-comité peut permettre à cette personne ou à son représentant d'assister à l'audience.

Exception aux audiences à huis clos

Sexual misconduct witnesses

47. A panel shall, on the request of a witness whose testimony is in relation to allegations of a member's misconduct of a sexual nature involving the witness, make an order that no person shall publish the identity of the witness or any information that could disclose the identity of the witness.

47 Le sous-comité, à la demande d'un témoin dont le témoignage se rapporte aux allégations d'inconduite d'ordre sexuel de la part d'un membre et qui concerne le témoin, rend une ordonnance portant que nul ne doit rendre publics l'identité du témoin ni aucun renseignement susceptible de révéler l'identité du témoin.

Témoins d'inconduite sexuelle

Transcript of hearings

48.—(1) The panel holding a hearing shall ensure that,

48 (1) Le sous-comité qui tient une audience veille à ce que :

Transcription des audiences

- (a) the oral evidence is recorded;
- (b) copies of the transcript of the hearing are available to a party on the party's request at the party's expense; and
- (c) copies of the transcript of any part of the hearing that is not the subject of an order prohibiting publication are available to any person at that person's expense.

- a) les témoignages oraux soient consignés;
- b) la copie de la transcription de l'audience soit accessible aux parties qui en font la demande, à leurs frais;
- c) la copie de la transcription de toute partie de l'audience dont la publication n'est pas interdite par ordonnance soit accessible à quiconque, à ses frais.

Transcripts filed with court

(2) If a transcript of a part of a hearing that is the subject of an order prohibiting publication is filed with a court in respect of proceedings, only the court and the parties to the proceedings may examine it unless the court orders otherwise.

(2) Si la transcription d'une partie de l'audience qui fait l'objet d'une ordonnance en interdisant la publication est déposée auprès d'un tribunal relativement à une instance, seuls le tribunal et les parties à

Transcription déposée auprès du tribunal

Admissibility of evidence	<p>49. Despite the <i>Statutory Powers Procedure Act</i>, nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the findings of a panel shall be based exclusively on evidence admitted before it.</p>	l'instance peuvent l'examiner, sauf ordonnance contraire du tribunal.	Recevabilité des preuves
Members of panel who participate	<p>50. Only the members of a panel who were present throughout a hearing shall participate in the panel's decision.</p>	<p>50 Seuls les membres d'un sous-comité qui étaient présents du début d'une audience à la fin participent à la décision du sous-comité.</p>	Membres du sous-comité qui participent
Professional misconduct	<p>51.—(1) A panel shall find that a member has committed an act of professional misconduct if,</p> <p>(a) the member has been <u>found guilty</u> of an offence that is relevant to the member's suitability to practise;</p> <p>(b) the governing body of a health profession in a jurisdiction other than Ontario has found that the member committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined in the regulations; or</p> <p>(c) the member has committed an act of professional misconduct as defined in the regulations.</p>	<p>51 (1) Le sous-comité conclut qu'un membre a commis une faute professionnelle si, selon le cas :</p> <p>a) le membre a été déclaré coupable d'une infraction qui se rapporte à son aptitude à exercer sa profession;</p> <p>b) le corps dirigeant d'une profession de la santé dans un ressort autre que l'Ontario a conclu que le membre avait commis une faute professionnelle qui, de l'avis du sous-comité, constitue une faute professionnelle telle que la définissent les règlements;</p> <p>c) le membre a commis une faute professionnelle telle que la définissent les règlements.</p>	Faute professionnelle
Orders	<p>(2) If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:</p> <ol style="list-style-type: none"> 1. Directing the Registrar to revoke the member's certificate of registration. 2. Directing the Registrar to suspend the member's certificate of registration for a specified period of time. 3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time. 4. Requiring the member to appear before the panel to be reprimanded. 5. Requiring the member to pay a fine of not more than \$10,000 to the Treasurer of Ontario. 	<p>(2) Si un sous-comité conclut qu'un membre a commis une faute professionnelle, il peut, par ordonnance :</p> <ol style="list-style-type: none"> 1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre. 2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre pour une durée déterminée. 3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie. 4. Exiger du membre qu'il se présente devant le sous-comité pour être réprimandé. 5. Exiger du membre qu'il verse une amende d'au plus 10 000 \$ au trésorier de l'Ontario. 	Ordonnances
Idem	<p>(3) In making an order under paragraph 2 or 3 of subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.</p>	<p>(3) Lorsqu'il rend une ordonnance en vertu de la disposition 2 ou 3 du paragraphe (2), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.</p>	Idem
Suspension of order	<p>(4) A panel may suspend the effect of an order made under subsection (2) for a specified period and on specified conditions.</p>	<p>(4) Le sous-comité peut suspendre l'effet d'une ordonnance rendue en vertu du paragraphe (2) pour une durée déterminée et dans des conditions précisées.</p>	Suspension d'ordonnance
Incompetence	<p>52.—(1) A panel shall find a member to be incompetent if the member's professional care of a patient displayed a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates that the member is unfit to continue to practise or that the member's practice should be restricted.</p>	<p>52 (1) Le sous-comité conclut à l'incompétence d'un membre si les soins professionnels donnés à un patient manifestent un manque de connaissance, de compétence ou de jugement, ou de l'indifférence pour le bien-être du patient, d'un ordre ou dans une mesure qui démontre que le membre est inapte à exercer sa profession ou que ses activités professionnelles doivent être restreintes.</p>	Incompétence
Order	<p>(2) If a panel finds a member is incompetent, it may make an order doing any one or more of the following:</p> <ol style="list-style-type: none"> 1. Directing the Registrar to revoke the member's certificate of registration. 	<p>(2) Si le sous-comité conclut à l'incompétence d'un membre, il peut, par ordonnance :</p> <ol style="list-style-type: none"> 1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre. 	Ordonnance

	2. Directing the Registrar to suspend the member's certificate of registration.	2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre.	
	3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.	3. Enjoindre au registrateur d'assortir de conditions et de restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie.	
Idem	(3) In making an order under subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.	(3) Lorsqu'il rend une ordonnance en vertu du paragraphe (2), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.	Idem
Costs if proceedings unwarranted	53. If a panel is of the opinion that the commencement of proceedings was unwarranted, it may make an order requiring the College to pay all or part of the member's legal costs.	53 Le sous-comité qui est d'avis que l'introduction d'une instance était injustifiée peut rendre une ordonnance exigeant de l'ordre qu'il paie tout ou partie des frais judiciaires du membre.	Frais en cas d'instances injustifiées
Decision to complainant	54. A panel shall give its decision and reasons in writing to the parties and, if the matter had been referred to the Discipline Committee by the Complaints Committee, to the complainant in the matter.	54 Le sous-comité communique sa décision motivée par écrit aux parties et, si la question a été renvoyée au comité de discipline par le comité des plaintes, au plaignant.	Communication de la décision au plaignant
Release of evidence	55. The Discipline Committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined.	55 Le comité de discipline communique, sur demande, les documents et choses présentés en preuve lors d'une audience à la personne qui les a produits, dans un délai raisonnable après que la question en litige a été tranchée de façon définitive.	Communication des preuves
Publication of decisions	56. —(1) The College shall publish a panel's decision and its reasons, or a summary of its reasons, in its annual report and may publish the decision and reasons or summary in any other publication of the College.	56 (1) L'ordre doit publier la décision motivée du sous-comité, ou la décision et un résumé des motifs à l'appui de celle-ci, dans son rapport annuel. Il peut publier la décision motivée ou la décision et le résumé des motifs dans n'importe quelle autre de ses publications.	Publication des décisions
Publication of member's name	(2) In publishing a decision and reasons or summary under subsection (1), the College shall publish the name of the member who was the subject of the proceeding if, (a) the results of the proceeding may be obtained by a person from the register; or (b) the member requests the publication of his or her name.	(2) Lorsqu'il publie une décision motivée ou une décision et un résumé des motifs aux termes du paragraphe (1), l'ordre publie le nom du membre qui fait l'objet de l'instance si, selon le cas : a) quiconque peut connaître l'issue de l'instance en consultant le tableau; b) le membre demande que son nom soit publié.	Publication du nom du membre
Withholding of member's name	(3) The College shall not publish the member's name unless it is required to do so under subsection (2).	(3) L'ordre ne publie pas le nom du membre à moins d'y être tenu aux termes du paragraphe (2).	Non-publication du nom du membre
INCAPACITY		INCAPACITÉ	
Registrar's inquiry	57. If the Registrar believes that a member may be incapacitated, the Registrar shall make inquiries he or she considers appropriate and shall report the results of the inquiries to the Executive Committee.	57 Le registrateur qui croit qu'un membre est peut-être frappé d'incapacité mène les enquêtes qu'il estime appropriées et présente au bureau un rapport sur le résultat de ces enquêtes.	Enquête du registrateur
Appointment of board of inquiry	58. —(1) The Executive Committee may appoint a board of inquiry to inquire into whether a member is incapacitated if it receives, (a) a report from the Registrar under section 57; or (b) a referral from a panel of the Complaints Committee under paragraph 2 of subsection 26 (2).	58 (1) Une commission d'enquête chargée de mener une enquête afin d'établir si un membre est frappé d'incapacité peut être constituée par le bureau si celui-ci reçoit, selon le cas : a) un rapport du registrateur visé à l'article 57; b) un renvoi effectué par un sous-comité du comité des plaintes en vertu de la disposition 2 du paragraphe 26 (2).	Constitution d'une commission d'enquête
Notice to member	(2) The Executive Committee shall give a member notice that it intends to appoint a board of inquiry to inquire into whether the member is incapacitated before it appoints a board.	(2) Le bureau avise au préalable le membre de son intention de constituer une commission d'enquête pour mener une enquête afin d'établir si le membre est frappé d'incapacité.	Avis adressé au membre
Composition of board	(3) A board of inquiry shall be composed of one member of the Council who was appointed by the Lieutenant Governor in Council and two or more members of the College.	(3) La commission d'enquête se compose d'un membre du conseil qui a été nommé par le lieutenant-gouverneur en conseil et d'au moins deux membres de l'ordre.	Composition de la commission
Inquiries by board	59. —(1) A board of inquiry shall make inquiries it considers appropriate.	59 (1) La commission d'enquête mène les enquêtes qu'elle estime appropriées.	Enquêtes de la commission

Physical or mental examinations	(2) If, after making inquiries, a board of inquiry has reasonable and probable grounds to believe that the member who is the subject of the inquiry is incapacitated, the board may require the member to submit to physical or mental examinations conducted or ordered by a health professional specified by the board and may, subject to section 63, make an order directing the Registrar to suspend the member's certificate of registration until he or she submits to the examinations.	(2) Si, au terme de ses enquêtes, la commission d'enquête a des motifs raisonnables et probables de croire que le membre qui fait l'objet de l'enquête est frappé d'incapacité, elle peut exiger de lui qu'il subisse des examens physiques ou mentaux pratiqués ou ordonnés par un professionnel de la santé qu'elle désigne et peut, sous réserve de l'article 63, rendre une ordonnance enjoignant au registrateur de suspendre le certificat d'inscription du membre jusqu'à ce qu'il ait subi ces examens.	Examens physiques ou mentaux
Board's report	60. A board of inquiry shall report to the Executive Committee and shall give a copy of its report and a copy of any report on an examination required under subsection 59 (2) to the member who was the subject of the inquiry.	60 La commission d'enquête présente un rapport au bureau et en remet une copie, ainsi qu'une copie de tout rapport relatif aux examens exigés aux termes du paragraphe 59 (2), au membre qui a fait l'objet de l'enquête.	Rapport de la commission
Referral to Fitness to Practise Committee	61. After receiving the report of a board of inquiry, the Executive Committee may refer the matter to the Fitness to Practise Committee.	61 Après avoir reçu le rapport d'une commission d'enquête, le bureau peut renvoyer la question au comité d'aptitude professionnelle.	Renvoi au comité d'aptitude professionnelle
Interim suspension	62. —(1) The Executive Committee may, subject to section 63, make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if, <ul style="list-style-type: none"> (a) it has referred a matter involving the member to the Fitness to Practise Committee; and (b) it is of the opinion that the physical or mental state of the member exposes or is likely to expose his or her patients to harm or injury. (2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Fitness to Practise Committee, <ul style="list-style-type: none"> (a) the College shall prosecute the matter expeditiously; and (b) the Fitness to Practise Committee shall give precedence to the matter. (3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Fitness to Practise Committee.	62 (1) Le bureau peut, sous réserve de l'article 63, rendre une ordonnance provisoire enjoignant au registrateur de suspendre le certificat d'inscription d'un membre ou de l'assortir de conditions ou de restrictions si : <ul style="list-style-type: none"> a) d'une part, il a renvoyé au comité d'aptitude professionnelle une question mettant en cause le membre; b) d'autre part, il est d'avis que l'état physique ou mental du membre expose ou exposera vraisemblablement ses patients à un préjudice ou à des blessures. (2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité d'aptitude professionnelle : <ul style="list-style-type: none"> a) d'une part, l'ordre traite la question avec célérité; b) d'autre part, le comité d'aptitude professionnelle donne priorité à la question. (3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité d'aptitude professionnelle.	Suspension provisoire
Procedure following interim suspension	(2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Fitness to Practise Committee, <ul style="list-style-type: none"> (a) the College shall prosecute the matter expeditiously; and (b) the Fitness to Practise Committee shall give precedence to the matter. (3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Fitness to Practise Committee.	(2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité d'aptitude professionnelle : <ul style="list-style-type: none"> a) d'une part, l'ordre traite la question avec célérité; b) d'autre part, le comité d'aptitude professionnelle donne priorité à la question. (3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité d'aptitude professionnelle.	Procédure suivant la suspension provisoire
Duration of order	(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Fitness to Practise Committee.	(3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité d'aptitude professionnelle.	Effet de l'ordonnance
Restrictions on orders	63. No order shall be made with respect to a member by a board of inquiry under subsection 59 (2) or by the Executive Committee under subsection 62 (1) unless the member has been given, <ul style="list-style-type: none"> (a) notice of the intention of the board or Committee to make the order; (b) at least fourteen days to make written submissions to the board or Committee; and (c) in the case of an order by the Executive Committee under subsection 62 (1), a copy of the provisions of section 62. 64. —(1) The chair of the Fitness to Practise Committee shall select a panel from among the members of the Committee to hold a hearing of any matter referred to the Committee by the Executive Committee.	63 Aucune ordonnance ne peut être rendue à l'égard d'un membre par une commission d'enquête en vertu du paragraphe 59 (2) ou par le bureau en vertu du paragraphe 62 (1) sans que le membre : <ul style="list-style-type: none"> a) ait été avisé de l'intention de la commission ou du bureau de rendre l'ordonnance; b) ait bénéficié d'un délai d'au moins quatorze jours pour présenter des observations par écrit à la commission ou au bureau; c) ait reçu copie des dispositions de l'article 62, dans le cas d'une ordonnance émanant du bureau, prévue au paragraphe 62 (1). 64 (1) Le président du comité d'aptitude professionnelle constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur toute question renvoyée au comité par le bureau.	Restrictions relatives aux ordonnances
Panels for Fitness to Practise hearings	64. —(1) The chair of the Fitness to Practise Committee shall select a panel from among the members of the Committee to hold a hearing of any matter referred to the Committee by the Executive Committee.	64 (1) Le président du comité d'aptitude professionnelle constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur toute question renvoyée au comité par le bureau.	Sous-comité constitué pour les questions d'aptitude professionnelle
Composition	(2) A panel shall be composed of at least three persons, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.	(2) Le sous-comité se compose d'au moins trois personnes, dont l'une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.	Composition
Quorum	(3) Three members of a panel constitute a quorum.	(3) Trois membres constituent le quorum d'un sous-comité.	Quorum
Parties	65. The College, the member who is alleged to be incapacitated and any other person specified by the panel are parties to a hearing.	65 Sont parties à une audience l'ordre, le membre dont il est allégué qu'il est frappé d'incapacité et toute autre personne que précise le sous-comité.	Parties

Reports of health professionals

66.—(1) A report prepared and signed by a health professional containing his or her findings and the facts upon which they are based is admissible as evidence at a hearing without proof of its making or of the health professional's signature if the party introducing the report gives the other parties a copy of the report at least ten days before the hearing.

66 (1) Tout rapport dressé et signé par un professionnel de la santé et qui comprend ses conclusions et les faits sur lesquels celles-ci sont fondées est recevable en preuve lors d'une audience sans qu'il soit nécessaire de prouver son authenticité ou celle de la signature du professionnel de la santé, si la partie qui le présente en remet une copie aux autres parties au moins dix jours avant l'audience.

Rapports de professionnels de la santé

Testimony of health professionals

(2) A health professional may not give evidence in his or her professional capacity at a hearing unless a report, prepared and signed by the health professional containing his or her findings and the facts upon which they are based, is introduced as evidence.

(2) Un professionnel de la santé ne peut témoigner en sa qualité de professionnel à une audience que s'il est présenté en preuve un rapport dressé et signé par lui et qui comprend ses conclusions et les faits sur lesquels celles-ci sont fondées.

Témoignage des professionnels de la santé

Cross-examination

(3) If a report described in subsection (1) is introduced by a party, the other parties may summon and cross-examine the person who prepared the report.

(3) Si le rapport visé au paragraphe (1) est présenté par une partie, les autres parties peuvent assigner et contre-interroger la personne qui a dressé le rapport.

Contre-interrogatoire

Procedural provisions

67. The following provisions apply with necessary modifications to a hearing by a panel:

67 Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, aux audiences tenues par les sous-comités :

Dispositions relatives à la procédure

1. Subsection 22 (4) (findings of fact).
2. Subsection 38 (4) (exclusion from panel).
3. Section 39 (panel members deemed to continue).
4. Section 42 (disclosure of evidence).
5. Section 43 (no communication by panel members).
6. Section 44 (legal advice).
7. Section 47 (sexual misconduct witnesses).
8. Section 50 (members of panel who participate).
9. Section 55 (release of evidence).

1. Le paragraphe 22 (4) (conclusions de fait).
2. Le paragraphe 38 (4) (exclusion).
3. L'article 39 (les membres du sous-comité sont réputés maintenus).
4. L'article 42 (divulgence des preuves).
5. L'article 43 (interdiction aux membres des sous-comités de communiquer).
6. L'article 44 (avis juridiques).
7. L'article 47 (témoins d'inconduite sexuelle).
8. L'article 50 (membres du sous-comité qui participent).
9. L'article 55 (communication des preuves).

Hearings closed

68.—(1) A hearing shall, subject to subsection (2), be closed to the public.

68 (1) Sous réserve du paragraphe (2), les audiences sont tenues à huis clos.

Audiences à huis clos

Open on request of member in some cases

(2) A hearing shall be open to the public if the person who is alleged to be incapacitated requests it in a written notice received by the Registrar before the day the hearing commences, unless the panel is satisfied that,

(2) Une audience est publique si la personne dont il est allégué qu'elle est frappée d'incapacité en fait la demande par un avis écrit que le registrateur reçoit avant la date à laquelle commence l'audience, sauf si le sous-comité est convaincu que, selon le cas :

Audience publique sur demande du membre dans certains cas

- (a) matters involving public security may be disclosed;
- (b) financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected other than the person whose capacity is being investigated or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;
- (c) a person involved in a criminal proceeding or civil suit may be prejudiced; or
- (d) the safety of any person may be jeopardized.

- a) des questions touchant à la sécurité publique risquent d'être divulguées;
- b) risquent d'être divulguées lors de l'audience des questions financières, personnelles ou autres de nature telle qu'il vaut mieux, compte tenu des circonstances, éviter leur divulgation dans l'intérêt de toute personne intéressée, à l'exception de la personne dont la capacité fait l'objet d'une enquête, ou dans l'intérêt public qu'adhérer au principe selon lequel les audiences doivent être publiques;
- c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;
- d) la sécurité de quiconque risque d'être mise en danger.

Orders

69.—(1) If a panel finds that a member is incapacitated, it shall make an order doing any one or more of the following:

69 (1) Si un sous-comité conclut qu'un membre est frappé d'incapacité, il doit, par ordonnance :

Ordonnances

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration.

1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre.
2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre.

3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.

Idem

(2) In making an order under subsection (1), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.

APPEALS TO COURT

Appeals from decisions of the Board

70.—(1) A party to proceedings before the Board concerning a registration hearing or review or to proceedings before a panel of the Discipline or Fitness to Practise Committee, other than a hearing of an application under subsection 72 (1), may appeal from the decision of the Board or panel to the Divisional Court.

Basis of appeal

(2) An appeal under subsection (1) may be made on questions of law or fact or both.

Court's powers

(3) In an appeal under subsection (1), the Court has all the powers of the panel that dealt with the matter and, in an appeal from the Board, the Court also has all the powers of the Board.

No stay of certain orders pending appeal

71. An order made by a panel of the Discipline Committee on the grounds of incompetence or by a panel of the Fitness to Practise Committee on the grounds of incapacity, directing the Registrar to revoke, suspend or impose terms, limitations or conditions on a member's certificate, takes effect immediately despite any appeal.

REINSTATEMENT

Applications for reinstatement

72.—(1) A person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings may apply in writing to the Registrar to have a new certificate issued or the suspension removed.

Time of application

(2) An application under subsection (1) shall not be made earlier than,

- (a) one year after the revocation or suspension; or
- (b) six months after a previous application under subsection (1).

Referral to Committee

73.—(1) The Registrar shall refer the application, if the revocation or suspension was on the grounds of,

- (a) professional misconduct or incompetence, to the Discipline Committee; or
- (b) incapacity, to the Fitness to Practise Committee.

Hearings

(2) The chair of a committee to which an application is referred shall select a panel from among the members of the committee to hold a hearing of the application.

3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie.

Idem

(2) Lorsqu'il rend une ordonnance en vertu du paragraphe (1), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.

APPELS PORTÉS DEVANT LA COUR

70 (1) Toute partie à une instance devant la Commission concernant une audience ou un réexamen relatifs à une inscription ou toute partie à une instance devant un sous-comité du comité de discipline ou du comité d'aptitude professionnelle, à l'exclusion de l'audition d'une demande visée au paragraphe 72 (1), peut interjeter appel de la décision de la Commission ou du sous-comité devant la Cour divisionnaire.

Appel des décisions de la Commission

(2) L'appel interjeté en vertu du paragraphe (1) est recevable à l'égard de questions de droit ou de questions de fait, ou des deux.

Fondement de l'appel

(3) Dans le cadre d'un appel interjeté en vertu du paragraphe (1), la Cour est investie de tous les pouvoirs du sous-comité qui a traité de la question et, dans le cadre de l'appel d'une décision de la Commission, est en outre investie de tous les pouvoirs de la Commission.

Pouvoirs de la Cour

71 L'ordonnance rendue par un sous-comité du comité de discipline pour cause d'incompétence, ou par un sous-comité du comité d'aptitude professionnelle pour cause d'incapacité, et qui enjoint au registrateur de révoquer ou de suspendre le certificat d'un membre, ou de l'assortir de restrictions ou de conditions, entre en vigueur immédiatement même s'il y a appel.

Entrée en vigueur de certaines ordonnances

REMISE EN VIGUEUR

72 (1) La personne dont le certificat d'inscription a été révoqué ou suspendu par suite de procédures disciplinaires ou de procédures pour incapacité peut demander par écrit au registrateur qu'un nouveau certificat lui soit délivré ou que la suspension soit annulée.

Demandes de remise en vigueur

(2) La demande prévue au paragraphe (1) ne peut être présentée avant l'écoulement de l'un des délais suivants :

Délai de présentation de la demande

- a) un an après la révocation ou la suspension;
- b) six mois après la présentation de la dernière demande présentée en vertu du paragraphe (1).

73 (1) Le registrateur renvoie la demande :

Renvoi au comité compétent

- a) au comité de discipline, si la révocation ou la suspension a pour motif une faute professionnelle ou l'incompétence;
- b) au comité d'aptitude professionnelle, si la révocation ou la suspension a pour motif l'incapacité.

(2) Le président du comité auquel une demande est renvoyée choisit, parmi les membres du comité, les membres du sous-comité chargé de procéder à l'audience relative à la demande.

Audiences

Procedural provisions

(3) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Discipline Committee:

1. Subsection 22 (4) (findings of fact).
2. Subsection 38 (2) (composition).
3. Subsection 38 (3) (composition).
4. Subsection 38 (5) (quorum).
5. Section 43 (no communication by panel members).
6. Section 44 (legal advice).
7. Section 45 (hearings open).
8. Section 47 (sexual misconduct witnesses).
9. Section 48 (transcript of hearings).
10. Section 50 (members of panel who participate).
11. Section 55 (release of evidence).

Idem

(4) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Fitness to Practise Committee:

1. Subsection 22 (4) (findings of fact).
2. Section 43 (no communication by panel members).
3. Section 44 (legal advice).
4. Section 47 (sexual misconduct witnesses).
5. Section 48 (transcript of hearings).
6. Section 50 (members of panel who participate).
7. Section 55 (release of evidence).
8. Subsection 64 (2) (composition).
9. Subsection 64 (3) (quorum).
10. Section 68 (hearings closed).

Order

(5) A panel may, after a hearing, make an order doing any one or more of the following:

1. Directing the Registrar to issue a certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration.

Decision

(6) A panel that held a hearing of an application shall give its decision and reasons in writing to the applicant and the Registrar.

Orders without hearing

74. The Council or Executive Committee may, without a hearing, with respect to a person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings, make an order doing any one or more of the following:

1. Directing the Registrar to issue a new certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the

(3) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à l'audience relative à une demande par un sous-comité du comité de discipline :

1. Le paragraphe 22 (4) (conclusions de fait).
2. Le paragraphe 38 (2) (composition).
3. Le paragraphe 38 (3) (composition).
4. Le paragraphe 38 (5) (quorum).
5. L'article 43 (interdiction aux membres des sous-comités de communiquer).
6. L'article 44 (avis juridiques).
7. L'article 45 (audiences publiques).
8. L'article 47 (témoins d'inconduite sexuelle).
9. L'article 48 (transcription des audiences).
10. L'article 50 (membres du sous-comité qui participent).
11. L'article 55 (communication des preuves).

Dispositions relatives à la procédure

(4) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à l'audience relative à une demande par un sous-comité du comité d'aptitude professionnelle :

1. Le paragraphe 22 (4) (conclusions de fait).
2. L'article 43 (interdiction aux membres des sous-comités de communiquer).
3. L'article 44 (avis juridiques).
4. L'article 47 (témoins d'inconduite sexuelle).
5. L'article 48 (transcription des audiences).
6. L'article 50 (membres du sous-comité qui participent).
7. L'article 55 (communication des preuves).
8. Le paragraphe 64 (2) (composition).
9. Le paragraphe 64 (3) (quorum).
10. L'article 68 (audiences à huis clos).

Idem

(5) À la suite d'une audience, le sous-comité peut, par ordonnance :

1. Enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur de la demande.
2. Enjoindre au registrateur d'annuler la suspension du certificat d'inscription de l'auteur de la demande.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription de l'auteur de la demande.

Ordonnance

(6) Le sous-comité qui tient une audience relative à une demande communique sa décision motivée par écrit à l'auteur de la demande et au registrateur.

Décision

74 Dans le cas d'une personne dont le certificat d'inscription a été révoqué ou suspendu par suite de procédures disciplinaires ou de procédures pour incapacité, le conseil ou le bureau peut, par ordonnance et sans qu'une audience soit tenue :

Ordonnances sans audience

1. Enjoindre au registrateur de délivrer un nouveau certificat d'inscription à l'auteur de la demande.
2. Enjoindre au registrateur d'annuler la suspension du certificat d'inscription de l'auteur de la demande.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription de l'auteur de la demande si

applicant's certificate of registration if an order is made under paragraph 1 or 2.

REGISTRAR'S POWERS
OF INVESTIGATION

Investigators **75.** The Registrar may appoint one or more investigators to determine whether a member has committed an act of professional misconduct or is incompetent if,

- (a) the Registrar believes on reasonable and probable grounds that the member has committed an act of professional misconduct or is incompetent and the Executive Committee approves of the appointment;
- (b) the Executive Committee has received a report from the Quality Assurance Committee with respect to the member and has requested the Registrar to conduct an investigation; or
- (c) the Complaints Committee has received a written complaint about the member and has requested the Registrar to conduct an investigation.

Powers of investigators **76.**—(1) An investigator may inquire into and examine the practice of the member to be investigated and has, for the purposes of the investigation, all the powers of a commission under Part II of the *Public Inquiries Act*.

Idem (2) An investigator may, on the production of his or her appointment, enter at any reasonable time the business premises of the member and may examine anything found there that is relevant to the investigation.

Obstruction prohibited (3) No person shall obstruct an investigator or withhold or conceal from him or her or destroy anything that is relevant to the investigation.

Conflicts (4) This section applies despite any provision in any Act relating to the confidentiality of health records.

Entries and searches **77.**—(1) A justice of the peace may, on the application of the investigator, issue a warrant authorizing an investigator to enter and search a place and examine anything that is relevant to the investigation if the justice of the peace is satisfied that the investigator has been properly appointed and that there are reasonable and probable grounds for believing that,

- (a) the member being investigated has committed an act of professional misconduct or is incompetent; and
- (b) there is something relevant to the investigation at the place.

Searches by day unless stated (2) A warrant issued under subsection (1) does not authorize an entry or search after sunset and before sunrise unless it is expressly stated in the warrant.

Assistance and entry by force (3) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by other persons and may enter a place by force.

Investigator to show identification (4) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) shall produce his or her identification, on request, to any person at the place.

Copying of documents and objects **78.**—(1) An investigator may copy, at the College's expense, a document or object that an investigator may examine under subsection 76 (2) or under

une ordonnance est rendue en vertu de la disposition 1 ou 2.

POUVOIRS D'ENQUÊTE
DU REGISTRATEUR

Enquêteurs **75** Le registrateur peut nommer un ou plusieurs enquêteurs chargés d'établir si un membre a commis une faute professionnelle ou est incompetent, dans les cas suivants :

- a) le registrateur croit, en se fondant sur des motifs raisonnables et probables, que le membre a commis une faute professionnelle ou est incompetent, et le bureau approuve la nomination;
- b) le bureau a reçu un rapport du comité d'assurance de la qualité concernant le membre et a demandé au registrateur de mener une enquête;
- c) le comité des plaintes a reçu une plainte par écrit au sujet du membre et a demandé au registrateur de mener une enquête.

Pouvoirs des enquêteurs **76** (1) L'enquêteur peut enquêter sur les activités professionnelles du membre qui fait l'objet d'une enquête et, pour les besoins de l'enquête, est investi de tous les pouvoirs d'une commission en vertu de la partie II de la loi intitulée *Public Inquiries Act* («*Loi sur les enquêtes publiques*»).

Idem (2) L'enquêteur peut, sur production d'une attestation de sa nomination, pénétrer, à toute heure raisonnable, dans le lieu de travail du membre et examiner tout ce qui s'avère pertinent à l'enquête.

Interdiction d'entraver (3) Nul ne doit entraver le travail d'un enquêteur, ni garder par-devers soi, lui dissimuler ou détruire quoi que ce soit qui s'avère pertinent.

Conflicts (4) Le présent article s'applique malgré les dispositions d'autres lois relatives à la confidentialité des dossiers médicaux.

Perquisitions **77** (1) Un juge de paix peut délivrer à l'enquêteur qui en fait la demande un mandat l'autorisant à pénétrer dans un lieu et à y perquisitionner, ainsi qu'à examiner tout ce qui s'avère pertinent, s'il est convaincu que l'enquêteur a été nommé de façon régulière et qu'il existe des motifs raisonnables et probables de croire que :

- a) d'une part, le membre qui fait l'objet de l'enquête a commis une faute professionnelle ou est incompetent;
- b) d'autre part, il se trouve des choses pertinentes dans ce lieu.

Perquisition de jour sauf indication contraire (2) Le mandat délivré aux termes du paragraphe (1) n'a pas pour effet d'autoriser une perquisition avant le lever du soleil et après le coucher du soleil, sauf indication contraire expresse dans le mandat.

Aide et recours à la force (3) L'enquêteur qui pénètre dans un lieu et y perquisitionne en vertu d'un mandat délivré aux termes du paragraphe (1) peut être aidé d'autres personnes et avoir recours à la force pour y pénétrer.

Obligation de l'enquêteur de présenter une pièce d'identité (4) L'enquêteur qui pénètre dans un lieu et y perquisitionne en vertu d'un mandat délivré aux termes du paragraphe (1) est tenu de présenter une pièce d'identité à toute personne qui se trouve sur les lieux et qui en fait la demande.

Reproduction de documents et d'objets **78** (1) L'enquêteur peut, aux frais de l'ordre, faire une copie des documents ou des objets qu'il peut examiner en vertu du paragraphe 76 (2) ou

	the authority of a warrant issued under subsection 77 (1).	d'un mandat délivré aux termes du paragraphe 77 (1).	
Removal for documents and objects	(2) An investigator may remove a document or object described in subsection (1) if, (a) it is not practicable to copy it in the place where it is examined; or (b) a copy of it is not sufficient for the purposes of the investigation.	(2) L'enquêteur peut enlever les documents ou objets visés au paragraphe (1) si, selon le cas : a) il n'est pas possible d'en faire une copie sur les lieux mêmes; b) une copie de ceux-ci ne suffit pas aux fins de l'enquête.	Enlèvement de documents et d'objets
Return of documents and objects or copies	(3) If it is practicable to copy a document or object removed under subsection (2), the investigator shall, (a) if it was removed under clause (2) (a), return the document or object within a reasonable time; or (b) if it was removed under clause (2) (b), provide the person who was in possession of the document or object with a copy of it within a reasonable time.	(3) S'il est possible de faire une copie des documents ou objets enlevés en vertu du paragraphe (2), l'enquêteur : a) s'ils ont été enlevés en vertu de l'alinéa (2) a), restitue les documents ou objets dans un délai raisonnable; b) s'ils ont été enlevés en vertu de l'alinéa (2) b), fournit à la personne qui était en possession des documents ou des objets une copie de ceux-ci, dans un délai raisonnable.	Restitution des documents et objets ou des copies
Copy as evidence	(4) A copy of a document or object certified by an investigator to be a true copy shall be received in evidence in any proceeding to the same extent and shall have the same evidentiary value as the document or object itself.	(4) Les copies des documents ou des objets qui sont certifiées conformes aux originaux par un enquêteur sont recevables en preuve dans toute instance dans la même mesure que les originaux et ont la même valeur probante que ceux-ci.	Copies à titre de preuve
Definition	(5) In this section, "document" means a record of information in any form and includes any part of it.	(5) Dans le présent article, «document» s'entend de tout élément d'information sous quelque forme que ce soit et, notamment, d'une partie de celui-ci.	Définition
Report of investigation	79. The Registrar shall report the results of an investigation to, (a) the Executive Committee if the investigator was appointed under clause 75 (a) or (b); (b) the Complaints Committee if the investigator was appointed under clause 75 (c), at the request of the Complaints Committee; or (c) the Board if the investigator was appointed under clause 75 (c) by the Board exercising the Registrar's powers under subsection 28 (4).	79 Le registrateur présente un rapport faisant état du résultat de l'enquête à l'un ou l'autre des organes suivants, selon le cas : a) le bureau, si l'enquêteur a été nommé aux termes de l'alinéa 75 a) ou b); b) le comité des plaintes, si l'enquêteur a été nommé aux termes de l'alinéa 75 c), à la demande du comité des plaintes; c) la Commission, si l'enquêteur a été nommé aux termes de l'alinéa 75 c) par la Commission qui exerçait les pouvoirs du registrateur aux termes du paragraphe 28 (4).	Rapport d'enquête
	QUALITY ASSURANCE COMMITTEE	COMITÉ D'ASSURANCE DE LA QUALITÉ	
Quality assurance program required	80. The Council shall make regulations under paragraph 25 of subsection 95 (1) prescribing a quality assurance program.	80 Le conseil prend des règlements en application de la disposition 25 du paragraphe 95 (1) prescrivant un programme d'assurance de la qualité.	Programme d'assurance de la qualité requis
Assessors	81. The Quality Assurance Committee may appoint assessors for the purposes of a quality assurance program.	81 Le comité d'assurance de la qualité peut nommer des évaluateurs aux fins du programme d'assurance de la qualité.	Évaluateurs
Co-operation with Committee and assessors	82.—(1) Every member shall co-operate with the Quality Assurance Committee and with any assessor it appoints and in particular every member shall, (a) permit the assessor to enter and inspect the premises where the member practises; (b) permit the assessor to inspect the member's records of the care of patients; (c) give the Committee or the assessor the information in respect of the care of patients or in respect of the member's records of the care of patients the Committee or assessor requests in the form the Committee or assessor specifies; (d) confer with the Committee or the assessor if requested to do so by either of them; and (e) participate in a program designed to evaluate the knowledge, skill and judgment of the	82 (1) Chaque membre doit collaborer avec le comité d'assurance de la qualité, ainsi qu'avec tout évaluateur nommé par le comité, et, entre autres : a) permettre à l'évaluateur de pénétrer dans les locaux où il exerce sa profession et de les inspecter; b) permettre à l'évaluateur d'examiner ses dossiers relativement aux soins qu'il donne à ses patients; c) fournir au comité ou à l'évaluateur les renseignements que l'un ou l'autre demande et sous la forme que l'un ou l'autre précise, relativement aux soins qu'il donne à ses patients ou aux dossiers qu'il tient à cet égard; d) s'entretenir avec le comité ou l'évaluateur si l'un ou l'autre le lui demande; e) participer à un programme visant à évaluer ses connaissances, sa compétence et son jugement, si le comité le lui demande.	Collaboration entre le comité et les évaluateurs

member, if requested to do so by the Committee.

Inspection of premises	(2) Every person who controls premises where a member practises, other than a private dwelling, shall allow an assessor to enter and inspect the premises.	Inspection des locaux
Inspection of records	(3) Every person who controls records relating to a member's care of patients shall allow an assessor to inspect the records.	Examen des dossiers
Exception	(4) Subsection (3) does not require a patient or his or her representative to allow an assessor to inspect records relating to the patient's care.	Exception
Conflict	(5) This section applies despite any provision in any Act relating to the confidentiality of health records.	Conflit
Confidentiality of information	83. —(1) Except as provided in this section, the Quality Assurance Committee and any assessor appointed by it shall not disclose, to any other committee, information that, <ul style="list-style-type: none"> (a) was given by the member; or (b) relates to the member and was obtained under section 82. 	Caractère confidentiel des renseignements
Exception if member gave false information	(2) Information described in subsection (1) may be disclosed for the purpose of showing that the member knowingly gave false information to the Quality Assurance Committee or an assessor.	Exception en cas de faux renseignements
Referrals to Executive Committee	(3) If the Quality Assurance Committee is of the opinion, based on an assessment, that a member may have committed an act of professional misconduct or may be incompetent or incapacitated, the Committee may disclose the name of the member and allegations against the member to the Executive Committee.	Renvoi au bureau
Use in other Committees	(4) Information that was disclosed contrary to subsection (1) shall not be used against the member to whom it relates in a proceeding before the Discipline or Fitness to Practise Committees.	Utilisation des renseignements confidentiels

PATIENT RELATIONS PROGRAM

Patient relations program	84. —(1) The College shall have a patient relations program.	Programme de relations avec les patients
Measures for sexual misconduct	(2) The patient relations program must include measures for preventing or dealing with professional misconduct of a sexual nature.	Mesures relatives aux inconduites sexuelles
Item	(3) The measures for preventing or dealing with professional misconduct of a sexual nature must include, <ul style="list-style-type: none"> (a) educational requirements for members; (b) guidelines for the conduct of members with their patients; (c) training for the College's staff; and (d) the provision of information to the public. 	Idem
Report on program	(4) The Council shall give the Health Professions Regulatory Advisory Council a written report describing the patient relation program and, when changes are made to the program, a written report describing the changes.	Rapports touchant le programme

PROGRAMME DE RELATIONS AVEC LES PATIENTS

Programme de relations avec les patients	84 (1) L'ordre offre un programme de relations avec les patients.	Programme de relations avec les patients
Mesures relatives aux inconduites sexuelles	(2) Le programme de relations avec les patients doit comprendre des mesures visant à prévenir les fautes professionnelles d'ordre sexuel.	Mesures relatives aux inconduites sexuelles
Idem	(3) Les mesures visant à prévenir les fautes professionnelles d'ordre sexuel ou à traiter de celles-ci doivent porter sur ce qui suit : <ul style="list-style-type: none"> a) les exigences en matière d'éducation auxquelles doivent satisfaire les membres; b) les principes directeurs régissant la conduite des membres avec leurs patients; c) la formation à donner au personnel de l'ordre; d) la communication de renseignements au public. 	Idem
Rapports touchant le programme	(4) Le conseil remet au Conseil consultatif de réglementation des professions de la santé un rapport écrit décrivant le programme de relations avec les patients et, chaque fois que des modifications y sont apportées, un rapport écrit décrivant celles-ci.	Rapports touchant le programme

Advice to Council **85.** The Patient Relations Committee shall advise the Council with respect to the patient relations program.

85 Le comité des relations avec les patients donne au conseil des conseils sur le programme de relations avec les patients.

MISCELLANEOUS

DISPOSITIONS DIVERSES

Right to use French **86.**—(1) A person has the right to use French in all dealings with the College.

86 (1) Toute personne a le droit d'utiliser le français dans ses rapports avec l'ordre.

Council to ensure right (2) The Council shall take all reasonable measures and make all reasonable plans to ensure that persons may use French in all dealings with the College.

(2) Le conseil prend toutes les mesures raisonnables et élabore tous les plans raisonnables pour faire en sorte que les personnes puissent utiliser le français dans tous leurs rapports avec l'ordre.

Definition (3) In this section, "dealings" means any service or procedure available to the public or to members and includes giving or receiving communications, information or notices, making applications, taking examinations or tests and participating in programs or in hearings or reviews.

(3) Dans le présent article, le terme «rapports» s'entend de tout service offert au public ou aux membres ainsi que de toute formalité administrative, et s'entend en outre du fait de donner ou de recevoir des communications, des renseignements ou des avis, de présenter des demandes, de passer des examens ou des tests, et de prendre part à des programmes, à des audiences ou à des réexamens.

Limitation (4) A person's right under subsection (1) is subject to the limits that are reasonable in the circumstances.

(4) Le droit prévu au paragraphe (1) est assujéti à des limites qui soient raisonnables dans les circonstances.

Injunctions **87.** The College may apply to the Ontario Court (General Division) for an order directing a person to comply with a provision of the health profession Act, this Code, the *Regulated Health Professions Act, 1991* or the regulations under those Acts.

87 L'ordre peut, par voie de requête, demander à la Cour de l'Ontario (Division générale) qu'elle rende une ordonnance enjoignant à quiconque de se conformer à une disposition de la loi sur une profession de la santé, du présent code, de la *Loi de 1991 sur les professions de la santé réglementées* ou des règlements pris en application de ces lois.

Evidence of Registrar **88.** A statement purporting to be certified by the Registrar under the seal of the College as a statement of information from the records kept by the Registrar in the course of his or her duties is admissible in court as proof, in the absence of evidence to the contrary, of the information in it without proof of the Registrar's appointment or signature or of the seal of the College.

88 L'état qui donne des renseignements provenant des dossiers que le registraire tient dans l'exercice de ses fonctions et qui se présente comme étant certifié par le registraire sous le sceau de l'ordre est recevable devant le tribunal comme preuve, en l'absence de preuve contraire, des renseignements qui y figurent sans qu'il soit nécessaire de prouver l'authenticité de la nomination ou de la signature du registraire, ni celle du sceau de l'ordre.

Limitation period **89.**—(1) No person who is or was a member is liable to any action arising out of negligence or malpractice in respect of professional services requested of or rendered by the person unless the action is commenced within one year after the date when the person commencing the action knew or ought to have known the fact or facts upon which the negligence or malpractice is alleged.

89 (1) Quiconque est ou a été membre ne peut être poursuivi pour négligence professionnelle ou autre à l'égard des services professionnels qui lui ont été demandés ou qu'il a fournis, à moins que l'action ne soit introduite dans un délai d'un an après la date à laquelle la personne qui l'introduit a appris ou aurait dû apprendre le fait ou les faits sur lesquels repose l'allégation de négligence professionnelle ou autre.

Transition (2) During the first year this section is in force, it does not operate to shorten the time period, provided by statutory law as it was immediately before this section comes into force, during which an action could be brought.

(2) Pendant la première année où il est en vigueur, le présent article n'a pas pour effet d'abréger le délai d'introduction d'une action prévu par le droit législatif tel qu'il existait immédiatement avant l'entrée en vigueur du présent article.

Reporting of members **90.**—(1) A person who terminates the employment or revokes, suspends or imposes restrictions on the privileges of a member or who dissolves a partnership or association with a member for reasons of professional misconduct, incompetence or incapacity shall file with the Registrar within thirty days after the termination, revocation, suspension, imposition or dissolution a written report setting out the reasons.

90 (1) Quiconque met fin à l'emploi d'un membre, lui retire ses privilèges, les suspend ou les assortit de restrictions, ou dissout la société en nom collectif ou l'association qu'il forme avec le membre, pour des motifs de faute professionnelle, d'incompétence ou d'incapacité, dépose auprès du registraire, dans les trente jours suivant l'accomplissement d'un de ces actes, un rapport écrit énonçant les motifs de sa décision.

Idem (2) If a person intended to terminate the employment of a member or to revoke the member's privileges for reasons of professional misconduct, incompetence or incapacity but the person did not do so because the member resigned or voluntarily relinquished his or her privileges, the person shall file with the Registrar within thirty days after the resignation or relinquishment a written report setting out

(2) Quiconque avait l'intention de mettre fin à l'emploi d'un membre ou de lui retirer ses privilèges pour des motifs de faute professionnelle, d'incompétence ou d'incapacité, mais ne l'a pas fait parce que le membre a démissionné ou a renoncé volontairement à ses privilèges, dépose auprès du registraire, dans les trente jours suivant la démission ou la renonciation, un rapport écrit énonçant les motifs justifiant son intention d'agir.

the reasons upon which the person had intended to act. ▲

Application	(3) This section applies to every person, other than a patient, who employs or offers privileges to a member or associates in partnership or otherwise with a member for the purpose of offering health services.	(3) Le présent article s'applique à toute personne, à l'exception d'un patient, qui emploie un membre ou qui s'associe à un membre dans une société en nom collectif ou autrement, ou qui lui offre des privilèges aux fins de la prestation de services de santé.	Demande
Immunity for reports	(4) No action or other proceeding shall be instituted against a person for making a report in good faith under this section.	(4) Sont irrecevables les actions ou autres instances introduites contre les personnes qui présentent un rapport de bonne foi aux termes du présent article.	Immunité touchant les rapports
Service by mail	91. —(1) A notice or a decision to be given under the health profession Act, this Code or the regulations to a person may be given by mail.	91 (1) Les avis ou les décisions qui doivent être donnés à des personnes aux termes de la loi sur une profession de la santé, du présent code ou des règlements peuvent être envoyés par la poste.	Signification par la poste
Idem	(2) If a notice or decision under the health profession Act, this Code or the regulations is sent by prepaid first class mail addressed to the person at the person's last known address, there is a rebuttable presumption that the notice was received by the person on the fifth day after the notice was mailed.	(2) Si l'avis ou la décision visé par la loi sur une profession de la santé, le présent code ou les règlements est envoyé par courrier affranchi de première classe à la personne, à sa dernière adresse connue, il existe une présomption réfutable selon laquelle la personne a reçu l'avis ou la décision le cinquième jour suivant sa mise à la poste.	Idem
Making false representations to obtain certificates	92. —(1) Every person who makes a representation, knowing it to be false, for the purpose of having a certificate of registration issued is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.	92 (1) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque fait une déclaration qu'il sait fausse en vue de faire délivrer un certificat d'inscription.	Fausse déclarations faites pour obtenir un certificat
Assisting the making of false representation	(2) Every person who knowingly assists a person in committing an offence under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.	(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque aide sciemment une personne à commettre l'infraction visée au paragraphe (1).	Aide dans la commission de l'infraction
Offence	93. —(1) Every person who contravenes an order made under section 45 or 47 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.	93 (1) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ pour une première infraction, et d'une amende d'au plus 20 000 \$ pour une infraction subséquente, quiconque contrevient à une ordonnance rendue en vertu de l'article 45 ou 47.	Infraction
Idem	(2) Every person who contravenes subsection 76 (3) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.	(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque contrevient au paragraphe 76 (3).	Idem
Idem	(3) Every person who contravenes subsection 82 (2), (3) or 90 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.	(3) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, ou d'au plus 10 000 \$ pour une infraction subséquente, quiconque contrevient au paragraphe 82 (2) ou (3), ou 90 (1).	Idem
By-laws	94. —(1) The Council may make by-laws relating to the administrative and internal affairs of the College and, without limiting the generality of the foregoing, the Council may make by-laws, (a) adopting a seal for 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 the President and Vice-President of the College, the selection of the chairs of the committees, the filling of a vacancy in those offices, and setting out the duties and powers of the President, Vice-President and the chairs; (f) respecting the calling, holding and conducting of the Council meetings and respecting the duties of the Council's members; (g) respecting the calling, holding and conducting of meetings of the members;	94 (1) Le conseil peut adopter des règlements administratifs concernant les affaires administratives et internes de l'ordre pour, notamment : a) adopter le sceau de l'ordre; b) prévoir la passation des documents par l'ordre; c) traiter des affaires bancaires et financières; d) déterminer l'exercice financier de l'ordre et prévoir la vérification de ses comptes et de ses opérations; e) prévoir la marche à suivre en ce qui concerne l'élection du président et du vice-président de l'ordre, le choix des présidents des comités et la façon de combler les vacances de ces postes, et énoncer les fonctions et les pouvoirs des titulaires de ces postes; f) traiter de la convocation, de la tenue et du déroulement des réunions du conseil, ainsi que des fonctions de ses membres; g) traiter de la convocation, de la tenue et du déroulement des réunions des membres;	Règlements administratifs

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| <ul style="list-style-type: none"> (h) providing for the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and for the payment of the expenses of the Council and committees in the conduct of their business; (i) providing for the appointment, composition, powers and duties of committees other than the committees required by subsection 10 (1); (j) delegating to the Executive Committee powers and duties of the Council, other than the power to make, amend or revoke regulations and by-laws; (k) providing for a code of ethics for the members; (l) providing for the appointment of inspectors for the purposes of regulations made under paragraph 20 of subsection 95 (1); (m) providing procedures for the making, amending and revoking of by-laws; (n) prescribing forms and providing for their use; (o) respecting the management of the property of the College; (p) authorizing the College to make arrangements for the indemnity of members against professional liability and providing levies to be paid by members; (q) respecting membership of the College in a national organization of bodies with similar functions, the payment of annual assessments and representation at meetings; (r) authorizing the making of grants to advance scientific knowledge or the education of persons wishing to practise the profession, to maintain or improve the standards of practice of the profession or to provide public information about, and encourage interest in, the past and present role of the profession in society. | <ul style="list-style-type: none"> h) fixer la rémunération de ses membres et des membres des comités, à l'exception des personnes nommées par le lieutenant-gouverneur en conseil, et prévoir le paiement de ses dépenses et de celles des comités dans l'exercice de leurs activités; i) prévoir la nomination et la composition des comités autres que ceux prévus au paragraphe 10 (1), ainsi que leurs pouvoirs et leurs fonctions; j) déléguer au bureau ses pouvoirs et ses fonctions, à l'exception du pouvoir de prendre, de modifier ou d'abroger les règlements et les règlements administratifs; k) prévoir un code de déontologie pour les membres; l) prévoir la nomination d'inspecteurs aux fins des règlements pris en application de la disposition 20 du paragraphe 95 (1); m) prévoir une marche à suivre pour adopter, modifier et abroger les règlements administratifs; n) prescrire des formules et prévoir les modalités de leur emploi; o) traiter de la gestion des biens de l'ordre; p) autoriser l'ordre à conclure des ententes aux fins de la protection des membres contre la responsabilité professionnelle et prévoir les contributions que doivent payer les membres; q) traiter de l'affiliation de l'ordre à une association nationale regroupant des organismes chargés de fonctions analogues, du paiement des cotisations annuelles et de la représentation aux réunions; r) autoriser l'octroi de subventions en vue de faire avancer la connaissance scientifique ou de promouvoir l'éducation des personnes qui désirent exercer la profession, de maintenir ou de relever les normes d'exercice de la profession ou de renseigner le public sur le rôle passé et présent de la profession au sein de la société, et d'encourager le public à s'y intéresser. |
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Meetings by telecommunications, etc.

(2) A by-law made under clause (1) (f) or (g) may provide for meetings to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously.

(2) Le règlement administratif adopté en vertu de l'alinéa (1) f) ou g) peut prévoir que des réunions soient tenues de façon que tous les participants puissent communiquer les uns avec les autres simultanément et instantanément.

Réunions à l'aide des télécommunications

Copies of by-laws

(3) A copy of the by-laws made by the Council shall be given to the Minister and to each member and shall be available for public inspection in the office of the College.

(3) Une copie des règlements administratifs adoptés par le conseil est envoyée au ministre ainsi qu'à chaque membre, et est mise à la disposition du public aux fins de consultation dans les bureaux de l'ordre.

Copie des règlements administratifs

Unanimous by-laws, etc.

(4) A by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council called, constituted and held for the purpose.

(4) Les règlements administratifs ou les résolutions que signent tous les membres du conseil sont aussi valides et exécutoires que s'ils avaient été adoptés à une réunion du conseil convoquée, formée et tenue à cette fin.

Unanimité des règlements administratifs

Regulations

95.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. respecting the election of Council members including the requirements for members to be able to vote;
2. respecting the qualification and terms of office of Council members who are elected;

95 (1) Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen par le ministre, le conseil peut, par règlement :

1. traiter de l'élection de ses membres ainsi que des exigences auxquelles ils doivent satisfaire pour pouvoir voter;
2. traiter des qualités requises et du mandat de ses membres qui sont élus;

Règlements

3. prescribing conditions disqualifying elected members from sitting on the Council and governing the removal of disqualified Council members; ▲
4. respecting the qualifications, selection, appointment and terms of office of committee members who are not members of the Council; ▼
5. prescribing conditions disqualifying committee members from sitting on committees and governing the removal of disqualified committee members; ▼
6. respecting the filling of vacancies on the Council or its committees; ▲
7. providing for the composition of the committees mentioned in subsection 10 (1); ▲
8. prescribing classes of certificates of registration and imposing terms, conditions and limitations on the certificates of registration of a class; ▲
9. respecting the issuing, suspension, revocation and expiration of certificates of registration or classes of them; ▲
10. prescribing standards and qualifications for the issue of certificates of registration; ▲
11. prescribing registration requirements as non-exemptible requirements; ▲
12. defining specialties in the profession, providing for certificates relating to those specialties, the qualifications for and suspension and revocation of those certificates and governing the use of prescribed terms, titles or designations by members indicating a specialization in the profession; ▲
13. requiring, for purposes associated with the registration of members, the successful completion of examinations as set, from time to time, by the College, other persons or associations of persons; ▲
14. respecting the maintenance of the register kept by the Registrar, prescribing information as information to be kept in the register, designating information kept in the register as public and providing for the issuing of certificates respecting the information contained in the register; ▲
15. respecting the reporting and publication of decisions of panels; ▲
16. prescribing the standards of practice of the profession and prohibiting members from acting beyond the scope of practice of the profession in the course of practising the profession; ▼
17. governing or prohibiting the delegation by or to members of controlled acts set out in subsection 27 (2) of the *Regulated Health Professions Act, 1991*; ▲
18. respecting the promotion or advertising of the practice of the profession; ▲
19. requiring members to keep prescribed records in respect of their practices; ▲
3. prescrire les conditions qui rendent les membres élus incapables de siéger au conseil et celles qui régissent la destitution des membres du conseil jugés incapables; ▲
4. traiter des qualités requises, du choix, de la nomination et du mandat des membres des comités qui ne sont pas membres du conseil; ▼
5. prescrire les conditions qui rendent les membres d'un comité incapables d'y siéger et celles qui régissent la destitution des membres d'un comité jugés incapables; ▼
6. traiter de la façon de combler les vacances au sein du conseil ou de ses comités; ▲
7. prévoir la composition des comités mentionnés au paragraphe 10 (1); ▲
8. prescrire les catégories de certificats d'inscription et fixer les conditions et les restrictions dont sont assortis les certificats d'inscription d'une catégorie donnée; ▲
9. traiter de la délivrance, de la suspension, de la révocation et de l'expiration des certificats d'inscription ou des catégories de ceux-ci; ▲
10. prescrire les normes et les conditions de délivrance des certificats d'inscription; ▲
11. prescrire les exigences d'inscription auxquelles il est impossible de se soustraire; ▲
12. définir les spécialités de la profession, prévoir les certificats relatifs à ces spécialités et les qualités nécessaires à leur obtention, prévoir la suspension et la révocation de ces certificats, et régir l'emploi par les membres des termes, désignations ou titres prescrits qui indiquent une spécialisation dans la profession; ▲
13. exiger, aux fins reliées à l'inscription des membres, la réussite aux examens qu'établit, de temps à autre, l'ordre, d'autres personnes ou d'autres associations de personnes; ▲
14. traiter de la tenue du tableau que dresse le registraire, prescrire les renseignements devant y être consignés, désigner comme étant de caractère public certains renseignements consignés au tableau et prévoir la délivrance de certificats relativement aux renseignements figurant au tableau; ▲
15. traiter de la façon de rendre compte des décisions des sous-comités et de leur publication; ▲
16. prescrire les normes d'exercice de la profession et interdire aux membres d'outrepasser, dans l'exercice de leur profession, les limites du champ d'application de celle-ci; ▼
17. régir ou interdire la délégation, par des membres ou à des membres, de l'exécution des actes autorisés visés au paragraphe 27 (2) de la *Loi de 1991 sur les professions de la santé réglementées*; ▲
18. traiter de la promotion de l'exercice de la profession, ou de la publicité à cet égard; ▲
19. exiger des membres qu'ils tiennent les dossiers prescrits relativement à l'exercice de leur profession; ▲

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| <p><u>20.</u> requiring and providing for the inspection and examination of premises used in connection with the practice of the profession and of equipment, books, accounts, reports and records of members relating to their practices;</p> <p><u>21.</u> prescribing what constitutes a conflict of interest in the practice of the profession and regulating or prohibiting the practice of the profession in cases in which there is a conflict of interest;</p> <p><u>22.</u> prescribing what constitutes a conflict of interest for members of the Council or a committee and regulating or prohibiting the carrying out of the duties of those members in cases in which there is a conflict of interest;</p> <p><u>23.</u> providing for a meeting of a Committee or a panel that is held for any purpose other than for the conducting of a hearing to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously;</p> <p><u>24.</u> defining professional misconduct for the purpose of clause 51 (1) (c);</p> <p><u>25.</u> prescribing a quality assurance program;</p> <p><u>26.</u> regulating or prohibiting the use of terms, titles and designations by members in respect of their practices;</p> <p><u>27.</u> providing for the compilation of statistical information with respect to services provided by members and requiring members to provide the information necessary for the compilation;</p> <p>▼</p> <p><u>28.</u> requiring members to give the College their home addresses and prescribed information about the places they practise the profession, the services they provide there and the names, business addresses and telephone numbers of their associates, partners and employees and prescribing the form and manner in which the information shall be given; ▲</p> <p><u>29.</u> requiring members to give the College information about their participation in continuing education programs and prescribing the form and manner in which the information shall be given;</p> <p><u>30.</u> respecting the duties and office of the Registrar;</p> <p><u>31.</u> requiring members to pay prescribed annual fees and prescribed fees for registration, examinations and continuing education programs and for anything the Registrar is required or authorized to do and requiring members to pay prescribed penalties for the late payment of any fee;</p> <p>▼</p> <p><u>32.</u> requiring persons to pay fees, set by the Registrar or prescribed, for anything the Registrar is required or authorized to do; ▲</p> <p><u>33.</u> providing for the exemption of any member from the regulations made by the Council;</p> | <p><u>20.</u> exiger et prévoir l'inspection des locaux servant à l'exercice de la profession et de l'équipement, et l'examen des livres, comptes, rapports et dossiers des membres relatifs à l'exercice de leur profession;</p> <p><u>21.</u> prescrire ce qui constitue un conflit d'intérêts dans l'exercice de la profession et réglementer ou interdire l'exercice de la profession en cas de conflit d'intérêts;</p> <p><u>22.</u> prescrire ce qui constitue un conflit d'intérêts pour ses membres ou les membres d'un comité, et réglementer ou interdire l'exercice des fonctions de ces membres en cas de conflit d'intérêts;</p> <p><u>23.</u> prévoir que des réunions soient tenues par les comités ou les sous-comités, à d'autres fins que la tenue d'une audience, de façon que tous les participants puissent communiquer les uns avec les autres simultanément et instantanément;</p> <p><u>24.</u> définir le terme «faute professionnelle» pour l'application de l'alinéa 51 (1) c);</p> <p><u>25.</u> prescrire un programme d'assurance de la qualité;</p> <p><u>26.</u> réglementer ou interdire l'emploi par les membres de certains termes, titres ou désignations relativement à l'exercice de leur profession;</p> <p><u>27.</u> prévoir la collecte de renseignements statistiques sur les services fournis par les membres et exiger de ces derniers qu'ils fournissent les renseignements nécessaires à cette collecte;</p> <p>▼</p> <p><u>28.</u> exiger des membres qu'ils fournissent à l'ordre leur adresse personnelle et les renseignements prescrits sur les lieux où ils exercent leur profession, sur les services qu'ils y dispensent, ainsi que les noms, adresses professionnelles et numéros de téléphone de leurs associés et employés, et prescrire la forme et la manière selon lesquelles ces renseignements doivent être fournis; ▲</p> <p><u>29.</u> exiger des membres qu'ils fournissent à l'ordre des renseignements au sujet de leur participation à des programmes d'éducation permanente et prescrire la forme et la manière selon lesquelles ces renseignements doivent être fournis;</p> <p><u>30.</u> traiter des fonctions et du poste du registraire;</p> <p><u>31.</u> exiger des membres qu'ils acquittent les cotisations annuelles prescrites, ainsi que les droits prescrits pour l'inscription, l'examen et la scolarité relatifs aux programmes d'éducation permanente, et les frais relatifs à tout ce que le registraire doit ou peut faire, et exiger des membres qu'ils versent les amendes prescrites en cas d'acquiescement des droits en retard;</p> <p>▼</p> <p><u>32.</u> exiger de personnes qu'elles acquittent les frais, fixés par le registraire ou prescrits, relatifs à tout ce que ce dernier doit ou peut faire; ▲</p> <p><u>33.</u> prévoir l'exemption de tout membre de l'application des règlements qu'il prend;</p> |
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34. requiring members to have professional liability insurance satisfying prescribed requirements or to belong to a prescribed association that provides protection against professional liability and requiring members to give proof of the insurance or membership to the Registrar in the prescribed manner; ▲

35. respecting the designation of life or honorary members of the College and prescribing their rights and privileges;

36. respecting the giving of notice of meetings and hearings that are to be open to the public;

37. prescribing anything that is referred to in the health profession Act or this Code as being prescribed;

38. prescribing forms for the purposes of the health profession Act or this Code and providing for their use.

(2) Regulations made under paragraph 25 of subsection (1) may require members to participate in continuing education programs.

(3) A regulation may be general or particular in its application.

34. exiger des membres qu'ils aient une assurance-responsabilité professionnelle qui satisfasse aux exigences prescrites ou qu'ils adhèrent à une association prescrite qui offre la protection contre la responsabilité professionnelle, et exiger des membres qu'ils fournissent au registrateur la preuve de leur assurance ou de leur adhésion de la manière prescrite; ▲

35. traiter de la désignation des membres à vie ou des membres honoraires de l'ordre et prescrire leurs droits et privilèges;

36. traiter de la communication des avis de réunions et d'audiences publiques;

37. prescrire tout ce qui est indiqué comme étant prescrit dans la loi sur une profession de la santé et le présent code;

38. prescrire les formules pour l'application de la loi sur une profession de la santé ou du présent code, et prévoir les modalités de leur emploi.

(2) Les règlements pris en application de la disposition 25 du paragraphe (1) peuvent exiger des membres qu'ils participent à des programmes d'éducation permanente.

(3) Les règlements peuvent avoir une portée générale ou particulière.

Idem

Idem

Scope of regulations

Portée des règlements



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 43

*(Chapter 18
Statutes of Ontario, 1991)*

**An Act respecting the regulation
of Health Professions and other
matters concerning Health
Professions**

The Hon. F. Lankin
Minister of Health

Projet de loi 43

*(Chapitre 18
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation des
professions de la santé et d'autres
questions relatives aux professions
de la santé**

L'honorable F. Lankin
Ministre de la Santé

1st Reading	April 2nd, 1991
2nd Reading	May 29th, 1991
3rd Reading	November 21st, 1991
Royal Assent	November 25th, 1991

1 ^{re} lecture	2 avril 1991
2 ^e lecture	29 mai 1991
3 ^e lecture	21 novembre 1991
sanction royale	25 novembre 1991

... to ...

...

**An Act respecting the regulation
of Health Professions and other
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**Loi concernant la réglementation des
professions de la santé et d'autres
questions relatives aux professions
de la santé**

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Annexe 2—Code des professions de la santé

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

Definitions

1.—(1) In this Act,

- “Advisory Council” means the Health Professions Regulatory Advisory Council; (“Conseil consultatif”)
- “Board” means the Health Professions Board; (“Commission”)
- “Code” means the Health Professions Procedural Code in Schedule 2; (“Code”)
- “College” means the College of a health profession or group of health professions established or continued under a health profession Act; (“ordre”)
- “Council” means the Council of a College; (“conseil”)
- “health profession” means a health profession set out in Schedule 1; (“profession de la santé”)
- “health profession Act” means an Act named in Schedule 1; (“loi sur une profession de la santé”)
- “member” means a member of a College; (“membre”)
- “Minister” means the Minister of Health. (“ministre”)

Hearing not required unless referred to

(2) Nothing in this Act shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act* unless the holding of a hearing is specifically referred to.

Administration of Act

2. The Minister is responsible for the administration of this Act.

Duty of Minister

3. It is the duty of the Minister to ensure that the health professions are regulated and co-ordinated in the public interest, that appropriate standards of practice are developed and maintained and that individuals have access to services provided by the

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

Définitions

- «Code» Le Code des professions de la santé, qui constitue l'annexe 2. («Code»)
- «Commission» La Commission des professions de la santé. («Board»)
- «conseil» Le conseil d'un ordre. («Council»)
- «Conseil consultatif» Le Conseil consultatif de réglementation des professions de la santé. («Advisory Council»)
- «loi sur une profession de la santé» Loi mentionnée à l'annexe 1. («health profession Act»)
- «membre» Membre d'un ordre. («member»)
- «ministre» Le ministre de la Santé. («Minister»)
- «ordre» Ordre d'une profession de la santé ou d'un groupe de professions de la santé, créé ou maintenu en vertu d'une loi sur une profession de la santé. («College»)
- «profession de la santé» Profession de la santé mentionnée à l'annexe 1. («health profession»)

(2) Aucune des dispositions de la présente loi ne doit s'interpréter comme exigeant la tenue d'une audience au sens de la loi intitulée *Statutory Powers Procedure Act* («*Loi sur l'exercice des compétences légales*»), à moins qu'il ne soit fait explicitement mention de la tenue d'une audience.

Audience not required unless mention of

2 Le ministre est chargé de l'application de la présente loi.

Application de la Loi

3 Il incombe au ministre de garantir la réglementation et la coordination des professions de la santé dans l'intérêt public, l'établissement et le respect de normes d'exercice appropriées ainsi que la possibilité pour les particuliers d'avoir accès aux services des

Fonction de ministre

health professions of their choice and that they are treated with sensitivity and respect in their dealings with health professionals, the Colleges and the Board.

4. The Code shall be deemed to be part of each health profession Act.

5.—(1) The Minister may,

- (a) inquire into or require a Council to inquire into the state of practice of a health profession in a locality or institution;
- (b) review a Council's activities and require the Council to provide reports and information;
- (c) require a Council to make, amend or revoke a regulation under a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (d) require a Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act, the health profession Acts or the *Drug and Pharmacies Regulation Act*.

(2) If the Minister requires a Council to do anything under subsection (1), the Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(3) If the Minister requires a Council to make, amend or revoke a regulation under clause (1) (c) and the Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(4) Subsection (3) does not give the Lieutenant Governor in Council authority to do anything that the Council does not have authority to do.

(5) The Minister may pay a College for expenses incurred in complying with a requirement under subsection (1).

6.—(1) Each College, the Advisory Council and the Board shall report annually to the Minister on its activities and financial affairs.

(2) The Advisory Council shall report to the Minister, within five years after this section comes into force, on the effectiveness of,

professions de la santé de leur choix et d'être traités avec sensibilité et respect dans leurs rapports avec les professionnels de la santé, les ordres et la Commission.

4 Le Code est réputé faire partie de chaque loi sur une profession de la santé.

5 (1) Le ministre peut :

- a) faire enquête ou exiger d'un conseil qu'il fasse enquête sur l'exercice d'une profession de la santé dans une localité ou un établissement;
- b) exercer un contrôle sur les activités d'un conseil et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- c) exiger d'un conseil qu'il prenne, modifie ou abroge un règlement pris en application d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»);
- d) exiger d'un conseil qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi, des lois sur les professions de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»).

(2) Si le ministre exige d'un conseil qu'il prenne l'une ou l'autre mesure prévue au paragraphe (1), le conseil doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(3) Si le ministre exige d'un conseil qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (1) c) et que le conseil n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(4) Le paragraphe (3) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil n'est pas habilité à faire.

(5) Le ministre peut rembourser un ordre des frais engagés pour satisfaire à une exigence prévue au paragraphe (1).

6 (1) Chacun des ordres, le Conseil consultatif et la Commission présentent chaque année au ministre un rapport sur leurs activités et leur situation financière respectives.

(2) Dans les cinq ans suivant l'entrée en vigueur du présent article, le Conseil consultatif présente au ministre un rapport sur l'efficacité :

Code

Powers of Minister

Council to comply with Minister's request

regulations

idem

expenses of colleges

annual report

five year report

Code

Pouvoirs du ministre

Obligation du conseil de satisfaire à l'exigence du ministre

Règlements

Idem

Frais des ordres

Rapport annuel

Rapport quinquennal

- (a) each College's patient relations and quality assurance programs; and
- (b) each College's complaints and discipline procedures with respect to professional misconduct of a sexual nature.

- a) d'une part, des programmes de relations avec les patients et d'assurance de la qualité de chaque ordre;
- b) d'autre part, des procédures relatives aux plaintes et à la discipline en ce qui concerne les fautes professionnelles d'ordre sexuel.

Report before Legislature

(3) The Minister shall submit the reports of the Colleges, the Advisory Council and the Board to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next session.

(3) Le ministre présente les rapports des ordres, du Conseil consultatif et de la Commission au lieutenant-gouverneur en conseil et les dépose ensuite devant l'Assemblée législative si elle siège. Si celle-ci ne siège pas, il les dépose à la session suivante.

Présentation des rapports devant la Législature

ADVISORY COUNCIL

CONSEIL CONSULTATIF

Advisory Council

7.—(1) The Advisory Council is established under the name Health Professions Regulatory Advisory Council in English and Conseil consultatif de réglementation des professions de la santé in French.

7 (1) Le Conseil consultatif est créé et porte le nom de Conseil consultatif de réglementation des professions de la santé en français et de Health Professions Regulatory Advisory Council en anglais.

Conseil consultatif

Composition

(2) The Advisory Council shall be composed of at least five and no more than seven persons who shall be appointed by the Lieutenant Governor in Council on the Minister's recommendation.

(2) Le Conseil consultatif se compose d'au moins cinq et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil, sur la recommandation du ministre.

Composition

Chair and vice-chair

(3) The Lieutenant Governor in Council shall designate one member of the Advisory Council to be the chair and one to be the vice-chair.

(3) Le lieutenant-gouverneur en conseil désigne un des membres du Conseil consultatif à la présidence et un autre à la vice-présidence.

Président et vice-président

Qualification of members

8. A person may not be appointed as a member of the Advisory Council if the person,

8 Ne peut être nommée membre du Conseil consultatif la personne qui :

Restrictions s'appliquant aux membres

(a) is employed in the public service of Ontario or by a Crown agency as defined in the *Crown Agency Act*; or

a) est un employé de la fonction publique de l'Ontario ou d'un organisme de la Couronne tel que le définit la loi intitulée *Crown Agency Act* («*Loi sur les organismes de la Couronne*»);

(b) is or has been a member of a Council or College.

b) est ou a été membre d'un conseil ou d'un ordre.

Terms of members

9.—(1) Members of the Advisory Council shall be appointed for terms of two years.

9 (1) Les membres du Conseil consultatif sont nommés pour deux ans.

Mandat des membres

Replacement members

(2) A person appointed to replace a member of the Advisory Council before the member's term expires shall hold office for the remainder of the term.

(2) Quiconque est nommé pour remplacer un membre du Conseil consultatif avant l'expiration du mandat de ce dernier reste en fonction jusqu'à la fin du mandat.

Membres suppléants

Reappointments

(3) Members of the Advisory Council are eligible for reappointment.

(3) Le mandat des membres du Conseil consultatif peut être reconduit.

Reconduction de mandat

Initial members

(4) The initial members of the Advisory Council may be appointed for terms of one, two or three years.

(4) Les premiers membres du Conseil consultatif peuvent être nommés pour un, deux ou trois ans.

Premiers membres

Remuneration and expenses

10. The members of the Advisory Council shall be paid the remuneration and expenses the Lieutenant Governor in Council determines.

10 Les membres du Conseil consultatif reçoivent la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

Rémunération et indemnités

Duties of Advisory Council

11.—(1) The Advisory Council's duties are to advise the Minister on,

11 (1) Le Conseil consultatif a pour fonctions de conseiller le ministre sur les questions suivantes :

Fonctions du Conseil consultatif

- (a) whether unregulated professions should be regulated;
- (b) whether regulated professions should no longer be regulated;
- (c) suggested amendments to this Act, a health profession Act or a regulation under any of those Acts and suggested regulations under any of those Acts;
- (d) matters concerning the quality assurance programs undertaken by Colleges; and
- (e) any matter the Minister refers to the Advisory Council relating to the regulation of the health professions, including any matter described in clauses (a) to (d).

- a) la nécessité de réglementer les professions non réglementées;
- b) la nécessité de cesser de réglementer les professions déjà réglementées;
- c) les propositions de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, et les propositions de règlements pris en application de ces lois;
- d) les questions concernant les programmes d'assurance de la qualité mis sur pied par les ordres;
- e) toute question relative à la réglementation des professions de la santé que le ministre soumet au Conseil consultatif, y compris toute question visée aux alinéas a) à d).

(2) It is the Advisory Council's duty to monitor each College's patient relations program and to advise the Minister about its effectiveness.

(2) Le Conseil consultatif est également chargé de surveiller le programme de relations avec les patients de chacun des ordres et de donner au ministre des avis sur l'efficacité de chacun de ces programmes.

Fonction supplémentaire

12. The Minister shall refer to the Advisory Council any issue within the matters described in clauses 11 (1) (a) to (d) that a Council or person requests the Minister to refer to the Advisory Council unless, in the Minister's opinion, the request is not made in good faith or is frivolous or vexatious.

12 À la demande d'un conseil ou d'une personne, le ministre soumet au Conseil consultatif toute question en litige faisant partie des questions visées aux alinéas 11 (1) a) à d), à moins qu'à son avis, la demande ne soit pas faite de bonne foi ou soit frivole ou vexatoire.

Présentation de questions au Conseil consultatif

13.—(1) If the Minister refers a suggested amendment to this Act, a health profession Act or a regulation under any of those Acts or a suggested regulation under any of those Acts to the Advisory Council, the Minister shall give notice of the suggestion to the Council of every College within ten days after referring it.

13 (1) Le ministre qui soumet au Conseil consultatif une proposition de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, ou qui soumet une proposition de règlement pris en application de ces lois, en avise le conseil de chaque ordre dans les dix jours qui suivent.

Avis de modification adressé aux conseils

(2) A Council may make written submissions to the Advisory Council with respect to a suggestion within forty-five days after receiving the Minister's notice of the suggestion or within any longer period the Advisory Council may specify.

(2) Les conseils peuvent présenter au Conseil consultatif des observations par écrit à l'égard d'une proposition, dans les quarante-cinq jours suivant la réception de l'avis de proposition du ministre ou dans tout autre délai plus long que peut fixer le Conseil consultatif.

Présentation d'observations au Conseil consultatif

14. The Function of the Advisory Council is advisory only and no failure to refer a matter or to comply with any other requirement relating to a referral renders anything invalid.

14 Le rôle du Conseil consultatif est purement consultatif et le défaut de soumettre une question ou de se conformer à toute autre exigence relative à la soumission de questions n'a pas d'effet invalidant.

Rôle purement consultatif

15.—(1) The Advisory Council shall sit in Ontario where and when the chair designates.

15 (1) Le Conseil consultatif siège en Ontario aux dates, heures et lieux que fixe le président.

Procédure

(2) The Advisory Council shall conduct its proceedings in the manner it considers appropriate.

(2) Le Conseil consultatif mène ses travaux de la manière qu'il juge appropriée.

Idem

16.—(1) The Advisory Council may employ, under the *Public Service Act*, per-

16 (1) Le Conseil consultatif peut employer, aux termes de la loi intitulée *Public Service Act* («*Loi sur la fonction*

Employés

Additional duty

Referrals to the Advisory Council

Notice of amendments to Councils

Submissions to Advisory Council

Function is advisory only

Procedure

Idem

Employees

sons it considers necessary to carry out its duties.

Experts

(2) The Advisory Council may engage experts or professional advisors to assist it.

Secretary

17.—(1) The Advisory Council shall appoint one of its employees as the Secretary.

Duties

(2) The Secretary's duties are,

- (a) to keep a record of matters that the Minister has referred to the Advisory Council;
- (b) to have the custody and care of the records and documents of the Advisory Council;
- (c) to give written notice of suggested amendments to this Act, a health profession Act or a regulation under any of those Acts and suggested regulations under any of those Acts that have been referred to the Advisory Council to persons who have filed, with the Secretary, a request to be notified; and
- (d) to carry out the functions and duties assigned by the Minister or the Advisory Council.

HEALTH PROFESSIONS BOARD

Health Professions Board

18.—(1) The Health Disciplines Board is continued under the name Health Professions Board in English and Commission des professions de la santé in French.

Composition

(2) The Board shall be composed of at least twelve and no more than twenty members who shall be appointed by the Lieutenant Governor in Council on the Minister's recommendation.

Chair and vice-chair

(3) The Lieutenant Governor in Council shall designate one member of the Board to be the chair and one to be the vice-chair.

Additional vice-chairs

(4) The chair may from time to time designate additional members to be vice-chairs.

Qualifications of members

19. A person may not be appointed as a member of the Board if the person,

- (a) is employed in the public service of Ontario or by a Crown agency as defined in the *Crown Agency Act*; or
- (b) is or has been a member of a Council or College.

publique»), le personnel qu'il juge nécessaire pour s'acquitter de ses fonctions.

(2) Le Conseil consultatif peut engager des experts ou des conseillers professionnels pour l'aider.

17 (1) Le Conseil consultatif nomme secrétaire un de ses employés.

(2) Les fonctions du secrétaire sont les suivantes :

- a) conserver un dossier des questions que le ministre a soumises au Conseil consultatif;
- b) veiller à la conservation des dossiers et documents du Conseil consultatif;
- c) aviser par écrit des propositions de modification de la présente loi, d'une loi sur une profession de la santé ou d'un règlement pris en application de ces lois, ainsi que des propositions de règlements pris en application de ces lois, qui ont été soumises au Conseil consultatif, les personnes ayant déposé auprès du secrétaire une demande à cet effet;
- d) remplir les fonctions et les obligations assignées par le ministre ou le Conseil consultatif.

COMMISSION DES PROFESSIONS DE LA SANTÉ

18 (1) Le Conseil des sciences de la santé est maintenu sous le nom de Commission des professions de la santé en français et sous le nom de Health Professions Board en anglais.

(2) La Commission se compose d'au moins douze et d'au plus vingt membres que nomme le lieutenant-gouverneur en conseil, sur la recommandation du ministre.

(3) Le lieutenant-gouverneur en conseil désigne un des membres de la Commission à la présidence et un autre à la vice-présidence.

(4) Le président peut, de temps à autre, désigner des membres supplémentaires à la vice-présidence.

19 Ne peut être nommée membre de la Commission la personne qui :

- a) est un employé de la fonction publique de l'Ontario ou d'un organisme de la Couronne tel que le définit la loi intitulée *Crown Agency Act* («*Loi sur les organismes de la Couronne*»);
- b) est ou a été membre d'un conseil ou d'un ordre.

Experts

Secrétaire

Fonctions

Commission des professions de la santé

Composition

Président et vice-président

Autres vice-présidents

Restrictions s'appliquant aux membres

Terms of members	<p>20.—(1) Members of the Board shall be appointed for terms not exceeding three years.</p>	<p>20 (1) Les membres de la Commission sont nommés pour une période maximale de trois ans.</p>	Mandat des membres
Replacement members	<p>(2) A person appointed to replace a member of the Board before the member's term expires shall hold office for the remainder of the term.</p>	<p>(2) Quiconque est nommé pour remplacer un membre de la Commission avant l'expiration du mandat de ce dernier reste en fonction jusqu'à la fin du mandat.</p>	Membres suppléants
Reappointments	<p>(3) Members of the Board are eligible for reappointment.</p>	<p>(3) Le mandat des membres de la Commission peut être reconduit.</p>	Reconduction de mandat
Remuneration and expenses	<p>21. The members of the Board shall be paid the remuneration and expenses the Lieutenant Governor in Council determines.</p>	<p>21 Les membres de la Commission reçoivent la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.</p>	Rémunération et indemnités
Seal	<p>22. The Board may adopt a seal.</p>	<p>22 La Commission peut adopter un sceau.</p>	Sceau
Duties	<p>23. The Board's duties are to conduct the hearings and reviews and to perform the duties that are assigned to it under this or any other Act.</p>	<p>23 La Commission a pour fonctions de tenir des audiences, de procéder à des réexamens et d'exercer les fonctions qui lui sont assignées aux termes de la présente loi ou de toute autre loi.</p>	Fonctions
Employees	<p>24.—(1) The Board may employ, under the <i>Public Service Act</i>, persons it considers necessary to carry out its duties.</p>	<p>24 (1) La Commission peut employer, aux termes de la loi intitulée <i>Public Service Act</i> («<i>Loi sur la fonction publique</i>»), le personnel qu'elle juge nécessaire pour s'acquitter de ses fonctions.</p>	Employés
Investigators	<p>(2) The Board may engage persons who are not employed in the public service of Ontario to carry out investigations under subsection 28 (3) of the Code.</p>	<p>(2) La Commission peut employer des personnes qui ne sont pas des employés de la fonction publique de l'Ontario pour mener des enquêtes aux termes du paragraphe 28 (3) du Code.</p>	Enquêteurs
Experts	<p>(3) The Board may engage persons who are not employed in the public service of Ontario to provide expert or professional advice in connection with a registration hearing, complaint review or registration review.</p>	<p>(3) La Commission peut engager des personnes qui ne sont pas des employés de la fonction publique de l'Ontario pour fournir des avis d'experts ou de professionnels dans le cadre d'audiences relatives à des inscriptions, d'examen de plaintes ou d'examen d'inscriptions.</p>	Experts
Independence of experts	<p>(4) A person engaged under subsection (3) shall be independent of the parties and, in the case of a complaint review, of the Complaints Committee.</p>	<p>(4) Toute personne engagée en vertu du paragraphe (3) est indépendante des parties et, dans le cas de l'examen d'une plainte, du comité des plaintes.</p>	Indépendance des experts
Advice disclosed	<p>(5) The nature of any advice, including legal advice, given by a person engaged under subsection (3) shall be made known to the parties and they may make submissions with respect to the advice.</p>	<p>(5) La teneur de tout avis, notamment d'un avis juridique, que donne une personne engagée en vertu du paragraphe (3) est communiquée aux parties, qui peuvent présenter des observations sur cet avis.</p>	Divulgence des avis
Panels	<p>25.—(1) A proceeding before the Board shall be considered and determined by a panel of the Board selected by the chair.</p>	<p>25 (1) Une instance introduite devant la Commission est instruite et tranchée par un sous-comité de la Commission choisi par le président.</p>	Sous-comités
Composition	<p>(2) A panel shall be composed of at least three members, one of whom shall be the chair or a vice-chair of the Board.</p>	<p>(2) Le sous-comité se compose d'au moins trois membres, dont l'un est le président ou un vice-président de la Commission.</p>	Composition
Item	<p>(3) A panel shall have an uneven number of members.</p>	<p>(3) Le sous-comité se compose d'un nombre impair de membres.</p>	Idem
Quorum	<p>(4) Three members of a panel constitute a quorum.</p>	<p>(4) Trois membres constituent le quorum d'un sous-comité.</p>	Quorum
Exception	<p>(5) If a member of a panel is unable to continue to serve on the panel after a pro-</p>	<p>(5) Si un membre d'un sous-comité est dans l'impossibilité de continuer à y siéger</p>	Exception

ceeding before the panel has commenced, the panel may continue the proceeding despite subsections (2), (3) and (4).

après qu'une instance a été introduite devant le sous-comité, ce dernier peut poursuivre l'instruction de l'instance malgré les paragraphes (2), (3) et (4).

Extension of
time limits

26.—(1) If the Board is satisfied that no person will be unduly prejudiced, it may, on reasonable grounds, extend any time limit with respect to,

26 (1) Si la Commission est convaincue que nul ne sera indûment lésé, elle peut, en se fondant sur des motifs raisonnables, proroger les délais relatifs :

Prorogation
des délais

- (a) the obligation, under subsection 28 (1) of the Code, of a panel of a Complaints Committee to dispose of a complaint against a member;
- (b) a Registrar's obligation to give to the Board, under subsection 32 (1) of the Code, a record of an investigation of a complaint against a member and the documents and things upon which a decision was made with respect to the complaint;
- (c) a requirement, under subsection 21 (1) of the Code, for a review or hearing by the Board; or
- (d) a request, under subsection 29 (2) of the Code, for a review by the Board.

- a) à l'obligation d'un sous-comité d'un comité des plaintes, prévue au paragraphe 28 (1) du Code, de statuer sur une plainte déposée contre un membre;
- b) à l'obligation du registrateur, prévue au paragraphe 32 (1) du Code, de remettre à la Commission un compte rendu d'enquête sur toute plainte déposée contre un membre, ainsi que les documents et choses sur lesquels a été fondée une décision relative à la plainte;
- c) à l'exigence, prévue au paragraphe 21 (1) du Code, quant au réexamen d'une demande ou à la tenue d'une audience par la Commission;
- d) à une demande de réexamen par la Commission, prévue au paragraphe 29 (2) du Code.

Limitation

(2) The Board shall not extend the time limit set out in subsection 29 (3) of the Code for more than sixty days.

(2) La Commission ne proroge pas le délai fixé au paragraphe 29 (3) du Code pour plus de soixante jours.

Restriction

PROHIBITIONS

INTERDICTIONS

Controlled
acts
restricted

27.—(1) No person shall perform a controlled act set out in subsection (2) in the course of providing health care services to an individual unless,

27 (1) Lorsqu'il donne des soins médicaux à un particulier, nul ne doit accomplir un des actes autorisés visés au paragraphe (2) sauf dans les cas suivants :

Restrictions
relatives aux
actes autori-
sés

- (a) the person is a member authorized by a health profession Act to perform the controlled act; or
- (b) the performance of the controlled act has been delegated in accordance with section 28 to the person by a member described in clause (a).

- a) il est membre autorisé à accomplir cet acte par une loi sur une profession de la santé;
- b) l'exécution de l'acte autorisé lui a été déléguée conformément à l'article 28 par un membre visé à l'alinéa a).

Controlled
acts

(2) A "controlled act" is any one of the following done with respect to an individual:

(2) Par «acte autorisé», on entend l'un ou l'autre des actes suivants accomplis à l'égard d'un particulier :

Actes autori-
sés

1. Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis.
2. Performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below

1. La communication à un particulier, ou à son représentant, d'un diagnostic attribuant ses symptômes à tels maladies ou troubles, lorsque les circonstances laissent raisonnablement prévoir que le particulier ou son représentant s'appuiera sur ce diagnostic.
2. La pratique d'interventions sur le tissu situé sous le derme, sous la surface des muqueuses, à la surface de la cornée

- the surfaces of the teeth, including the scaling of teeth.
3. Setting or casting a fracture of a bone or a dislocation of a joint.
 4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
 5. Administering a substance by injection or inhalation.
 6. Putting an instrument, hand or finger,
 - i. beyond the external ear canal,
 - ii. beyond the point in the nasal passages where they normally narrow,
 - iii. beyond the larynx,
 - iv. beyond the opening of the urethra,
 - v. beyond the labia majora,
 - vi. beyond the anal verge, or
 - vii. into an artificial opening into the body.
 7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.
 8. Prescribing, dispensing, selling or compounding a drug as defined in clause 113 (1) (d) of the *Drug and Pharmacies Regulation Act*, or supervising the part of a pharmacy where such drugs are kept.
 9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.
 10. Prescribing a hearing aid for a hearing impaired person.
 11. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.
 12. Managing labour or conducting the delivery of a baby.
- ou des dents, ou au-delà, y compris le détartrage des dents.
 3. L'immobilisation plâtrée des fractures ou des luxations articulaires, ou leur consolidation ou réduction.
 4. La manipulation des articulations de la colonne vertébrale au-delà de l'arc de mouvement physiologique habituel d'un particulier au moyen d'impulsions rapides de faible amplitude.
 5. L'administration de substances par voie d'injection ou d'inhalation.
 6. L'introduction d'un instrument, d'une main ou d'un doigt :
 - i. au-delà du conduit auditif externe,
 - ii. au-delà du point de rétrécissement normal des fosses nasales,
 - iii. au-delà du larynx,
 - iv. au-delà du méat urinaire,
 - v. au-delà des grandes lèvres,
 - vi. au-delà de la marge de l'anus,
 - vii. dans une ouverture artificielle dans le corps.
 7. L'application des formes d'énergie prescrites par les règlements pris en application de la présente loi ou le fait d'en ordonner l'application.
 8. La prescription, la délivrance, la vente ou la composition de médicaments au sens de la définition qu'en donne le paragraphe 113 (1) de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), ou la surveillance de la section d'une pharmacie où sont conservés ces médicaments.
 9. La prescription ou la délivrance d'appareils de correction visuelle pour les malvoyants, de verres de contact ou de lunettes, autres que de simples lentilles grossissantes, dans le cas de troubles visuels ou oculaires.
 10. La prescription d'appareils de correction auditive aux personnes malentendantes.
 11. L'appareillage ou la délivrance de prothèses dentaires, d'appareils d'orthodontie ou de périodontie, ou de dispositifs qui se portent dans la bouche en vue de prévenir tout fonctionnement anormal de la denture.
 12. La direction du travail des parturientes ou la pratique d'accouchements.

13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response.

13. L'administration de tests de provocation d'allergie d'un type particulier selon lesquels un résultat positif constitue une réaction allergique significative.

Exemptions

(3) An act by a person is not a contravention of subsection (1) if the person is exempted by the regulations under this Act or if the act is done in the course of an activity exempted by the regulations under this Act.

(3) Ne constitue pas une contravention au paragraphe (1) l'acte qu'accomplit une personne exemptée par les règlements pris en application de la présente loi ou l'acte accompli dans le cadre d'une activité soustraite à l'application des règlements pris en application de la présente loi.

Exemptions

Delegation of controlled act

28.—(1) The delegation of a controlled act by a member must be in accordance with any applicable regulations under the health profession Act governing the member's profession.

28 (1) La délégation de l'exécution d'un acte autorisé par un membre doit être faite conformément à tout règlement applicable pris en application de la loi sur une profession de la santé qui régit la profession du membre.

Délégation de l'exécution d'actes autorisés

Idem

(2) The delegation of a controlled act to a member must be in accordance with any applicable regulations under the health profession Act governing the member's profession.

(2) La délégation de l'exécution d'un acte autorisé à un membre doit être faite conformément à tout règlement applicable pris en application de la loi sur une profession de la santé qui régit la profession du membre.

Idem

Exceptions

29.—(1) An act by a person is not a contravention of subsection 27 (1) if it is done in the course of,

29 (1) Ne constitue pas une contravention au paragraphe 27 (1) l'acte accompli par une personne dans le cadre de l'une ou l'autre des activités suivantes :

Exceptions

- (a) rendering first aid or temporary assistance in an emergency;
- (b) fulfilling the requirements to become a member of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession;
- (c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;
- (d) treating a member of the person's household and the act is a controlled act set out in paragraph 1, 5 or 6 of subsection 27 (2); or
- (e) assisting a person with his or her routine activities of living and the act is a controlled act set out in paragraph 5 or 6 of subsection 27 (2).

- a) l'administration des premiers soins ou l'octroi d'une aide temporaire en cas d'urgence;
- b) la satisfaction des exigences prévues pour devenir membre d'une profession de la santé, si l'acte entre dans l'exercice de la profession et est accompli sous la surveillance ou la direction d'un membre de la profession;
- c) le traitement d'une personne par la prière ou par d'autres moyens spirituels, conformément à la doctrine religieuse de la personne qui donne le traitement;
- d) le traitement d'un membre du ménage de la personne, si l'acte est un acte autorisé visé à la disposition 1, 5 ou 6 du paragraphe 27 (2);
- e) l'aide prêtée à une personne dans l'accomplissement de ses activités de la vie quotidienne, si l'acte est un acte autorisé visé à la disposition 5 ou 6 du paragraphe 27 (2).

Counselling

(2) Subsection 27 (1) does not apply with respect to a communication made in the course of counselling about emotional, social, educational or spiritual matters as long as it is not a communication that a health profession Act authorizes members to make.

(2) Le paragraphe 27 (1) ne s'applique pas aux communications faites au cours de consultations portant sur des questions affectives, sociales, éducatives ou spirituelles, tant qu'il ne s'agit pas de communications que les membres sont autorisés à faire en vertu d'une loi sur une profession de la santé.

Consultations

Treatment, etc., where risk of harm

30.—(1) No person, other than a member treating or advising within the scope of prac-

30 (1) Aucune personne, autre qu'un membre qui donne un traitement ou des con-

Traitement et autre s'il y a risque de lésion

tice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious physical harm may result from the treatment or advice or from an omission from them.

seils entrant dans l'exercice de sa profession, ne doit donner de traitement ou de conseils à une personne en ce qui concerne sa santé dans des circonstances où il est raisonnable de prévoir que des lésions corporelles graves puissent découler du traitement ou des conseils ou d'une omission dans le traitement ou les conseils.

Supervision
by member

(2) Subsection (1) does not apply with respect to treatment by a person who is acting under the direction of or in collaboration with a member if the treatment is within the scope of practice of the member's profession.

(2) Le paragraphe (1) ne s'applique pas au traitement donné par une personne qui agit sous la direction d'un membre ou en collaboration avec lui si le traitement entre dans l'exercice de la profession du membre.

Surveillance
par un mem-
bre

Delegation

(3) Subsection (1) does not apply with respect to an act by a person if the act is a controlled act that was delegated under section 28 to the person by a member authorized by a health profession Act to do the controlled act.

(3) Le paragraphe (1) ne s'applique pas à un acte accompli par une personne si l'acte est un acte autorisé dont l'exécution a été déléguée à la personne en vertu de l'article 28 par un membre autorisé à accomplir cet acte par une loi sur une profession de la santé.

Délégation

Counselling

(4) Subsection (1) does not apply with respect to counselling about emotional, social, educational or spiritual matters.

(4) Le paragraphe (1) ne s'applique pas aux consultations qui portent sur des questions affectives, sociales, éducatives ou spirituelles.

Consultations

Exceptions

(5) Subsection (1) does not apply with respect to anything done by a person in the course of,

(5) Le paragraphe (1) ne s'applique pas à un acte accompli par une personne dans le cadre de l'une ou l'autre des activités suivantes :

Exceptions

(a) rendering first aid or temporary assistance in an emergency;

a) l'administration des premiers soins ou l'octroi d'une aide temporaire en cas d'urgence;

(b) fulfilling the requirements to become a member of a health profession if the person is acting within the scope of practice of the profession under the supervision or direction of a member of the profession;

b) la satisfaction des exigences prévues pour devenir membre d'une profession de la santé si la personne agit dans le cadre de l'exercice de la profession sous la surveillance ou la direction d'un membre de la profession;

(c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;

c) le traitement d'une personne par la prière ou par d'autres moyens spirituels, conformément à la doctrine religieuse de la personne qui donne le traitement;

(d) treating a member of the person's household; or

d) le traitement d'un membre du ménage de la personne;

(e) assisting a person with his or her routine activities of living.

e) la prestation d'une aide à une personne dans ses activités de la vie quotidienne.

Exemption

(6) Subsection (1) does not apply with respect to an activity or person that is exempted by the regulations.

(6) Le paragraphe (1) ne s'applique pas aux activités ni aux personnes que les règlements soustraient à son application.

Exemption

Dispensing
hearing aids

31. No person shall dispense a hearing aid for a hearing impaired person except under a prescription by a member authorized by a health profession Act to prescribe a hearing aid for a hearing impaired person.

31 Nul ne doit délivrer un appareil de correction auditive à une personne malentendante sauf en vertu d'une ordonnance d'un membre autorisé, par une loi sur une profession de la santé, à prescrire de tels appareils aux personnes malentendantes.

Délivrance
d'appareils de
correction
auditive

Dental
devices, etc.

32.—(1) No person shall design, construct, repair or alter a dental prosthetic, restorative or orthodontic device unless,

32 (1) Nul ne doit concevoir, confectionner, réparer ou modifier des prothèses den-

Prothèses
dentaires

taires de reconstitution ou d'orthodontie sauf dans les cas suivants :

	(a) the technical aspects of the design, construction, repair or alteration are supervised by a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario; or	a) les aspects techniques de la conception, de la confection, de la réparation ou de la modification sont supervisés par un membre de l'Ordre des technologues dentaires de l'Ontario ou de l'Ordre royal des chirurgiens dentistes de l'Ontario;	
	(b) the person is a member of a College mentioned in clause (a).	b) la personne est membre d'un ordre mentionné à l'alinéa a).	
Employers	(2) A person who employs a person to design, construct, repair or alter a dental prosthetic, restorative or orthodontic device shall ensure that subsection (1) is complied with.	(2) Une personne qui emploie une autre personne pour que celle-ci conçoive, confectionne, répare ou modifie une prothèse dentaire de reconstitution ou d'orthodontie veille à ce que le paragraphe (1) soit observé.	Employeurs
Supervisors	(3) No person shall supervise the technical aspects of the design, construction, repair or alteration of a dental prosthetic, restorative or orthodontic device unless he or she is a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario.	(3) Nul ne doit superviser les aspects techniques de la conception, de la confection, de la réparation ou de la modification de prothèses dentaires de reconstitution ou d'orthodontie à moins d'être membre de l'Ordre des technologues dentaires de l'Ontario ou de l'Ordre royal des chirurgiens dentistes de l'Ontario.	Superviseurs
Denturists	(4) This section does not apply with respect to the design, construction, repair or alteration of removable dentures for the patients of a member of the College of Denturists of Ontario if the member does the designing, construction, repair or alteration or supervises their technical aspects.	(4) Le présent article ne s'applique pas à la conception, à la confection, à la réparation ou à la modification de prothèses amovibles pour les patients d'un membre de l'Ordre des denturologistes de l'Ontario si c'est le membre qui l'effectue ou qui en supervise les aspects techniques.	Denturologistes
Exceptions	(5) This section does not apply with respect to anything done in a hospital as defined in the <i>Public Hospitals Act</i> or in a clinic associated with a university's faculty of dentistry or the denturism program of a college of applied arts and technology.	(5) Le présent article ne s'applique à aucune activité ayant lieu dans un hôpital tel que le définit la loi intitulée <i>Public Hospitals Act</i> (« <i>Loi sur les hôpitaux publics</i> ») ou dans une clinique reliée à une faculté de dentisterie d'une université, ou faisant partie d'un programme de denturologie d'un collège d'arts appliqués et de technologie.	Exceptions
Restriction of title "doctor"	33. —(1) Except as allowed in the regulations under this Act, no person shall use the title "doctor", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.	33 (1) Sauf dans la mesure permise par les règlements pris en application de la présente loi, nul ne doit employer le titre de «docteur», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.	Restriction d'emploi du titre de «docteur»
Idem	(2) Subsection (1) does not apply to a person who is a member of,	(2) Le paragraphe (1) ne s'applique pas à une personne qui est membre d'un des ordres suivants :	Idem
	(a) the College of Chiropractors of Ontario;	a) l'Ordre des chiropraticiens de l'Ontario;	
	(b) the College of Optometrists of Ontario;	b) l'Ordre des optométristes de l'Ontario;	
	(c) the College of Physicians and Surgeons of Ontario;	c) l'Ordre des médecins et chirurgiens de l'Ontario;	
	(d) the College of Psychologists of Ontario; or	d) l'Ordre des psychologues de l'Ontario;	

(e) the Royal College of Dental Surgeons of Ontario.

e) l'Ordre royal des chirurgiens dentistes de l'Ontario.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Holding out as a College

34.—(1) No corporation shall falsely hold itself out as a body that regulates, under statutory authority, individuals who provide health care.

34 (1) Aucune personne morale ne doit se présenter faussement comme un organisme régissant, en vertu d'une autorisation législative, des particuliers qui dispensent des soins médicaux.

Interdiction de se présenter comme un ordre

Idem

(2) No individual shall hold himself or herself out as a member, employee or agent of a body that the individual falsely represents as or knows is falsely represented as regulating, under statutory authority, individuals who provide health care.

(2) Aucun particulier ne doit se présenter comme un membre, un employé ou un mandataire d'un organisme qu'il présente faussement comme un organisme régissant, en vertu d'une autorisation législative, des particuliers qui dispensent des soins médicaux, ou qu'il sait être présenté faussement comme tel.

Idem

MISCELLANEOUS

DISPOSITIONS DIVERSES

Exemption of aboriginal healers and midwives

35.—(1) This Act does not apply to,

35 (1) La présente loi ne s'applique pas aux personnes suivantes :

Non-application aux guérisseurs et sages-femmes autochtones

- (a) aboriginal healers providing traditional healing services to aboriginal persons or members of an aboriginal community; or
- (b) aboriginal midwives providing traditional midwifery services to aboriginal persons or members of an aboriginal community.

- a) les guérisseurs autochtones qui offrent des services traditionnels de guérisseur aux autochtones ou aux membres d'une communauté autochtone;
- b) les sages-femmes autochtones qui offrent des services traditionnels de sage-femme aux autochtones ou aux membres d'une communauté autochtone.

Jurisdictions of Colleges

(2) Despite subsection (1), an aboriginal healer or aboriginal midwife who is a member of a College is subject to the jurisdiction of the College.

(2) Malgré le paragraphe (1), un guérisseur autochtone ou une sage-femme autochtone qui est membre d'un ordre est soumis à la compétence de l'ordre.

Sousmission à la compétence de l'ordre

Definitions

(3) In this section,

(3) Les définitions qui suivent s'appliquent au présent article.

Définitions

"aboriginal healer" means an aboriginal person who provides traditional healing services; ("guérisseur autochtone")

«guérisseur autochtone» Autochtone qui offre des services traditionnels de guérisseur. («aboriginal healer»)

"aboriginal midwife" means an aboriginal person who provides traditional midwifery services. ("sage-femme autochtone")

«sage-femme autochtone» Autochtone qui offre des services traditionnels de sage-femme. («aboriginal midwife»)

Confidentiality

36.—(1) Every person employed, retained or appointed for the purpose of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every member of a Council or committee of a College shall preserve secrecy with respect to all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person except,

36 (1) Quiconque est employé, engagé ou nommé aux fins de l'application de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («Loi sur la réglementation des médicaments et des pharmacies»), ainsi que les membres d'un conseil ou d'un des comités d'un ordre, sont tenus au secret à l'égard de tout renseignement venant à leur connaissance dans l'exercice de leurs fonctions et n'en divulguent rien à qui que ce soit, sauf :

Secret professionnel

- (a) to the extent that the information is available to the public under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*;

- a) dans la mesure où les renseignements sont accessibles au public en vertu de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée

- (b) in connection with the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;
- (c) to a body that governs a health profession in a jurisdiction other than Ontario;
- (d) as may be required for the administration of the *Health Insurance Act*, *Independent Health Facilities Act, 1989* or the *Prescription Drug Cost Regulation Act, 1986*;
- (e) to the counsel of the person who is required to preserve secrecy; or
- (f) with the written consent of the person to whom the information relates.

Not compellable

(2) No person or member described in subsection (1) shall be compelled to give testimony in a civil proceeding with regard to matters that come to his or her knowledge in the course of his or her duties.

Evidence in civil proceedings

(3) No record of a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, no report, document or thing prepared for or statement given at such a proceeding and no order or decision made in such a proceeding is admissible in a civil proceeding other than a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*.

Onus of proof to show registration

37. A person who is charged with an offence to which registration under a health profession Act would be a defence shall be

Drug and Pharmacies Regulation Act («*Loi sur la réglementation des médicaments et des pharmacies*»);

- b) à l'égard de l'application de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), de même qu'à l'égard, notamment, de tout ce qui se rapporte à l'inscription des membres, aux plaintes concernant les membres, aux allégations d'incapacité, d'incompétence ou de faute professionnelle des membres ou à l'égard de la direction de la profession;
- c) à un organisme qui régit une profession de la santé dans un ressort autre que l'Ontario;
- d) de la façon que peut l'exiger l'application de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), de celle intitulée *Independent Health Facilities Act, 1989* («*Loi de 1989 sur les établissements de santé autonomes*») ou de celle intitulée *Prescription Drug Cost Regulation Act, 1986* («*Loi de 1986 sur la réglementation des prix des médicaments délivrés sur ordonnance*»);
- e) à l'avocat de la personne qui est tenue au secret;
- f) avec le consentement écrit de la personne à laquelle se rapportent les renseignements.

(2) Aucune personne ni aucun membre visés au paragraphe (1) ne doivent être contraints à témoigner dans une instance civile en ce qui concerne les questions qui viennent à leur connaissance dans l'exercice de leurs fonctions.

Interdiction de contraindre

(3) Les dossiers des instances introduites aux termes de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»), les rapports, documents ou choses préparés aux fins de ces instances, les déclarations faites au cours de ces instances, ainsi que les ordonnances ou décisions rendues au cours de ces instances ne sont pas recevables en preuve dans le cadre d'instances civiles qui ne sont pas introduites aux termes de la présente loi, d'une loi sur une profession de la santé ou de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*»).

Preuves dans les instances civiles

37 Quiconque est inculpé d'une infraction à l'égard de laquelle l'inscription en vertu d'une loi sur une profession de la santé cons-

Fardeau de la preuve quant à l'inscription

deemed, in the absence of evidence to the contrary, to have not been registered.

38. No action or other proceeding for damages shall be instituted against the Advisory Council, the Board, a College, a Council, or a member, officer, employee, agent or appointee of the Advisory Council, the Board, a College, a Council, a committee of a Council or a panel of a committee of a Council for an act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a health profession Act, the *Drug and Pharmacies Regulation Act* or a regulation or a by-law under those Acts or for any neglect or default in the performance or exercise in good faith of the duty or power.

39.—(1) A notice to be given under this Act to a person may be given by mail.

(2) If a notice under this Act is sent by prepaid first class mail addressed to the person at the person's last known address there is a rebuttable presumption that the notice was received by the person on the fifth day after the notice was mailed.

40.—(1) Every person who contravenes subsection 27 (1) or 30 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than six months, or to both.

(2) Every person who contravenes section 31, 32 or 33 or subsection 34 (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

(3) Every person who contravenes subsection 34 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.

41. Every person who procures employment for an individual and who knows that the individual cannot perform the duties of the position without contravening subsection 27 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

42.—(1) The employer of a person who contravenes subsection 27 (1) while acting within the scope of his or her employment is

tituerait une défense est réputé, en l'absence de preuve contraire, n'avoir pas été inscrit.

38 Sont irrecevables les actions ou autres instances en dommages-intérêts engagées contre le Conseil consultatif, la Commission, un ordre, un conseil, ou un membre, un dirigeant, un employé, un mandataire ou un délégué du Conseil consultatif, de la Commission, d'un ordre, d'un conseil, d'un comité d'un conseil ou d'un sous-comité d'un tel comité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice d'une fonction ou d'un pouvoir que leur confèrent la présente loi, une loi sur une profession de la santé, la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*») ou un règlement ou règlement administratif pris en application de ces lois, ou à l'égard de toute négligence ou omission commise dans l'exercice de bonne foi de cette fonction ou de ce pouvoir.

39 (1) L'avis devant être donné à quiconque aux termes de la présente loi peut être signifié par la poste.

(2) Si un avis prévu par la présente loi est envoyé par courrier affranchi de première classe à la dernière adresse connue du destinataire, il existe une présomption réfutable selon laquelle cet avis a été reçu par le destinataire le cinquième jour qui suit sa mise à la poste.

40 (1) Quiconque contrevient au paragraphe 27 (1) ou 30 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$ et d'un emprisonnement d'au plus six mois, ou d'une seule de ces peines.

(2) Quiconque contrevient à l'article 31, 32 ou 33, ou au paragraphe 34 (2), est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

(3) Quiconque contrevient au paragraphe 34 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ pour une première infraction, et d'une amende d'au plus 20 000 \$ pour une infraction subséquente.

41 Toute personne qui trouve de l'emploi pour un particulier et qui sait que ce dernier ne peut pas s'acquitter des fonctions du poste sans contrevenir au paragraphe 27 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

42 (1) L'employeur d'une personne qui contrevient au paragraphe 27 (1) dans le cadre de son emploi est coupable d'une

Immunity

Immunité

Service by mail

Signification par la poste

Idem

Idem

Offence

Infraction

Idem

Idem

Idem

Idem

Responsibility of employment agencies

Responsabilité des bureaux de placement

Responsibility of employers

Responsabilité des employeurs

guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Responsibility of directors of corporate employers

(2) In addition, if the employer described in subsection (1) is a corporation, every director of the corporation who approved of, permitted or acquiesced in the contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Exception

(3) Subsection (2) does not apply with respect to a corporation that operates a public hospital within the meaning of the *Public Hospitals Act* or to a corporation to which Part III of the *Corporations Act* applies.

Regulations

43.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing forms of energy for the purposes of paragraph 7 of subsection 27 (2);
- (b) exempting a person or activity from subsection 27 (1) or 30 (1);
- (c) attaching conditions to an exemption in a regulation made under clause (b);
- (d) allowing the use of the title "doctor", a variation or abbreviation or an equivalent in another language.

Scope of regulations

(2) A regulation may be general or particular in its application.

Definition

(3) In clause (1) (d), "abbreviation" includes an abbreviation of a variation.

References to health professionals

44. A reference in an Act or regulation to a person described in Column 1 of the Table shall be deemed to be a reference to a person described opposite in Column 2.

Repeals

45. The following are repealed:

1. The *Chiropody Act*.
2. The *Dental Technicians Act*.
3. The *Denture Therapists Act*.
4. The *Ophthalmic Dispensers Act* and section 49 of the *Equality Rights Statute Law Amendment Act, 1986*.

infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Responsabilité des administrateurs

(2) De plus, si l'employeur visé au paragraphe (1) est une personne morale, tout administrateur de la personne morale qui approuve ou permet la contravention, ou y acquiesce, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Exception

(3) Le paragraphe (2) ne s'applique pas à la personne morale qui exploite un hôpital public au sens de la loi intitulée *Public Hospitals Act* («*Loi sur les hôpitaux publics*») ni à la personne morale à laquelle s'applique la partie III de la loi intitulée *Corporations Act* («*Loi sur les personnes morales*»).

Règlements

43 (1) Sous réserve de l'approbation du lieutenant-gouverneur en conseil, le ministre peut, par règlement :

- a) prescrire des formes d'énergie pour l'application de la disposition 7 du paragraphe 27 (2);
- b) soustraire des personnes ou des activités à l'application du paragraphe 27 (1) ou 30 (1);
- c) assortir de conditions les exemptions prévues par tout règlement pris en application de l'alinéa b);
- d) autoriser l'emploi du titre de «docteur», une variante ou une abréviation, ou un équivalent dans une autre langue.

Portée des règlements

(2) Les règlements peuvent avoir une portée générale ou particulière.

Définition

(3) À l'alinéa (1) d), le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Mention de professionnelle de la santé

44 La mention, dans une loi ou un règlement, d'une des personnes énumérées dans la colonne 1 du tableau est réputée la mention de la personne figurant en regard à la colonne 2.

Abrogation lois

45 Les lois et l'article suivants sont abrogés :

1. La loi intitulée *Chiropody Act* («*Loi sur les podologues*»).
2. La loi intitulée *Dental Technicians Act* («*Loi sur les techniciens dentaires*»).
3. La loi intitulée *Denture Therapists Act* («*Loi sur les denturologues*»).
4. La loi intitulée *Ophthalmic Dispensers Act* («*Loi sur les opticiens d'ordonnances*») et l'article 49 de la loi intitulée *Equality Rights Statute Law Amendment Act, 1986* («*Loi de 1986 modifiant des lois sur les droits à l'égalité*»).

5. The *Psychologists Registration Act and the Psychologists Registration Amendment Act, 1988*.
6. The *Radiological Technicians Act*.

46. The following regulations made under the *Drugless Practitioners Act* are revoked:

1. Regulation 248 (Chiropractors) of Revised Regulations of Ontario, 1980.
2. Regulation 249 (Classifications) of Revised Regulations of Ontario, 1980.
3. Regulation 251 (Masseurs) of Revised Regulations of Ontario, 1980.
4. Regulation 252 (Osteopaths) of Revised Regulations of Ontario, 1980.
5. Regulation 253 (Physiotherapists) of Revised Regulations of Ontario, 1980.

47.—(1) The following are repealed:

1. The *Health Disciplines Act*, except clauses 1 (1) (a) and (c), subsection 1 (3), section 2, clauses 113 (1) (a) to (m), (o), (p), (q) and (r), subsection 113 (2), section 114, clauses 119 (1) (d) and (j), clause 120 (1) (l), sections 135 to 161, subsection 162 (3) and sections 163 and 164.
2. The *Health Disciplines Amendment Act, 1983*.
3. Section 15 of the *Prescription Drug Cost Regulation Act, 1986*.
4. The *Health Disciplines Amendment Act, 1986*.

(2) The title of the *Health Disciplines Act* is repealed and the following substituted:

5. La loi intitulée *Psychologists Registration Act* («*Loi sur l'inscription des psychologues*») et la loi intitulée *Psychologists Registration Amendment Act, 1988* («*Loi de 1988 modifiant la Loi sur l'inscription des psychologues*»).
6. La loi intitulée *Radiological Technicians Act* («*Loi sur les techniciens en radiologie*»).

46 Les règlements suivants, pris en application de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), sont abrogés :

1. Le Règlement 248 (chiropraticiens) des Règlements refondus de l'Ontario de 1980.
2. Le Règlement 249 (classifications) des Règlements refondus de l'Ontario de 1980.
3. Le Règlement 251 (masseurs) des Règlements refondus de l'Ontario de 1980.
4. Le Règlement 252 (ostéopaticiens) des Règlements refondus de l'Ontario de 1980.
5. Le Règlement 253 (physiothérapeutes) des Règlements refondus de l'Ontario de 1980.

47 (1) Les lois et l'article suivants sont abrogés :

1. La loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), à l'exclusion des alinéas 1 (1) (a) et (c), du paragraphe 1 (3), de l'article 2, des alinéas 113 (1) (a) à (m), (o), (p), (q) et (r), du paragraphe 113 (2), de l'article 114, des alinéas 119 (1) (d) et (j), de l'alinéa 120 (1) (l), des articles 135 à 161, du paragraphe 162 (3) et des articles 163 et 164.
2. La loi intitulée *Health Disciplines Amendment Act, 1983* («*Loi de 1983 modifiant la Loi sur les sciences de la santé*»).
3. L'article 15 de la loi intitulée *Prescription Drug Cost Regulation Act, 1986* («*Loi de 1986 sur la réglementation des prix des médicaments*»).
4. La loi intitulée *Health Disciplines Amendment Act, 1986* («*Loi de 1986 modifiant la Loi sur les sciences de la santé*»).

(2) Le titre de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*») est abrogé et remplacé par ce qui suit :

Abrogation de règlements

DRUG AND PHARMACIES REGULATION
ACT

(3) Clause I (1) (a) of the *Drug and Pharmacies Regulation Act* is repealed and the following substituted:

- (a) "Board" means the Health Professions Board continued under the *Regulated Health Professions Act, 1991*.

(4) Subsection 113 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 28, section 15, is further amended by renumbering clause (a) as clause (aa) and by adding the following clause:

- (a) "Accreditation Committee" means the Accreditation Committee of the Council.

(5) Subsection 113 (f) is further amended by adding the following clauses:

- (ca) "Discipline Committee" means the Discipline Committee of the Council;

- (da) "Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*.

(6) Clauses 113 (1) (f), (g), (j) and (q) of the Act are repealed and the following substituted:

- (f) "intern" means a person who is registered as an intern under the *Pharmacy Act, 1991*;

- (g) "licence" means a certificate of registration issued under the *Pharmacy Act, 1991*;

- (j) "pharmacist" means a member;

- (q) "registered pharmacy student" means a person registered as a student under the *Pharmacy Act, 1991*.

(7) Subclause 114 (1) (b) (iii) of the Act is repealed and the following substituted:

- (iii) a live stock medicine within the meaning of the *Live Stock Medicines Act* by a person licensed under that Act.

(8) Subsection 114 (2) of the Act is amended by striking out "this Act" in the second line and substituting "a health profession Act as defined in the *Regulated Health Professions Act, 1991*".

(9) Section 114 of the Act is amended by adding the following subsection:

Idem

- (3) Nothing in this Part prevents any person from selling, to a member of the College of Chiropodists of Ontario, the College of Dental Hygienists of Ontario, the College of Midwives of Ontario or the College of Optometrists of Ontario, a drug that the member may use in the course of engaging in the practice of his or her profession.

DRUG AND PHARMACIES REGULATION
ACT

(3) L'alinéa I (1) (a) de la loi intitulée *Drug and Pharmacies Regulation Act* («*Loi sur la réglementation des médicaments et des pharmacies*») est abrogé et remplacé par ce qui suit :

- (a) "Board" means the Health Professions Board continued under the *Regulated Health Professions Act, 1991*.

(4) Le paragraphe 113 (1) de la Loi, tel qu'il est modifié par l'article 15 du chapitre 28 des Lois de l'Ontario de 1986, est modifié de nouveau par substitution, à la désignation d'alinéa (a), de la désignation d'alinéa (aa) et par adjonction de l'alinéa suivant :

- (a) "Accreditation Committee" means the Accreditation Committee of the Council.

(5) Le paragraphe 113 (1) est modifié de nouveau par adjonction des alinéas suivants :

- (ca) "Discipline Committee" means the Discipline Committee of the Council;

- (da) "Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*.

(6) Les alinéas 113 (1) (f), (g), (j) et (q) de la Loi sont abrogés et remplacés par ce qui suit :

- (f) "intern" means a person who is registered as an intern under the *Pharmacy Act, 1991*;

- (g) "licence" means a certificate of registration issued under the *Pharmacy Act, 1991*;

- (j) "pharmacist" means a member;

- (q) "registered pharmacy student" means a person registered as a student under the *Pharmacy Act, 1991*.

(7) Le sous-alinéa 114 (1) (b) (iii) de la Loi est abrogé et remplacé par ce qui suit :

- (iii) a live stock medicine within the meaning of the *Live Stock Medicines Act* by a person licensed under that Act.

(8) Le paragraphe 114 (2) de la Loi est modifié par substitution, aux mots «this Act» à la deuxième ligne, des mots «a health profession Act as defined in the *Regulated Health Professions Act, 1991*».

(9) L'article 114 de la Loi est modifié par adjonction du paragraphe suivant :

(10) Clause 119 (1) (d) of the Act is amended by striking out "licences and registrations" in the third line and substituting "certificates of accreditation".

(11) Clause 119 (1) (j) of the Act is amended by striking out "and the practice of pharmacists" in the third line.

(12) Subsection 135 (4) of the Act is repealed and the following substituted:

Procedure

(4) The provisions of the Health Professions Procedural Code dealing with applications to the Registration Committee and hearings, reviews and appeals from decisions of panels of the Registration Committee apply, with necessary modifications and subject to subsection (5), to applications referred to the Accreditation Committee as though the Accreditation Committee were a panel.

Idem

(5) The following provisions of the Health Professions Procedural Code do not apply to applications referred to the Accreditation Committee:

1. Paragraphs 2, 3 and 5 of subsection 18 (2).
2. Paragraph 2 of subsection 22 (6).

(13) Subsections 136 (2) and (3) of the Act are repealed and the following substituted:

Procedure

(2) The provisions of the Health Professions Procedural Code dealing with allegations of a member's professional misconduct referred to the Discipline Committee and hearings, reviews and appeals from decisions of panels of the Discipline Committee apply, with necessary modifications and subject to subsection (3), to allegations referred to the Discipline Committee under subsection (1).

Idem

(3) Subsection (3a) applies, instead of subsections 51 (1) and (2) of the Health Professions Procedural Code, to allegations referred to the Discipline Committee under subsection (1).

Orders

(3a) If a panel of the Discipline Committee finds a person who has been issued a certificate of accreditation in respect of a pharmacy has established or operated the pharmacy in contravention of this Act or the regulations, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the person's certificate.
2. Directing the Registrar to suspend the person's certificate for a specified period of time.
3. Requiring the person to pay a fine of not more than \$25,000 to the Treasurer of Ontario.

(14) Section 139 of the Act is amended by striking out "as a pharmacist" in the first line.

(15) Subsection 142 (3) of the Act is repealed and the following substituted:

Displaying
licence

(3) Every manager of a pharmacy shall publicly display his or her licence in the pharmacy.

(16) Subsection 152 (2) of the Act is amended by striking out "six" in the second line and substituting "two".

(17) Section 161 of the Act is amended by striking out "licence or" in the first line and in the third line.

(10) L'alinéa 119 (1) (d) de la Loi est modifié par substitution, aux mots «licences and registrations» à la troisième ligne, des mots «certificates of accreditation».

(11) L'alinéa 119 (1) (j) de la Loi est modifié par suppression des mots «and the practice of pharmacists» à la troisième ligne.

(12) Le paragraphe 135 (4) de la Loi est abrogé et remplacé par ce qui suit :

(13) Les paragraphes 136 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(14) L'article 139 de la Loi est modifié par suppression des mots «as a pharmacist» à la première ligne.

(15) Le paragraphe 142 (3) de la Loi est abrogé et remplacé par ce qui suit :

(16) Le paragraphe 152 (2) de la Loi est modifié par substitution, au mot «six» à la deuxième ligne, du mot «two».

(17) L'article 161 de la Loi est modifié par suppression des mots «licence or» à la première ligne et à la troisième ligne.

48. The Ontario Dietetic Association Act, 1958 is repealed.

48 La loi intitulée *The Ontario Dietetic Association Act, 1958* est abrogé.

Commencement

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

49 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Short title

50. The short title of this Act is the *Regulated Health Professions Act, 1991*.

50 Le titre abrégé de la présente loi est *Loi de 1991 sur les professions de la santé réglementées*.

Titre abrégé

TABLE

Column 1	Column 2
1. person registered as a chiropodist under the <i>Chiropody Act</i>	member of the College of Chiropodists of Ontario
2. person registered as a dental technician under the <i>Dental Technicians Act</i>	member of the College of Dental Technologists of Ontario
3. person licensed as a denture therapist under the <i>Denture Therapists Act</i>	member of the College of Denturists of Ontario
4. person registered as a chiropractor under the <i>Drugless Practitioners Act</i>	member of the College of Chiropractors of Ontario
5. person registered as a masseur under the <i>Drugless Practitioners Act</i>	member of the College of Massage Therapists of Ontario
6. person registered as an osteopath under the <i>Drugless Practitioners Act</i>	member of the College of Physicians and Surgeons of Ontario classed as an osteopath
7. person registered as a physiotherapist under the <i>Drugless Practitioners Act</i>	member of the College of Physiotherapists of Ontario
8. person registered as a dental hygienist under Part II of the <i>Health Disciplines Act</i>	member of the College of Dental Hygienists of Ontario

TABLEAU

Colonne 1	Colonne 2
1. personne inscrite à titre de podologue aux termes de la loi intitulée <i>Chiropody Act</i> (« <i>Loi sur les podologues</i> »)	membre de l'Ordre des podologues de l'Ontario
2. personne inscrite à titre de technicien dentaire aux termes de la loi intitulée <i>Dental Technicians Act</i> (« <i>Loi sur les techniciens dentaires</i> »)	membre de l'Ordre des technologues dentaires de l'Ontario
3. personne titulaire d'un permis l'autorisant à exercer la profession de denturologue aux termes de la loi intitulée <i>Denture Therapists Act</i> (« <i>Loi sur les denturologues</i> »)	membre de l'Ordre des denturologistes de l'Ontario
4. personne inscrite à titre de chiropraticien aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des chiropraticiens de l'Ontario
5. personne inscrite à titre de masseur aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des massothérapeutes de l'Ontario
6. personne inscrite à titre d'ostéopraticien aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des médecins et chirurgiens de l'Ontario, appartenant à la catégorie des ostéopraticiens
7. personne inscrite à titre de physiothérapeute aux termes de la loi intitulée <i>Drugless Practitioners Act</i> (« <i>Loi sur les praticiens ne prescrivant pas de médicaments</i> »)	membre de l'Ordre des physiothérapeutes de l'Ontario
8. personne inscrite à titre d'hygiéniste dentaire aux termes de la partie II de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des hygiénistes dentaires de l'Ontario

9. person licensed under Part II of the <i>Health Disciplines Act</i>	member of the Royal College of Dental Surgeons of Ontario	9. personne titulaire d'un permis délivré en vertu de la partie II de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre royal des chirurgiens dentistes de l'Ontario
10. person licensed under Part III of the <i>Health Disciplines Act</i>	member of the College of Physicians and Surgeons of Ontario	10. personne titulaire d'un permis délivré en vertu de la partie III de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des médecins et chirurgiens de l'Ontario
11. person who is the holder of a certificate issued under Part IV of the <i>Health Disciplines Act</i>	member of the College of Nurses of Ontario	11. personne titulaire d'un certificat délivré en vertu de la partie IV de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des infirmières et infirmiers de l'Ontario
12. person licensed under Part V of the <i>Health Disciplines Act</i>	member of the College of Optometrists of Ontario	12. personne titulaire d'un permis délivré en vertu de la partie V de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des optométristes de l'Ontario
13. person licensed under Part VI of the <i>Health Disciplines Act</i>	member of the Ontario College of Pharmacists	13. personne titulaire d'un permis délivré en vertu de la partie VI de la loi intitulée <i>Health Disciplines Act</i> (« <i>Loi sur les sciences de la santé</i> »)	membre de l'Ordre des pharmaciens de l'Ontario
14. person registered under the <i>Ophthalmic Dispensers Act</i>	member of the College of Opticians of Ontario	14. personne inscrite aux termes de la loi intitulée <i>Ophthalmic Dispensers Act</i> (« <i>Loi sur les opticiens d'ordonnances</i> »)	membre de l'Ordre des opticiens de l'Ontario
15. person registered under the <i>Psychologists Registration Act</i>	member of the College of Psychologists of Ontario	15. personne inscrite aux termes de la loi intitulée <i>Psychologists Registration Act</i> (« <i>Loi sur l'inscription des psychologues</i> »)	membre de l'Ordre des psychologues de l'Ontario
16. person registered under the <i>Radiological Technicians Act</i>	member of the College of Medical Radiation Technologists of Ontario	16. personne inscrite aux termes de la loi intitulée <i>Radiological Technicians Act</i> (« <i>Loi sur les techniciens en radiologie</i> »)	membre de l'Ordre des technologues en radiation médicale de l'Ontario

SCHEDULE 1

ANNEXE 1

SELF GOVERNING HEALTH PROFESSIONS		PROFESSIONS DE LA SANTÉ AUTONOMES	
<i>Health Profession Acts</i>	<i>Health Profession</i>	<i>Lois sur les professions de la santé</i>	<i>Profession de la santé</i>
Audiology and Speech-Language Pathology Act, 1991	Audiology and Speech-Language Pathology	Loi de 1991 sur les audiologistes et les orthophonistes	Audiologie et orthophonie
Chiropody Act, 1991	Chiropody	Loi de 1991 sur les chiropraticiens	Chiropratique
Chiropractic Act, 1991	Chiropractic		
Dental Hygiene Act, 1991	Dental Hygiene	Loi de 1991 sur les dentistes	Dentisterie
Dental Technology Act, 1991	Dental Technology	Loi de 1991 sur les denturologistes	Denturologie
Dentistry Act, 1991	Dentistry	Loi de 1991 sur les diététistes	Diététique
Denturism Act, 1991	Denturism	Loi de 1991 sur les ergothérapeutes	Ergothérapie
Dietetics Act, 1991	Dietetics		
Massage Therapy Act, 1991	Massage Therapy	Loi de 1991 sur les hygiénistes dentaires	Hygiène dentaire
Medical Laboratory Technology Act, 1991	Medical Laboratory Technology	Loi de 1991 sur les infirmières et infirmiers	Soins infirmiers
Medical Radiation Technology Act, 1991	Medical Radiation Technology	Loi de 1991 sur les inhalothérapeutes	Inhalothérapie
Medicine Act, 1991	Medicine	Loi de 1991 sur les massothérapeutes	Massothérapie
Midwifery Act, 1991	Midwifery		
Nursing Act, 1991	Nursing	Loi de 1991 sur les médecins	Médecine
Occupational Therapy Act, 1991	Occupational Therapy	Loi de 1991 sur les opticiens	Profession d'opticien
Opticianry Act, 1991	Opticianry	Loi de 1991 sur les optométristes	Optométrie
Optometry Act, 1991	Optometry		
Pharmacy Act, 1991	Pharmacy	Loi de 1991 sur les pharmaciens	Pharmacie
Physiotherapy Act, 1991	Physiotherapy	Loi de 1991 sur les physiothérapeutes	Physiothérapie
Psychology Act, 1991	Psychology		
Respiratory Therapy Act, 1991	Respiratory Therapy	Loi de 1991 sur les podologues	Podologie
		Loi de 1991 sur les psychologues	Psychologie
		Loi de 1991 sur les sages-femmes	Profession de sage-femme
		Loi de 1991 sur les technologistes de laboratoire médical	Technologie de laboratoire médical
		Loi de 1991 sur les technologues dentaires	Technologie dentaire
		Loi de 1991 sur les technologues en radiation médicale	Technologie de radiation médicale

SCHEDULE 2

HEALTH PROFESSIONS PROCEDURAL CODE

Note: This Code is deemed by section 4 of the *Regulated Health Professions Act, 1991* to be part of each health profession Act

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42. Divulgence des preuves
43. Interdiction aux membres des sous-comités de communiquer
44. Avis juridiques
45. Audiences publiques

46. Exception to closed hearings
47. Sexual misconduct witnesses
48. Transcript of hearings
49. Admissibility of evidence
50. Members of panel who participate
51. Professional misconduct
52. Incompetence
53. Costs if proceedings unwarranted
54. Decision to complainant
55. Release of evidence
56. Publication of decisions

INCAPACITY

57. Registrar's inquiry
58. Appointment of board of inquiry
59. Inquiries by board
60. Board's report
61. Referral to Fitness to Practise Committee
62. Interim suspension
63. Restrictions on orders
64. Panels for Fitness to Practise hearings
65. Parties
66. Reports of health professionals
67. Procedural provisions
68. Hearings closed
69. Orders

APPEALS TO COURT

70. Appeals from decisions of the Board
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REINSTATEMENT

72. Applications for reinstatement
73. Referral to Committee
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REGISTRAR'S POWERS OF INVESTIGATION

75. Investigators
76. Powers of investigators
77. Entries and searches
78. Copying of documents and objects
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QUALITY ASSURANCE COMMITTEE

80. Quality assurance program required
81. Assessors
82. Co-operation with Committee and assessors
83. Confidentiality of information

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84. Patient relations program
85. Advice to Council

MISCELLANEOUS

86. Right to use French
87. Injunctions
88. Evidence of Registrar
89. Limitation period
90. Reporting of members
91. Service by mail
92. Obtaining certificates by false pretences
93. Offence
94. By-laws
95. Regulations

46. Exception aux audiences à huis clos
47. Témoins d'inconduite sexuelle
48. Transcription des audiences
49. Recevabilité des preuves
50. Membres du comité qui participent
51. Faute professionnelle
52. Incompétence
53. Frais en cas d'instances injustifiées
54. Communication de la décision au plaignant
55. Communication des preuves
56. Publication des décisions

INCAPACITÉ

57. Enquête du registrateur
58. Constitution d'une commission d'enquête
59. Enquêtes de la commission
60. Rapport de la commission
61. Renvoi au comité d'aptitude professionnelle
62. Suspension provisoire
63. Restrictions relatives aux ordonnances
64. Sous-comité pour les questions d'aptitude professionnelle
65. Parties
66. Rapports de professionnels de la santé
67. Dispositions relatives à la procédure
68. Audiences à huis clos
69. Ordonnances

APPELS PORTÉS DEVANT LA COUR

70. Appel des décisions de la Commission
71. Entrée en vigueur de certaines ordonnances

REMISE EN VIGUEUR

72. Demandes de remise en vigueur
73. Renvoi au comité compétent
74. Ordonnances sans audience

POUVOIRS D'ENQUÊTE DU REGISTRATEUR

75. Enquêteurs
76. Pouvoirs des enquêteurs
77. Perquisitions
78. Reproduction de documents et d'objets
79. Rapport d'enquête

COMITÉ D'ASSURANCE DE LA QUALITÉ

80. Programme d'assurance de la qualité requis
81. Évaluateurs
82. Collaboration entre le comité et les évaluateurs
83. Caractère confidentiel des renseignements

PROGRAMME DE RELATIONS AVEC LES PATIENTS

84. Programme de relations avec les patients
85. Rôle consultatif du conseil

DISPOSITIONS DIVERSES

86. Droit d'utilisation du français
87. Injonctions
88. Preuves émanant du registrateur
89. Délai de prescription
90. Dépôt de rapports au sujet des membres
91. Signification par la poste
92. Obtention de certificats par fraude
93. Infraction
94. Règlements administratifs
95. Règlements

Definitions

1.—(1) In this Code.

“Board” means the Health Professions Board; (“Commission”)

“by-laws” means by-laws made by the Council; (“règlements administratifs”)

“certificate of registration” means a certificate of registration issued by the Registrar; (“certificat d’inscription”)

“Council” means the Council of the College; (“conseil”)

“drug” means drug as defined in clause 113 (1) (d) of the *Drug and Pharmacies Regulation Act*; (“médicament”)

“incapacitated” means, in relation to a member, that the member is suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the member no longer be permitted to practise or that the member’s practice be restricted; (“frappé d’incapacité”)

“member” means a member of the College; (“membre”)

“Minister” means the Minister of Health; (“ministre”)

“patient relations program” means a program to enhance relations between members and patients; (“programme de relations avec les patients”)

“prescribed” means prescribed in the regulations; (“prescrit”)

“quality assurance program” means a program to assure the quality of the practice of the profession and to promote continuing competence among the members; (“programme d’assurance de la qualité”)

“Registrar” means the Registrar of the College; (“registrateur”)

“registration” means the issuance of a certificate of registration. (“inscription”)

(2) Nothing in the health profession Act or this Code shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act* unless the holding of a hearing is specifically referred to.

COLLEGE

2.—(1) The College is a body corporate without share capital with all the powers of a natural person.

(2) The *Corporations Act* does not apply in respect to the College.

3.—(1) The College has the following objects:

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the *Regulated Health Professions Act, 1991* and the regulations and by-laws.

2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.

1 (1) Les définitions qui suivent s’appliquent au présent code.

«certificat d’inscription» Certificat d’inscription délivré par le registrateur. («certificate of registration»)

«Commission» La Commission des professions de la santé. («Board»)

«conseil» Le conseil de l’ordre. («Council»)

«frappé d’incapacité» Se dit d’un membre atteint d’une affection physique ou mentale ou de troubles physiques ou mentaux qui sont tels qu’il convient, dans l’intérêt public, de ne plus l’autoriser à exercer sa profession ou de restreindre ses activités professionnelles. («incapacitated»)

«inscription» La délivrance d’un certificat d’inscription. («registration»)

«médicament» Médicament, tel que le définit l’alinéa 113 (1) d) de la loi intitulée *Drug and Pharmacies Regulation Act* («Loi sur la réglementation des médicaments et des pharmacies»). («drug»)

«membre» Membre d’un ordre. («member»)

«ministre» Le ministre de la Santé. («Minister»)

«prescrit» Prescrit par les règlements. («prescribed»)

«programme d’assurance de la qualité» Programme visant à assurer la qualité de l’exercice de la profession et à promouvoir le maintien de la compétence parmi les membres. («quality assurance program»)

«programme de relations avec les patients» Programme visant à améliorer les relations entre les membres et les patients. («patient relations program»)

«registrateur» Le registrateur de l’ordre. («Registrar»)

«règlements administratifs» Règlements administratifs adoptés par le conseil. («by-laws»)

(2) Aucune des dispositions de la loi sur une profession de la santé ou du présent code ne doit s’interpréter comme exigeant la tenue d’une audience au sens de la loi intitulée *Statutory Powers Procedure Act* («Loi sur l’exercice des compétences légales»), à moins qu’il ne soit fait explicitement mention de la tenue d’une audience.

ORDRE

2 (1) L’ordre est une personne morale sans capital-actions, dotée de tous les pouvoirs d’une personne physique.

(2) La loi intitulée *Corporations Act* («Loi sur les personnes morales») ne s’applique pas en ce qui concerne l’ordre.

3 (1) Les objets de l’ordre sont les suivants :

1. Réglementer l’exercice de la profession et régir l’activité des membres conformément à la loi sur une profession de la santé, au présent code et à la *Loi de 1991 sur les professions de la santé réglementées*, ainsi qu’aux règlements et règlements administratifs.

2. Élaborer et maintenir des normes d’admissibilité applicables aux personnes auxquelles un certificat d’inscription est délivré.

Définitions

Audience non requise sauf mention contraire

Personne morale

«Loi sur les personnes morales»

Objets de l’ordre

Hearing not required unless referred to

College is body corporate

Corporations Act

Objects of College

- | | |
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| <ul style="list-style-type: none"> 3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession. 4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing competence among the members. 5. To develop, establish and maintain standards of professional ethics for the members. 6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Code and the <i>Regulated Health Professions Act, 1991</i>. 7. To administer the health profession Act, this Code and the <i>Regulated Health Professions Act, 1991</i> as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College. 8. Any other objects relating to human health care that the Council considers desirable. | <ul style="list-style-type: none"> 3. Élaborer et maintenir des programmes et des normes d'exercice pour assurer la qualité de l'exercice de la profession. 4. Élaborer et maintenir des normes de connaissance et de compétence, ainsi que des programmes, pour promouvoir le maintien de la compétence parmi les membres. 5. Élaborer et maintenir des normes de déontologie applicables aux membres. 6. Élaborer et maintenir des programmes visant à aider les particuliers à exercer leurs droits aux termes du présent code et de la <i>Loi de 1991 sur les professions de la santé réglementées</i>. 7. Appliquer la loi sur une profession de la santé, le présent code et la <i>Loi de 1991 sur les professions de la santé réglementées</i> dans la mesure où elle se rapporte à la profession, et exercer les autres fonctions qui lui sont imposées et les autres pouvoirs qui lui sont conférés. 8. Poursuivre tout autre objet ayant trait aux soins des êtres humains que le conseil juge souhaitable. |
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Duty	(2) In carrying out its objects, the College has a duty to serve and protect the public interest.	(2) Dans la poursuite de ses objets, l'ordre est tenu de servir et de protéger l'intérêt public.	Obligation
Council	4. The College shall have a Council that shall be its board of directors and that shall manage and administer its affairs.	4 L'ordre comprend un conseil qui est son conseil d'administration et qui gère ses affaires.	Conseil
Terms	5.—(1) No term of a Council member who is elected shall exceed three years.	5 (1) Le mandat des membres d'un conseil qui sont élus ne peut dépasser trois ans.	Mandat
Multiple terms	(2) A person may be a Council member for more than one term but no person who is elected may be a Council member for more than nine consecutive years.	(2) Les membres d'un conseil peuvent siéger pendant plus d'un mandat. Cependant, les personnes qui sont élues ne peuvent pas être membres d'un conseil pendant plus de neuf années consécutives.	Cumul de mandats
Quorum	6. A majority of the members of the Council constitute a quorum.	6 La majorité des membres du conseil constitue le quorum.	Quorum
Meetings	7.—(1) The meetings of the Council shall be open to the public and reasonable notice shall be given to the members of the College and to the public.	7 (1) Les réunions du conseil sont publiques et un préavis suffisant en est donné aux membres de l'ordre ainsi qu'au public.	Réunions
Exclusion of public	(2) Despite subsection (1), the Council may exclude the public from any meeting or part of a meeting if it is satisfied that: <ul style="list-style-type: none"> (a) matters involving public security may be disclosed; (b) financial or personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public; (c) a person involved in a criminal proceeding or civil suit or proceeding may be prejudiced; (d) personnel matters or property acquisitions will be discussed; (e) instructions will be given to or opinions received from the solicitors for the College; or (f) the Council will deliberate whether to exclude the public from a meeting or whether to make an order under subsection (3). 	(2) Malgré le paragraphe (1), le conseil peut tenir à huis clos toute réunion ou toute partie de réunion s'il est convaincu que, selon le cas : <ul style="list-style-type: none"> a) des questions touchant à la sécurité publique risquent d'être divulguées; b) risquent d'être divulguées des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel les réunions doivent être publiques; c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée; d) des questions de personnel ou l'acquisition de biens feront l'objet de discussions; e) des instructions seront données aux procureurs représentant l'ordre ou ces derniers donneront des avis; f) le conseil délibérera sur la question de savoir s'il doit tenir une réunion à huis clos ou s'il doit rendre une ordonnance en vertu du paragraphe (3). 	Réunion à huis clos
Orders preventing public disclosure	(3) In situations in which the Council may exclude the public from meetings, it may make	(3) Dans les cas où le conseil peut tenir des réunions à huis clos, il peut rendre les ordonnances	Ordonnances interdisant la divulgation

orders it considers necessary to prevent the public disclosure of matters disclosed in the meeting, including banning publication or broadcasting of those matters.

(4) If the Council excludes the public from a meeting or makes an order under subsection (3), it shall have its reasons for doing so noted in the minutes of the meeting.

8. Council members appointed by the Lieutenant Governor in Council shall be paid, by the Minister of Health, the expenses and remuneration the Lieutenant Governor in Council determines.

9.—(1) The Council may employ persons it considers advisable.

(2) The Council shall appoint one of its employees as the Registrar.

10.—(1) The College shall have the following committees:

1. Executive Committee.
2. Registration Committee.
3. Complaints Committee.
4. Discipline Committee.
5. Fitness to Practise Committee.
6. Quality Assurance Committee.
7. Patient Relations Committee.

(2) The Council shall appoint the members of the committees.

(3) The composition of the committees shall be in accordance with the regulations.

11.—(1) Each committee named in subsection 10 (1) shall annually submit a report of its activities to the Council.

(2) The Executive Committee shall not submit a report that contains information, other than information of a general statistical nature, relating to,

- (a) a referral by the Executive Committee to the Discipline or Fitness to Practise Committee until a panel of the Discipline or Fitness to Practise Committee disposes of the matter;
- (b) an approval for the Registrar to appoint an investigator until the investigation is completed and reported by the Registrar and the Executive Committee decides not to make a referral with respect to the matter to the Discipline Committee or, if the Executive Committee makes a referral with respect to the matter to the Discipline Committee, until a panel of the Discipline Committee disposes of the matter; or
- (c) an interim order made by the Executive Committee in respect of a member until a panel of the Discipline Committee disposes of the matter.

12.—(1) Between the meetings of the Council, the Executive Committee has all the powers of the Council with respect to any matter that, in the Committee's opinion, requires immediate attention, other than the power to make, amend or revoke a regulation or by-law.

(2) If the Executive Committee exercises a power of the Council under subsection (1), it shall report on its actions to the Council at the Council's next meeting.

qu'il estime nécessaires pour empêcher la divulgation dans le public des questions dont il a été fait état lors de la réunion, et notamment proscrire la publication ou la radiodiffusion de ces questions.

(4) Si le conseil tient une réunion à huis clos ou rend une ordonnance en vertu du paragraphe (3), il fait en sorte que les motifs à l'appui de sa décision soient consignés dans le procès-verbal de la réunion.

8 Les membres du conseil nommés par le lieutenant-gouverneur en conseil reçoivent, du ministre de la Santé, la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

9 (1) Le conseil peut engager le personnel qu'il juge souhaitable.

(2) Le conseil nomme un de ses employés registra-

10 (1) L'ordre a les comités suivants :

1. Le bureau.
2. Le comité d'inscription.
3. Le comité des plaintes.
4. Le comité de discipline.
5. Le comité d'aptitude professionnelle.
6. Le comité d'assurance de la qualité.
7. Le comité des relations avec les patients.

(2) Le conseil nomme les membres des comités.

(3) La composition des comités est conforme aux règlements.

11 (1) Chacun des comités mentionnés au paragraphe 10 (1) présente tous les ans un rapport sur ses activités au conseil.

(2) Le rapport que présente le bureau ne contient pas de renseignements concernant l'une des questions suivantes, sauf s'il s'agit de renseignements d'une nature statistique générale :

- a) le renvoi d'une question par le bureau au comité de discipline ou au comité d'aptitude professionnelle jusqu'à ce qu'un sous-comité d'un de ces comités tranche la question;
- b) l'autorisation donnée au registraire de nommer un enquêteur jusqu'à ce que l'enquête soit terminée, qu'un compte rendu en ait été donné par le registraire et que le bureau décide de ne pas renvoyer la question au comité de discipline ou, s'il la lui renvoie, jusqu'à ce qu'un sous-comité du comité de discipline tranche la question;
- c) une ordonnance provisoire rendue par le bureau à l'égard d'un membre jusqu'à ce qu'un sous-comité du comité de discipline tranche la question.

12 (1) Entre les réunions du conseil, le bureau a tous les pouvoirs du conseil à l'égard de toute question qui, à son avis, requiert une attention immédiate, à l'exclusion du pouvoir de prendre, de modifier ou d'abroger un règlement ou un règlement administratif.

(2) Si le bureau exerce un des pouvoirs du conseil en vertu du paragraphe (1), il présente au conseil, à sa réunion suivante, un rapport sur les mesures qu'il a prises en vertu de ce pouvoir.

Reasons noted in minutes

Remuneration and expenses

Employees

Registrar

Committees

Appointment

Composition

Annual reports

Exclusions from reports

Executive Committee's exercise of Council's powers

Report to Council

Motifs consignés dans le procès-verbal

Rémunération et indemnités

Personnel

Registraire

Comités

Nomination

Composition

Rapports annuels

Renseignements exclus des rapports

Exercice des pouvoirs du conseil par le bureau

Rapport adressé au conseil

Members **13.**—(1) A person registered by the College is a member.

Suspended members (2) A person whose certificate of registration is suspended is not a member.

Continuing jurisdiction **14.**—(1) A person whose certificate of registration is revoked or who resigns as a member continues to be subject to the jurisdiction of the College for professional misconduct referable to the time when the person was a member.

Idem (2) A person whose certificate of registration is suspended continues to be subject to the jurisdiction of the College for incapacity and for professional misconduct or incompetence referable to the time when the person was a member or to the period of the suspension.

REGISTRATION

Registration **15.**—(1) If a person applies to the Registrar for registration, the Registrar shall,

(a) register the applicant; or

(b) refer the application to the Registration Committee.

Referrals to Registration Committee (2) The Registrar shall refer an application for registration to the Registration Committee if the Registrar,

(a) has doubts, on reasonable grounds, about the sufficiency of the applicant's capacity, training, experience or education;

(b) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant does not consent to the imposition; or

(c) proposes to refuse the application.

Notice to applicant (3) If the Registrar refers an application to the Registration Committee, he or she shall give the applicant notice of the statutory grounds for the referral and of the applicant's right to make written submissions under subsection 18 (1).

Terms, etc., attached on consent (4) If the Registrar is of the opinion that a certificate of registration should be issued to an applicant with terms, conditions or limitations imposed and the applicant consents to the imposition, the Registrar may do so with the approval of a panel of the Registration Committee selected by the chair for the purpose.

Panels for consent (5) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (4).

Disclosure of application file **16.**—(1) The Registrar shall give an applicant for registration, at his or her request, all the information and a copy of each document the College has that is relevant to the application.

Exception (2) The Registrar may refuse to give an applicant anything that may, in the Registrar's opinion, jeopardize the safety of any person.

Panels **17.**—(1) An application for registration referred to the Registration Committee or an application referred back to the Registration Committee by the Board shall be reviewed by a panel selected by the chair from among the members of the Committee.

Idem (2) A panel shall be composed of at least three persons, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum (3) Three members of a panel constitute a quorum.

13 (1) Quiconque est inscrit par l'ordre en est membre.

(2) La personne dont le certificat d'inscription est suspendu n'est pas membre.

14 (1) La personne dont le certificat d'inscription est révoqué ou qui se démet de ses fonctions de membre continue de relever de l'autorité de l'ordre pour ce qui est d'une faute professionnelle se rapportant à l'époque où elle était membre.

(2) La personne dont le certificat d'inscription est suspendu continue de relever de l'autorité de l'ordre pour ce qui est d'une incapacité et pour ce qui est d'une faute professionnelle ou d'incompétence se rapportant à l'époque où elle était membre ou à la période de la suspension.

INSCRIPTION

15 (1) Si une personne présente une demande d'inscription au registrateur, ce dernier :

- a) soit inscrit l'auteur de la demande;
- b) soit renvoie la demande au comité d'inscription.

(2) Le registrateur renvoie une demande d'inscription au comité d'inscription si, selon le cas :

- a) il a des doutes, en se fondant sur des motifs raisonnables, sur la suffisance de la capacité, de la formation, de l'expérience ou de la scolarité de l'auteur de la demande;
- b) il est d'avis que le certificat d'inscription de l'auteur de la demande devrait être assorti de conditions ou de restrictions et que ce dernier s'y oppose;
- c) il se propose de refuser la demande.

(3) Si le registrateur renvoie une demande au comité d'inscription, il avise l'auteur de la demande des motifs légaux du renvoi et du droit qu'a ce dernier de présenter des observations par écrit en vertu du paragraphe 18 (1).

(4) Si le registrateur est d'avis que devrait être délivré à l'auteur d'une demande un certificat d'inscription assorti de conditions ou de restrictions et que ce dernier y consent, le registrateur peut le délivrer sous réserve de l'approbation d'un sous-comité du comité d'inscription dont les membres sont choisis par le président à cette fin.

(5) Les paragraphes 17 (2) et (3) s'appliquent au sous-comité visé au paragraphe (4).

16 (1) Le registrateur communique à l'auteur d'une demande d'inscription qui en fait la demande tous les renseignements, ainsi qu'une copie de chaque document que possède l'ordre, qui se rapportent à la demande.

(2) Le registrateur peut refuser de communiquer à l'auteur d'une demande tout ce qui pourrait, à son avis, mettre en danger la sécurité de quiconque.

17 (1) La demande d'inscription renvoyée au comité d'inscription ou la demande renvoyée au comité d'inscription par la Commission est examinée par un sous-comité dont les membres sont choisis par le président parmi les membres du comité.

(2) Le sous-comité se compose d'au moins trois personnes, dont l'une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

(3) Trois membres constituent le quorum d'un sous-comité.

Membres

Personne suspendue

Autorité continue

Idem

Inscription

Renvoi de demandes au comité d'inscription

Avis adressé à l'auteur de la demande

Acceptation des conditions ou restrictions imposées

Approbation du sous-comité

Communication des renseignements relatifs à la demande

Exception

Sous-comités

Idem

Quorum

Consideration by panel	<p>18.—(1) An applicant may make written submissions to the panel within thirty days after receiving notice under subsection 15 (3) or within any longer period the Registrar may specify in the notice.</p>	<p>18 (1) L'auteur d'une demande peut présenter des observations par écrit au sous-comité dans les trente jours suivant la réception de l'avis prévu au paragraphe 15 (3) ou dans tout autre délai plus long que peut fixer le registrateur dans l'avis.</p>	Examen par le sous-comité
Orders by panel	<p>(2) After considering the application and the submissions, the panel may make an order doing any one or more of the following:</p>	<p>(2) Après examen de la demande et des observations, le sous-comité peut, par ordonnance :</p>	Ordonnances du sous-comité
	<p>1. Directing the Registrar to issue a certificate of registration.</p>	<p>1. Enjoindre au registrateur de délivrer un certificat d'inscription.</p>	
	<p>2. Directing the Registrar to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.</p>	<p>2. Enjoindre au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux examens établis ou approuvés par le sous-comité.</p>	
	<p>3. Directing the Registrar to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.</p>	<p>3. Enjoindre au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux cours de formation supplémentaires indiqués par le sous-comité.</p>	
	<p>4. Directing the Registrar to impose specified terms, conditions and limitations on a certificate of registration of the applicant and specifying a limitation on the applicant's right to apply under subsection 19 (1).</p>	<p>4. Enjoindre au registrateur d'assortir le certificat d'inscription de l'auteur de la demande des conditions et des restrictions précisées et d'indiquer les restrictions s'appliquant au droit qu'a l'auteur de la demande de présenter une demande en vertu du paragraphe 19 (1).</p>	
	<p>5. Directing the Registrar to refuse to issue a certificate of registration.</p>	<p>5. Enjoindre au registrateur de refuser de délivrer un certificat d'inscription.</p>	
Idem	<p>(3) A panel, in making an order under subsection (2), may direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement unless the requirement is prescribed as a non-exemptible requirement.</p>	<p>(3) Le sous-comité qui rend une ordonnance en vertu du paragraphe (2) peut enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur d'une demande qui ne satisfait pas à une exigence d'inscription, à moins qu'il ne s'agisse d'une exigence prescrite comme étant une exigence à laquelle on ne peut se soustraire.</p>	Idem
Order on consent	<p>(4) The panel may, with the consent of the applicant, direct the Registrar to issue a certificate of registration with the terms, conditions and limitations specified by the panel imposed.</p>	<p>(4) Le sous-comité peut enjoindre au registrateur de délivrer un certificat d'inscription assorti des conditions et des restrictions précisées par le sous-comité, si l'auteur de la demande y consent.</p>	Ordonnance sur consentement
Application for variation	<p>19.—(1) A member may apply to the Registration Committee for an order directing the Registrar to remove or modify any term, condition or limitation imposed on the member's certificate of registration as a result of a registration proceeding.</p>	<p>19 (1) Un membre peut demander au comité d'inscription que soit rendue une ordonnance enjoignant au registrateur de supprimer ou de modifier toute condition ou restriction dont est assorti son certificat d'inscription par suite d'une procédure relative à une inscription.</p>	Demande de modification d'ordonnance
Limitations	<p>(2) The right to apply under subsection (1) is subject to any limitation in the order imposing the term, condition or limitation or to which the member consented and to any limitation made under subsection (7) in the disposition of a previous application under this section.</p>	<p>(2) Le droit de présenter une demande en vertu du paragraphe (1) est assujéti à toute restriction prévue par l'ordonnance qui impose la condition ou la restriction ou à laquelle le membre a acquiescé et à toute restriction imposée en vertu du paragraphe (7) lorsqu'il est statué sur une demande antérieure faite en vertu du présent article.</p>	Restrictions
Panels	<p>(3) An application to the Registration Committee under subsection (1) or an application referred back to the Registration Committee by the Board shall be reviewed by a panel selected by the chair from among the members of the Committee.</p>	<p>(3) La demande présentée au comité d'inscription en vertu du paragraphe (1) ou celle renvoyée au comité d'inscription par la Commission est examinée par un sous-comité dont les membres sont choisis par le président parmi les membres du comité.</p>	Sous-comités
Idem	<p>(4) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (3).</p>	<p>(4) Les paragraphes 17 (2) et (3) s'appliquent au sous-comité visé au paragraphe (3).</p>	Idem
Submissions	<p>(5) An applicant may make written submissions to the panel.</p>	<p>(5) L'auteur d'une demande peut présenter des observations par écrit au sous-comité.</p>	Observations
Orders	<p>(6) After considering the application and the submissions, the panel may make an order doing any one or more of the following:</p>	<p>(6) Après examen de la demande et des observations, le sous-comité peut, par ordonnance :</p>	Ordonnances
	<p>1. Refusing the application.</p>	<p>1. Refuser la demande.</p>	
	<p>2. Directing the Registrar to remove any term, condition or limitation imposed on the certificate of registration.</p>	<p>2. Enjoindre au registrateur de supprimer toute condition ou restriction dont est assorti le certificat d'inscription.</p>	

	3. Directing the Registrar to impose terms, conditions or limitations on the certificate of registration.	3. Enjoindre au registrateur d'assortir de conditions ou de restrictions le certificat d'inscription.	
Limitations on applications	(7) The panel, in disposing of an application under this section, may fix a period of time not longer than six months during which the applicant may not apply under subsection (1).	(7) Le sous-comité, lorsqu'il statue sur une demande aux termes du présent article, peut fixer un délai maximal de six mois dans lequel l'auteur de la demande ne peut présenter de demande en vertu du paragraphe (1).	Restrictions relatives aux demandes
Notice of orders	20. —(1) A panel shall give the applicant notice of an order it makes under subsection 18 (2) or 19 (6) and written reasons for it if the order. (a) directs the Registrar to refuse to issue a certificate of registration; (b) directs the Registrar to issue a certificate of registration if the applicant successfully completes examinations or additional training; (c) directs the Registrar to impose terms, conditions and limitations on a certificate of registration of the applicant; or (d) refuses an application for an order removing or modifying any term, condition or limitation imposed on a certificate of registration.	20 (1) Le sous-comité avise l'auteur de la demande de l'ordonnance qu'il rend en vertu du paragraphe 18 (2) ou 19 (6) et des motifs écrits à l'appui de celle-ci si l'ordonnance, selon le cas : a) enjoint au registrateur de refuser de délivrer un certificat d'inscription; b) enjoint au registrateur de délivrer un certificat d'inscription si l'auteur de la demande réussit aux examens ou aux cours de formation supplémentaires; c) enjoint au registrateur d'assortir de conditions et de restrictions le certificat d'inscription de l'auteur de la demande; d) refuse une demande d'ordonnance visant à supprimer ou à modifier toute condition ou restriction dont est assorti un certificat d'inscription.	Avis d'ordonnance
Contents of notice	(2) A notice under subsection (1) shall inform the applicant of the order and of the provisions of subsections 21 (1) and (2).	(2) L'avis prévu au paragraphe (1) informe l'auteur de la demande de l'ordonnance et des dispositions des paragraphes 21 (1) et (2).	Contenu de l'avis
Appeal to Board	21. —(1) An applicant who has been given a notice under subsection 20 (1) of an order may require the Board to hold a review of the application and the documentary evidence in support of it, or a hearing of the application, by giving the Board and the Registration Committee notice in accordance with subsection (2).	21 (1) L'auteur d'une demande qui a reçu un avis d'ordonnance aux termes du paragraphe 20 (1) peut exiger de la Commission qu'elle réexamine sa demande et les éléments de preuve documentaire à l'appui de celle-ci, ou qu'elle tienne une audience relativement à sa demande, en remettant à la Commission et au comité d'inscription un avis à cet effet, conformément au paragraphe (2).	Appel porté devant la Commission
Requirements of notice	(2) A notice under subsection (1) shall be a written notice, given within thirty days after the notice under subsection 20 (1) was given, specifying whether a review or a hearing is required.	(2) L'avis prévu au paragraphe (1) est donné par écrit dans les trente jours suivant la date à laquelle l'avis prévu au paragraphe 20 (1) a été donné, et précise si l'auteur de la demande exige un réexamen ou une audience.	Exigences de remise de l'avis, et contenu
Order, etc., to Board	(3) If the Registration Committee receives a notice that an applicant requires a hearing or review, it shall, within fifteen days after receiving the notice, give the Board a copy of the order made with respect to the application, the reasons for it and the documents and things upon which the decision to make the order was based.	(3) Le comité d'inscription qui reçoit un avis de l'auteur d'une demande selon lequel ce dernier exige une audience ou un réexamen remet à la Commission, dans les quinze jours suivant la réception de l'avis, une copie de l'ordonnance rendue au sujet de la demande, les motifs à l'appui de celle-ci, ainsi que les documents et choses sur lesquels la décision de rendre l'ordonnance était fondée.	Copie de l'ordonnance, etc., à la Commission
When order may be carried out	(4) An order of a panel, notice of which is required under subsection 20 (1), may be carried out only when, (a) the applicant has given the Registrar notice that the applicant will not be requiring a review or hearing; (b) thirty-five days have passed since the notice of the order was given under subsection 20 (1) without the applicant requiring a review or hearing; or (c) the Board has confirmed the order.	(4) L'ordonnance d'un sous-comité, qui doit faire l'objet d'un avis aux termes du paragraphe 20 (1), ne peut être exécutée que lorsque se réalise l'une ou l'autre des éventualités suivantes : a) l'auteur de la demande a informé le registrateur, au moyen d'un avis, qu'il n'exigera pas de réexamen ni d'audience; b) trente-cinq jours se sont écoulés depuis que l'avis d'ordonnance a été donné aux termes du paragraphe 20 (1) sans que l'auteur de la demande ait exigé de réexamen ou d'audience; c) la Commission a confirmé l'ordonnance.	Moment où l'ordonnance peut être exécutée
Registration hearings or reviews	22. —(1) This section applies to a hearing or review by the Board required by an applicant under subsection 21 (1).	22 (1) Le présent article s'applique à l'audience tenue ou au réexamen effectué par la Commission, et qu'exige l'auteur d'une demande en vertu du paragraphe 21 (1).	Audiences ou réexamens relatifs à l'inscription

Procedural provisions	(2) The following provisions apply with necessary modifications to a hearing or review:	(2) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à une audience ou à un réexamen :	Dispositions relatives à la procédure
	<ol style="list-style-type: none"> 1. Subsection 38 (4) (exclusion from panel). 2. Section 42 (disclosure of evidence). 3. Section 43 (no communication by panel members). 4. Section 50 (members of panel who participate). 5. Section 55 (release of evidence). 	<ol style="list-style-type: none"> 1. Le paragraphe 38 (4) (exclusion). 2. L'article 42 (divulgence des preuves). 3. L'article 43 (interdiction aux membres des sous-comités de communiquer). 4. L'article 50 (membres du sous-comité qui participent). 5. L'article 55 (communication des preuves). 	
Idem	(3) The following provisions also apply with necessary modifications to a hearing:	(3) Les dispositions suivantes s'appliquent également, avec les adaptations nécessaires, à une audience :	Idem
	<ol style="list-style-type: none"> 1. Section 45 (hearings open). 2. Section 47 (sexual misconduct witnesses). 3. Section 48 (transcript of hearings). 	<ol style="list-style-type: none"> 1. L'article 45 (audiences publiques). 2. L'article 47 (témoins d'inconduite sexuelle). 3. L'article 48 (transcription des audiences). 	
Findings of fact	(4) The findings of fact in a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the <i>Statutory Powers Procedure Act</i> .	(4) Lors d'une audience, les conclusions de fait se fondent uniquement sur les preuves admissibles ou les questions dont il peut être pris connaissance en vertu des articles 15 et 16 de la loi intitulée <i>Statutory Powers Procedure Act</i> («Loi sur l'exercice des compétences légales»).	Conclusions de fait
Idem	(5) The findings of fact in a review shall be based exclusively on the application and documentary evidence admissible or matters that may be noticed under sections 15 and 16 of the <i>Statutory Powers Procedure Act</i> .	(5) Lors d'un réexamen, les conclusions de fait se fondent uniquement sur la demande et les éléments de preuve documentaire admissibles ou sur les questions dont il peut être pris connaissance en vertu des articles 15 et 16 de la loi intitulée <i>Statutory Powers Procedure Act</i> («Loi sur l'exercice des compétences légales»).	Idem
Disposal by Board	(6) The Board shall, after the hearing or review, make an order doing any one or more of the following:	(6) À la suite de l'audience ou du réexamen, la Commission rend une ordonnance dans l'un ou l'autre, ou plusieurs, des buts suivants :	Décision de la Commission
	<ol style="list-style-type: none"> 1. Confirming the order made by the panel. 2. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant if the applicant successfully completes any examinations or training the Registration Committee may specify. 3. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant and to impose any terms, conditions and limitations the Board considers appropriate. 4. Referring the matter back to the Registration Committee for further consideration by a panel, together with any recommendations the Board considers appropriate. 	<ol style="list-style-type: none"> 1. Confirmer l'ordonnance rendue par le sous-comité. 2. Exiger du comité d'inscription qu'il rende une ordonnance enjoignant au registraire de délivrer un certificat d'inscription à l'auteur de la demande si ce dernier réussit aux examens ou aux cours de formation que le comité d'inscription peut préciser. 3. Exiger du comité d'inscription qu'il rende une ordonnance enjoignant au registraire de délivrer un certificat d'inscription à l'auteur de la demande et de l'assortir des conditions et des restrictions qu'elle estime opportunes. 4. Renvoyer la question au comité d'inscription pour qu'un sous-comité l'examine de nouveau, en y joignant les recommandations qu'elle estime opportunes. 	
Idem	(7) The Board may make an order under paragraph 3 of subsection (6) only if the Board finds that the applicant substantially qualifies for registration and that the panel has exercised its powers improperly.	(7) La Commission ne peut rendre d'ordonnance visée à la disposition 3 du paragraphe (6) que si elle constate que l'auteur de la demande satisfait pour l'essentiel aux exigences d'inscription et que le sous-comité a exercé ses pouvoirs de façon irrégulière.	Idem
Limitation on order	(8) The Board, in making an order under subsection (6), shall not require the Registration Committee to direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement that is prescribed as a non-exemptible requirement.	(8) Lorsqu'elle rend une ordonnance aux termes du paragraphe (6), la Commission n'exige pas du comité d'inscription qu'il enjoigne au registraire de délivrer un certificat d'inscription à l'auteur d'une demande qui ne satisfait pas à une exigence d'inscription prescrite comme étant une exigence à laquelle on ne peut se soustraire.	Restriction applicable à l'ordonnance
Parties	(9) The College and the applicant are parties to a hearing or review.	(9) Sont parties à une audience ou à un réexamen l'ordre et l'auteur de la demande.	Parties
Register	23. —(1) The Registrar shall maintain a register.	23 (1) Le registraire dresse un tableau.	Tableau

Contents of register	<p>(2) The register shall contain.</p> <p>(a) each member's name, business address and business telephone number;</p> <p>(b) each member's class of registration and specialist status;</p> <p>(c) the terms, conditions and limitations imposed on each certificate of registration;</p> <p>(d) a notation of every revocation and suspension of a certificate of registration;</p> <p>(e) the result of every disciplinary and incapacity proceeding;</p> <p>(f) information that a panel of the Registration, Discipline or Fitness to Practise Committee specifies shall be included; and</p> <p>(g) information that the regulations prescribe as information to be kept in the register.</p>	<p>(2) Le tableau contient les renseignements suivants :</p> <p>a) le nom, l'adresse professionnelle et le numéro de téléphone professionnel de chaque membre;</p> <p>b) la catégorie d'inscription et la qualité de spécialiste de chaque membre;</p> <p>c) les conditions et les restrictions dont est assorti chaque certificat d'inscription;</p> <p>d) l'indication de chaque révocation et de chaque suspension de certificat d'inscription;</p> <p>e) l'issue de chaque procédure disciplinaire et de chaque procédure pour incapacité;</p> <p>f) les renseignements que précise un sous-comité du comité d'inscription, du comité de discipline ou du comité d'aptitude professionnelle;</p> <p>g) les renseignements que les règlements prescrivent comme devant être conservés au tableau.</p>	Contenu du tableau
Access to information	<p>(3) A person may obtain, during normal business hours, the following information contained in the register:</p> <p>1. Information described in clauses (2) (a) to (c).</p> <p>2. Information described in clause (2) (d) relating to a suspension that is in effect.</p> <p>3. The results of every disciplinary and incapacity proceeding completed within three years before the time the register was prepared or last updated,</p> <p>i. in which a member's certificate of registration was revoked or suspended or had terms, conditions or limitations imposed on it, or</p> <p>ii. in which a member was required to pay a fine or attend to be reprimanded or in which an order was suspended if the results of the proceeding were directed to be included in the register by a panel of the Discipline or Fitness to Practise Committee.</p> <p>4. Information designated as public in the regulations.</p>	<p>(3) Quiconque peut obtenir, pendant les heures de bureau normales, les renseignements suivants figurant au tableau :</p> <p>1. Les renseignements visés aux alinéas (2) a) à c).</p> <p>2. Les renseignements visés à l'alinéa (2) d) en ce qui concerne une suspension qui est en vigueur.</p> <p>3. L'issue de chaque procédure disciplinaire et de chaque procédure pour incapacité qui a pris fin dans les trois ans ayant précédé la date à laquelle le tableau a été dressé ou mis à jour la dernière fois :</p> <p>i. soit au cours de laquelle le certificat d'inscription d'un membre a été révoqué ou suspendu ou a été assorti de conditions ou de restrictions,</p> <p>ii. soit au cours de laquelle un membre a été tenu de verser une amende ou de comparaître pour être réprimandé, ou au cours de laquelle une ordonnance a été suspendue si un sous-comité du comité de discipline ou du comité d'aptitude professionnelle a ordonné de consigner au tableau l'issue de la procédure.</p> <p>4. Les renseignements désignés comme étant de nature publique dans les règlements.</p>	Accès aux renseignements
Panels specifying information in register	<p>(4) In disposing of a matter, a panel of the Registration, Discipline or Fitness to Practise Committee may, for the purposes of clause (2) (f), specify information to be included in the register.</p>	<p>(4) Lorsqu'il tranche une question, un sous-comité du comité d'inscription, du comité de discipline ou du comité d'aptitude professionnelle peut, pour l'application de l'alinéa (2) f), préciser les renseignements devant figurer au tableau.</p>	Renseignements précisés par les sous-comités
Panels directing results to be public	<p>(5) In disposing of a matter, a panel of the Discipline or Fitness to Practise Committee may, for the purposes of subparagraph ii of paragraph 3 of subsection (3), direct that the results of the proceeding be included in the register.</p>	<p>(5) Lorsqu'il tranche une question, un sous-comité du comité de discipline ou du comité d'aptitude professionnelle peut, pour l'application de la sous-disposition ii de la disposition 3 du paragraphe (3), ordonner que l'issue de la procédure soit précisée au tableau.</p>	Publication de l'issue sur ordre des sous-comités
Information from register	<p>(6) The Registrar shall provide to a person, upon the payment of a reasonable charge, a copy of any information in the register the person may obtain.</p>	<p>(6) Le registrateur fournit à une personne, moyennant le versement de frais raisonnables, une copie de tous les renseignements figurant au tableau qu'elle est autorisée à obtenir.</p>	Renseignements figurant au tableau
Suspension for non-payment of fees	<p>24. The Registrar may suspend a member's certificate of registration for failure to pay a prescribed fee after two months notice of the default and intention to suspend.</p>	<p>24 Le registrateur peut suspendre le certificat d'inscription d'un membre si ce dernier n'acquiesce pas les droits prescrits deux mois après avoir reçu un</p>	Suspension pour cause de non-acquittement des droits

COMPLAINTS

Panel for investigation of complaints

25.—(1) A complaint filed with the Registrar regarding the conduct or actions of a member shall be investigated by a panel selected by the chair of the Complaints Committee from among the members of the Committee.

Composition

(2) A panel shall be composed of at least three persons, at least one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(3) Three members of a panel constitute a quorum.

Complaint must be recorded

(4) A panel shall not be selected unless the complaint is in writing or is recorded on a tape, film, disk or other medium.

Notice to member

(5) The Registrar shall give the member who is the subject of a complaint notice of the complaint and of the provisions of subsection 26 (1).

Consideration by panel

26.—(1) A member who is the subject of a complaint may make written submissions to the panel within thirty days after receiving notice under subsection 25 (5).

Powers of panel

(2) A panel, after investigating a complaint regarding the conduct or actions of a member, considering the submissions of the member and considering or making reasonable efforts to consider all records and documents it considers relevant to the complaint, may do any one or more of the following:

1. Refer a specified allegation of the member's professional misconduct or incompetence to the Discipline Committee if the allegation is related to the complaint.
2. Refer the member to the Executive Committee for incapacity proceedings.
3. Require the member to appear before the panel or another panel of the Complaints Committee to be cautioned.
4. Take action it considers appropriate that is not inconsistent with the health profession Act, this Code, the regulations or by-laws.

Notice of decision

27. A panel shall give the complainant and the member who is the subject of the complaint,

- (a) a copy of its decision;
- (b) a copy of its reasons, if the panel decided to take no action with respect to a complaint or to do anything under paragraph 3 or 4 of subsection 26 (2); and
- (c) a notice advising the member and the complainant of any right to request a review they may have under subsection 29 (2).

Timely disposal

28.—(1) A panel shall dispose of a complaint within 120 days after the filing of the complaint.

If complaint not disposed of

(2) If a complaint regarding the conduct or actions of a member has not been disposed of by a panel within 120 days after the filing of the com-

avis de défaut de paiement et d'intention de suspendre.

PLAINTES

25 (1) Toute plainte relative à la conduite ou aux actes d'un membre qui est déposée auprès du registraire fait l'objet d'une enquête par un sous-comité dont les membres sont choisis par le président du comité des plaintes parmi les membres du comité.

(2) Le sous-comité se compose d'au moins trois personnes, dont au moins une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

(3) Trois membres constituent le quorum d'un sous-comité.

(4) Un sous-comité ne peut être constitué que si la plainte est présentée par écrit ou enregistrée sur une bande, un film, un disque ou un autre support.

(5) Le registraire avise de la plainte et des dispositions du paragraphe 26 (1) le membre qui fait l'objet de la plainte.

26 (1) Le membre qui fait l'objet d'une plainte peut présenter des observations par écrit au sous-comité dans les trente jours suivant la réception de l'avis visé au paragraphe 25 (5).

(2) Après avoir fait enquête sur une plainte relative à la conduite ou aux actes d'un membre, avoir étudié les observations du membre et avoir examiné ou avoir fait des efforts raisonnables pour examiner tous les documents et éléments d'information qui, selon lui, se rapportent à la plainte, le sous-comité peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

1. Renvoyer toute allégation précisée de faute professionnelle ou d'incompétence du membre au comité de discipline, si elle se rapporte à la plainte.
2. Adresser le membre au bureau aux fins de procédures pour incapacité.
3. Exiger du membre qu'il se présente devant le sous-comité ou un autre sous-comité du comité des plaintes pour recevoir un avertissement.
4. Prendre toute mesure qu'il estime opportune et qui n'est pas incompatible avec la loi sur une profession de la santé, le présent code, les règlements ou les règlements administratifs.

27 Le sous-comité donne au plaignant et au membre qui fait l'objet de la plainte les documents suivants :

- a) une copie de sa décision;
- b) une copie du texte des motifs, si le sous-comité a décidé de ne prendre aucune mesure à l'égard de la plainte ou de prendre la mesure prévue à la disposition 3 ou 4 du paragraphe 26 (2);
- c) un avis informant le membre et le plaignant de tout droit de demander un réexamen qui peut leur être conféré en vertu du paragraphe 29 (2).

28 (1) Le sous-comité statue sur la plainte dans les 120 jours qui suivent son dépôt.

(2) Si le sous-comité n'a pas statué sur la plainte relative à la conduite ou aux actes d'un membre dans les 120 jours qui suivent son dépôt, la Commis-

Sous-comité chargé de faire enquête sur les plaintes

Composition

Quorum

Redaction ou enregistrement obligatoire de la plainte

Avis adressé au membre

Examen par le sous-comité

Pouvoirs du sous-comité

Avis de décision

Délai

Cas où il n'est pas statué sur la plainte

plaint, the Board, on application of the member or the complainant, may require the Complaints Committee to ensure the complaint is disposed of.

If further delay

(3) If the complaint is not disposed of within sixty days after the Board's requirement, the Board shall investigate the complaint and make an order under subsection (5) within 120 days after the Board's requirement.

Board's investigatory powers

(4) In investigating a complaint, the Board has all the powers of a panel of the Complaints Committee and of the Registrar with respect to the investigation of the matter and, in particular, the Board may appoint an investigator under clause 75 (c).

Powers of Board

(5) After an investigation, the Board may do any one or more of the following:

1. Refer the matter to the Complaints Committee.
2. Make recommendations the Board considers appropriate to the Complaints Committee.
3. Require the Complaints Committee or a panel to do anything the Committee or a panel may do under the health profession Act and this Code except to request the Registrar to conduct an investigation.

Review by Board

29.—(1) Subject to section 30, the Board shall review a decision of a panel of the Complaints Committee if the Board receives a request under subsection (2).

Request for review

(2) The complainant or the member who is the subject of the complaint may request the Board to review a decision of a panel of the Complaints Committee unless the decision was,

- (a) to refer an allegation of professional misconduct or incompetence to the Discipline Committee; or
- (b) to refer the member to the Executive Committee for incapacity proceedings.

Time limit

(3) A request for a review may be made only within thirty days after the receipt of the notice of the right to request a review given under clause 27 (c).

Parties

(4) The complainant and the member who is the subject of the complaint are parties to a review.

When no review

30.—(1) The Board shall not review a decision if the party who requested the review withdraws the request and the other party consents.

Request in bad faith, etc.

(2) If the Board considers a request to review a decision to have been frivolous, vexatious, made in bad faith or otherwise an abuse of process, it shall give the parties notice that it intends not to proceed with the review and that the parties have a right to make written submissions within thirty days after receiving the notice.

Idem

(3) If the Board is satisfied, after considering the written submissions of the parties, that a request was frivolous, vexatious, made in bad faith or otherwise an abuse of process, the Board shall not review the decision.

Personal representative as complainant

31. A complainant's personal representative may act as the complainant for the purposes of a review

sion peut, à la demande du membre ou du plaignant, exiger du comité des plaintes qu'il fasse en sorte qu'il soit statué sur la plainte.

(3) S'il n'est toujours pas statué sur la plainte dans les soixante jours après que la Commission l'a exigé, cette dernière fait enquête sur la plainte et rend une ordonnance en vertu du paragraphe (5) dans les 120 jours après que la Commission a exigé qu'il soit statué sur la plainte.

Non-respect du délai prorogé

(4) Lorsqu'elle fait enquête sur une plainte, la Commission est dotée des pouvoirs d'un sous-comité du comité des plaintes et de ceux du registraire à l'égard de l'enquête sur la question et peut, notamment, nommer un enquêteur en vertu de l'alinéa 75 c).

Pouvoirs d'enquête de la Commission

(5) Après son enquête, la Commission peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

Pouvoirs de la Commission

1. Renvoyer la question au comité des plaintes.
2. Faire les recommandations qu'elle estime opportunes à l'intention du comité des plaintes.
3. Exiger du comité des plaintes ou d'un sous-comité qu'il prenne toute mesure que le comité ou un sous-comité est habilité à prendre en vertu de la loi sur une profession de la santé et du présent code, sauf s'il s'agit de demander au registraire de mener une enquête.

29 (1) Sous réserve de l'article 30, la Commission réexamine la décision d'un sous-comité du comité des plaintes si elle reçoit une demande aux termes du paragraphe (2).

Réexamen par la Commission

(2) Le plaignant ou le membre qui fait l'objet de la plainte peut demander à la Commission de réexaminer la décision d'un sous-comité du comité des plaintes, sauf si la décision :

Demande de réexamen

- a) soit renvoyait une allégation de faute professionnelle ou d'incompétence au comité de discipline;
- b) soit adressait le membre au bureau aux fins de procédures pour incapacité.

(3) La demande de réexamen ne peut être présentée que dans les trente jours suivant la réception de l'avis relatif au droit de demander un réexamen donné aux termes de l'alinéa 27 c).

Délai

(4) Sont parties à un réexamen le plaignant et le membre qui fait l'objet de la plainte.

Parties

30 (1) La Commission ne réexamine pas la décision si la partie qui demande le réexamen retire sa demande et que l'autre partie y consent.

Aucun réexamen

(2) Si la Commission estime qu'une demande de réexamen de décision est frivole, vexatoire ou faite de mauvaise foi, ou qu'elle constitue par ailleurs un usage abusif de la procédure, elle avise les parties de son intention de ne pas donner suite au réexamen et du droit qu'ont ces dernières de présenter des observations par écrit dans les trente jours suivant la réception de l'avis.

Demande faite de mauvaise foi

(3) Si la Commission est convaincue, après étude des observations écrites des parties, qu'une demande est frivole, vexatoire ou faite de mauvaise foi, ou qu'elle constitue par ailleurs un usage abusif de la procédure, elle ne réexamine pas la décision.

Idem

31 Le représentant d'un plaignant peut agir à titre de plaignant aux fins du réexamen de la décision par

Représentant à titre de plaignant

of the decision by the Board if the complainant dies or becomes incapacitated.

Record of decision to be reviewed

32.—(1) If the Board is requested to review a decision, the Registrar shall give the Board, within fifteen days after the Board's request, a record of the investigation and the documents and things upon which the decision was based.

Disclosure

(2) Before reviewing a decision, the Board shall disclose to the parties everything given to it by the Registrar under subsection (1).

Exceptions

(3) The Board may refuse to disclose anything that may, in its opinion,

- (a) disclose matters involving public security;
- (b) undermine the integrity of the complaint investigation and review process;
- (c) disclose financial or personal or other matters of such a nature that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that disclosure be made;
- (d) prejudice a person involved in a criminal proceeding or in a civil suit or proceeding; or
- (e) jeopardize the safety of any person.

Conduct of review

33.—(1) In a review, the Board shall consider either or both of,

- (a) the adequacy of the investigation conducted; or
- (b) the reasonableness of the decision.

Procedure

(2) In conducting a review, the Board,

- (a) shall give the party requesting the review an opportunity to comment on the matters set out in clauses (1) (a) and (b) and the other party an opportunity to respond to those comments;
- (b) may require the College to send a representative;
- (c) may question the parties and the representative of the College;
- (d) may permit the parties to make representations with respect to issues raised by any questions asked under clause (c); and
- (e) shall not allow the parties or the representative of the College to question each other.

Procedural provisions

34. The following provisions apply with necessary modifications to a review by the Board:

1. Section 43 (no communication by panel members).
2. Section 45 (hearings open).
3. Section 47 (sexual misconduct witnesses).
4. Section 50 (members of panel who participate).
5. Section 55 (release of evidence).

Powers of Board

35.—(1) After conducting a review of a decision, the Board may do any one or more of the following:

la Commission si le plaignant décède ou est frappé d'incapacité.

32 (1) Si demande est faite à la Commission de réexaminer une décision, le registrateur lui remet dans les quinze jours suivant sa demande un compte rendu de l'enquête, ainsi que les documents et choses sur lesquels la décision était fondée.

Examen du compte rendu de la décision

(2) Avant de procéder au réexamen de la décision, la Commission divulgue auprès des parties tout ce que lui a remis le registrateur aux termes du paragraphe (1).

Divulguion

(3) La Commission peut refuser de divulguer tout ce qui, à son avis, risque, selon le cas :

Exceptions

- a) d'entraîner la divulgation de questions touchant à la sécurité publique;
- b) d'ébranler l'intégrité du processus d'enquête sur la plainte et de réexamen;
- c) de divulguer des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel la divulgation doit avoir lieu;
- d) de léser une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile;
- e) de mettre en danger la sécurité de quiconque.

33 (1) Lors d'un réexamen, la Commission prend en considération l'un et l'autre, ou un seul, des éléments suivants :

Procédure de réexamen

- a) le caractère adéquat de l'enquête menée;
- b) le caractère raisonnable de la décision.

(2) Lorsqu'elle procède à un réexamen, la Commission :

Procédure

- a) donne à la partie qui demande le réexamen la possibilité de faire des commentaires sur les questions énoncées aux alinéas (1) a) et b), et à l'autre partie la possibilité d'y répondre;
- b) peut exiger de l'ordre qu'il envoie un représentant;
- c) peut interroger les parties et le représentant de l'ordre;
- d) peut permettre aux parties de présenter des observations sur les questions soulevées par toute question posée en vertu de l'alinéa c);
- e) ne permet pas aux parties et au représentant de l'ordre de s'interroger mutuellement.

34 Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, aux réexamens effectués par la Commission :

Dispositions relatives à la procédure

1. L'article 43 (interdiction aux membres des sous-comités de communiquer).
2. L'article 45 (audiences publiques).
3. L'article 47 (témoins d'inconduite sexuelle).
4. L'article 50 (membres du sous-comité qui participent).
5. L'article 55 (communication des preuves).

35 (1) Après avoir effectué le réexamen d'une décision, la Commission peut prendre l'une ou l'autre, ou plusieurs, des mesures suivantes :

Pouvoirs de la Commission

	1. Confirm all or part of the decision.	1. Confirmer la décision, en totalité ou en partie.	
	2. Make recommendations the Board considers appropriate to the Complaints Committee.	2. Faire les recommandations qu'elle estime opportunes à l'intention du comité des plaintes.	
	3. Require the Complaints Committee to do anything the Committee or a panel may do under the health profession Act and this Code except to request the Registrar to conduct an investigation.	3. Exiger du comité des plaintes qu'il prenne toute mesure qu'il est habilité à prendre en vertu de la loi sur une profession de la santé et du présent code, sauf s'il s'agit de demander au registrateur de mener une enquête.	
Decision in writing	(2) The Board shall give its decision and reasons in writing to the parties and the Complaints Committee.	(2) La Commission communique sa décision motivée par écrit aux parties et au comité des plaintes.	Décision par écrit
	DISCIPLINE	DISCIPLINE	
Executive Committee referral	36. The Executive Committee may refer a specified allegation of a member's professional misconduct or incompetence to the Discipline Committee.	36 Le bureau peut renvoyer au comité de discipline toute allégation précisée de faute professionnelle ou d'incompétence d'un membre.	Renvoi des allégations par le bureau
Interim suspension	37.—(1) The Executive Committee may, subject to subsection (5), make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if,	37 (1) Le bureau peut, sous réserve du paragraphe (5), rendre une ordonnance provisoire enjoignant au registrateur de suspendre le certificat d'inscription d'un membre ou de l'assortir de conditions ou de restrictions si :	Suspension provisoire
	(a) an allegation is referred to the Discipline Committee; and	a) d'une part, une allégation est renvoyée au comité de discipline;	
	(b) it is of the opinion that the conduct of the member exposes or is likely to expose his or her patients to harm or injury.	b) d'autre part, il est d'avis que la conduite du membre expose ou exposera vraisemblablement ses patients à un préjudice ou à des blessures.	
Procedure following interim suspension	(2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Discipline Committee,	(2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité de discipline :	Procédure suivant la suspension provisoire
	(a) the College shall prosecute the matter expeditiously; and	a) d'une part, l'ordre traite la question avec célérité;	
	(b) the Discipline Committee shall give precedence to the matter.	b) d'autre part, le comité de discipline donne priorité à la question.	
Duration of order	(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Discipline Committee.	(3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité de discipline.	Effet de l'ordonnance
Panel's order	(4) In a matter in which an order under subsection (1) was made, an order of a panel of the Discipline Committee directing the Registrar to revoke, suspend or impose conditions on a member's certificate takes effect immediately despite any appeal.	(4) Dans le cas d'une question à l'égard de laquelle a été rendue l'ordonnance prévue au paragraphe (1), l'ordonnance d'un sous-comité du comité de discipline enjoignant au registrateur de révoquer ou de suspendre le certificat d'un membre, ou de l'assortir de conditions, prend effet immédiatement, même en cas d'appel.	Ordonnance d'un sous-comité
Restrictions on orders	(5) No order shall be made under subsection (1) with respect to a member by the Executive Committee unless the member has been given,	(5) Aucune ordonnance ne peut être rendue en vertu du paragraphe (1) à l'égard d'un membre par le bureau sans que le membre :	Restrictions relatives aux ordonnances
	(a) notice of the Committee's intention to make the order; and	a) ait été avisé de l'intention du bureau de rendre l'ordonnance;	
	(b) at least fourteen days to make written submissions to the Committee.	b) ait bénéficié d'un délai d'au moins quatorze jours pour présenter des observations par écrit au bureau.	
Panel for discipline hearing	38.—(1) The chair of the Discipline Committee shall select a panel from among the members of the Committee to hold a hearing of allegations of a member's professional misconduct or incompetence referred to the Committee by the Executive or Complaints Committee.	38 (1) Le président du comité de discipline constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur les allégations de faute professionnelle ou d'incompétence d'un membre, renvoyées au comité par le bureau ou par le comité des plaintes.	Sous-comité constitué pour les questions disciplinaires
Composition	(2) A panel shall be composed of at least three and no more than five persons, at least two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.	(2) Le sous-comité se compose d'au moins trois et d'au plus cinq personnes, dont au moins deux sont des personnes nommées au conseil par le lieutenant-gouverneur en conseil.	Composition
Idem	(3) At least one of the members of a panel shall be both a member of the College and a member of the Council.	(3) Au moins un des membres du sous-comité est à la fois membre de l'ordre et membre du conseil.	Idem

Exclusion from panel	(4) No person shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing.	(4) Ne peut être choisi pour faire partie du sous-comité quiconque a participé à l'enquête sur ce qui doit constituer l'objet de l'audience du sous-comité.	Exclusion
Quorum	(5) Three members of a panel, at least one of whom must be a member who was appointed to the Council by the Lieutenant Governor in Council, constitute a quorum.	(5) Trois membres, dont au moins un doit avoir été nommé au conseil par le lieutenant-gouverneur en conseil, constituent le quorum d'un sous-comité.	Quorum
Panel members deemed to continue	39. A member of a panel who ceases to be a member of the Discipline Committee after a hearing of a matter has commenced before the panel shall be deemed, for the purposes of dealing with that matter, to remain a member of the panel until the final disposition of the matter.	39 Le membre d'un sous-comité qui cesse d'être membre du comité de discipline après qu'a commencé l'audition d'une question devant le sous-comité est réputé, aux fins du règlement de la question, être toujours membre du sous-comité jusqu'à ce que la question soit tranchée de façon définitive.	Les membres du sous-comité sont réputés maintenus
Amendment of notice of hearing	40. A panel may at any time permit a notice of hearing of allegations against a member to be amended to correct errors or omissions of a minor or clerical nature if it is of the opinion that it is just and equitable to do so and the panel may make any order it considers necessary to prevent prejudice to the member.	40 Le sous-comité peut en tout temps permettre que l'avis d'audience relative aux allégations faites contre un membre soit modifié pour corriger les erreurs ou omissions mineures ou les coquilles qui s'y trouvent, s'il est d'avis qu'il est juste et équitable de ce faire. Le sous-comité peut rendre toute ordonnance qu'il estime nécessaire pour éviter tout préjudice au membre.	Modification des avis d'audience
Parties	41. The College and the member against whom allegations have been made are parties to a hearing.	41 Sont parties à l'audience l'ordre et le membre contre lequel des allégations ont été faites.	Parties
Disclosure of evidence	42. —(1) Evidence against a member is not admissible at a hearing of allegations against the member unless the member is given, at least ten days before the hearing, <ul style="list-style-type: none"> (a) in the case of written or documentary evidence, an opportunity to examine the evidence; (b) in the case of evidence of an expert, a copy of the expert's written report or if there is no written report, a written summary of the evidence; or (c) in the case of evidence of a witness, the identity of the witness. 	42 (1) Les preuves contre un membre ne sont recevables lors de l'audition des allégations faites contre lui que si, au moins dix jours avant l'audience, il a été donné au membre, selon le cas : <ul style="list-style-type: none"> a) dans le cas d'éléments de preuve écrite ou documentaire, la possibilité de les examiner; b) dans le cas de preuves provenant d'un expert, une copie du rapport écrit de l'expert, ou à défaut d'un tel rapport, un sommaire écrit des preuves; c) dans le cas de preuves testimoniales, l'identité des témoins. 	Divulgence des preuves
Exception	(2) A panel may, in its discretion, allow the introduction of evidence that is inadmissible under subsection (1) and may make directions it considers necessary to ensure that the member is not prejudiced.	(2) Le sous-comité peut, à sa discrétion, permettre la présentation de preuves qui ne sont pas recevables aux termes du paragraphe (1) et peut donner les directives qu'il estime nécessaires pour empêcher que le membre soit lésé.	Exception
No communication by panel members	43. No member of a panel holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or the party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication.	43 Aucun membre d'un sous-comité qui tient une audience ne peut s'entretenir, en dehors de l'audience, avec une partie ou son représentant à propos de l'objet de l'audience, sans que l'autre partie ait été avisée de l'objet de l'entretien et qu'il lui soit donné la possibilité d'y assister.	Interdiction aux membres des sous-comités de communiquer
Legal advice	44. If a panel obtains legal advice with respect to a hearing, it shall make the nature of the advice known to the parties and they may make submissions with respect to the advice.	44 Si un sous-comité obtient des avis juridiques relativement à une audience, il en fait connaître la nature aux parties et ces dernières peuvent présenter des observations à cet égard.	Avis juridiques
Hearings public	45. —(1) A hearing shall, subject to subsection (2), be open to the public.	45 (1) Sous réserve du paragraphe (2), les audiences sont publiques.	Audiences publiques
Exclusion of public	(2) The panel may make an order that the public be excluded from a hearing or any part of it if the panel is satisfied that, <ul style="list-style-type: none"> (a) matters involving public security may be disclosed; (b) financial or personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; 	(2) Le sous-comité peut rendre une ordonnance portant qu'une audience ou une partie de celle-ci doit se tenir à huis clos s'il est convaincu que, selon le cas : <ul style="list-style-type: none"> a) des questions touchant à la sécurité publique risquent d'être divulguées; b) risquent d'être divulguées lors de l'audience des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne intéressée ou dans l'intérêt public qu'adhérer au principe selon lequel les audiences doivent être publiques; 	Huis clos

	(c) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or	c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;	
	(d) the safety of a person may be jeopardized.	d) la sécurité de quiconque risque d'être mise en danger.	
Orders preventing public disclosure	(3) In situations in which the panel may make an order that the public be excluded from a hearing, it may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.	(3) Dans les cas où le sous-comité peut rendre une ordonnance portant que l'audience doit se tenir à huis clos, il peut rendre les ordonnances qu'il estime nécessaires pour empêcher la divulgation dans le public des questions dont il a été fait état lors de l'audience, et notamment proscrire la publication ou la radiodiffusion de ces questions.	Ordonnances interdisant la divulgation
Public information may be disclosed	(4) No order shall be made under subsection (3) that prevents the publication of anything that is contained in the register and available to the public.	(4) Nulle ordonnance empêchant la publication des renseignements qui figurent au tableau et qui sont accessibles au public ne peut être rendue en vertu du paragraphe (3).	Possibilité de divulguer les renseignements publics
Exclusion of public	(5) The panel may make an order that the public be excluded from the part of a hearing dealing with a motion for an order under subsection (2).	(5) Le sous-comité peut rendre une ordonnance portant que la partie de l'audience qui traite d'une motion visant à obtenir une ordonnance en vertu du paragraphe (2) doit se tenir à huis clos.	Huis clos
Orders with respect to matters in submissions	(6) The panel may make any order necessary to prevent the public disclosure of matters disclosed in the submissions relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.	(6) Le sous-comité peut rendre toute ordonnance nécessaire pour empêcher la divulgation dans le public des questions dont il est fait état dans les observations relatives à une motion visée au paragraphe (5), et notamment proscrire la publication ou la radiodiffusion de ces questions.	Ordonnances à l'égard des questions énoncées dans les observations
Reasons for order, etc.	(7) The panel shall ensure that any order it makes under this section and its reasons are available to the public in writing.	(7) Le sous-comité fait en sorte que toute ordonnance qu'il rend en vertu du présent article soit accessible au public sous forme écrite et accompagnée des motifs.	Motifs à l'appui de l'ordonnance
Reconsidering of order	(8) The panel may reconsider an order made under subsection (2) or (3) at the request of any person or on its own motion.	(8) Le sous-comité peut réexaminer toute ordonnance rendue en vertu du paragraphe (2) ou (3), à la demande de quiconque ou de sa propre initiative.	Réexamen de l'ordonnance
Exception to closed hearings	46. If a panel makes an order under subsection 45 (2) wholly or partly because of the desirability of avoiding disclosure of matters in the interest of a person affected, the panel may allow the person and his or her personal representative to attend the hearing.	46 Si un sous-comité rend l'ordonnance prévue au paragraphe 45 (2) en totalité ou en partie parce qu'il s'avère souhaitable d'éviter la divulgation de questions dans l'intérêt d'une personne intéressée, le sous-comité peut permettre à cette personne ou à son représentant d'assister à l'audience.	Exception aux audiences à huis clos
Sexual misconduct witnesses	47. A panel shall, on the request of a witness whose testimony is in relation to allegations of a member's misconduct of a sexual nature involving the witness, make an order that no person shall publish the identity of the witness or any information that could disclose the identity of the witness.	47 Le sous-comité, à la demande d'un témoin dont le témoignage se rapporte aux allégations d'inconduite d'ordre sexuel de la part d'un membre et qui concerne le témoin, rend une ordonnance portant que nul ne doit rendre publics l'identité du témoin ni aucun renseignement susceptible de révéler l'identité du témoin.	Témoins d'inconduite sexuelle
Transcript of hearings	48.—(1) The panel holding a hearing shall ensure that, (a) the oral evidence is recorded; (b) copies of the transcript of the hearing are available to a party on the party's request at the party's expense; and (c) copies of the transcript of any part of the hearing that is not the subject of an order prohibiting publication are available to any person at that person's expense.	48 (1) Le sous-comité qui tient une audience veille à ce que : a) les témoignages oraux soient consignés; b) la copie de la transcription de l'audience soit accessible aux parties qui en font la demande, à leurs frais; c) la copie de la transcription de toute partie de l'audience dont la publication n'est pas interdite par ordonnance soit accessible à quiconque, à ses frais.	Transcription des audiences
Transcripts filed with court	(2) If a transcript of a part of a hearing that is the subject of an order prohibiting publication is filed with a court in respect of proceedings, only the court and the parties to the proceedings may examine it unless the court orders otherwise.	(2) Si la transcription d'une partie de l'audience qui fait l'objet d'une ordonnance en interdisant la publication est déposée auprès d'un tribunal relativement à une instance, seuls le tribunal et les parties à l'instance peuvent l'examiner, sauf ordonnance contraire du tribunal.	Transcription déposée auprès du tribunal
Admissibility of evidence	49. Despite the <i>Statutory Powers Procedure Act</i> , nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the findings of a panel shall be based exclusively on evidence admitted before it.	49 Malgré la loi intitulée <i>Statutory Powers Procedure Act</i> (« <i>Loi sur l'exercice des compétences légales</i> »), sont irrecevables lors d'une audience les preuves qui ne seraient pas recevables devant un tribunal dans le cadre d'une action civile, et les conclu-	Recevabilité des preuves

Members of panel who participate	<p>50. Only the members of a panel who were present throughout a hearing shall participate in the panel's decision.</p>	<p>sions d'un sous-comité se fondent uniquement sur les preuves qu'il reçoit.</p>	<p>Membres du sous-comité qui participent</p>
Professional misconduct	<p>51.—(1) A panel shall find that a member has committed an act of professional misconduct if,</p> <ol style="list-style-type: none"> (a) the member has been found guilty of an offence that is relevant to the member's suitability to practise; (b) the governing body of a health profession in a jurisdiction other than Ontario has found that the member committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined in the regulations; or (c) the member has committed an act of professional misconduct as defined in the regulations. 	<p>50 Seuls les membres d'un sous-comité qui étaient présents du début d'une audience à la fin participent à la décision du sous-comité.</p>	<p>Faute professionnelle</p>
Orders	<p>(2) If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:</p> <ol style="list-style-type: none"> 1. Directing the Registrar to revoke the member's certificate of registration. 2. Directing the Registrar to suspend the member's certificate of registration for a specified period of time. 3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time. 4. Requiring the member to appear before the panel to be reprimanded. 5. Requiring the member to pay a fine of not more than \$10,000 to the Treasurer of Ontario. 	<p>51 (1) Le sous-comité conclut qu'un membre a commis une faute professionnelle si, selon le cas :</p> <ol style="list-style-type: none"> a) le membre a été déclaré coupable d'une infraction qui se rapporte à son aptitude à exercer sa profession; b) le corps dirigeant d'une profession de la santé dans un ressort autre que l'Ontario a conclu que le membre avait commis une faute professionnelle qui, de l'avis du sous-comité, constitue une faute professionnelle telle que la définissent les règlements; c) le membre a commis une faute professionnelle telle que la définissent les règlements. 	<p>Ordonnances</p>
Idem	<p>(3) In making an order under paragraph 2 or 3 of subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.</p>	<p>(2) Si un sous-comité conclut qu'un membre a commis une faute professionnelle, il peut, par ordonnance :</p> <ol style="list-style-type: none"> 1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre. 2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre pour une durée déterminée. 3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie. 4. Exiger du membre qu'il se présente devant le sous-comité pour être réprimandé. 5. Exiger du membre qu'il verse une amende d'au plus 10 000 \$ au trésorier de l'Ontario. 	<p>Ordonnances</p>
Suspension of order	<p>(4) A panel may suspend the effect of an order made under subsection (2) for a specified period and on specified conditions.</p>	<p>(3) Lorsqu'il rend une ordonnance en vertu de la disposition 2 ou 3 du paragraphe (2), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.</p>	<p>Idem</p>
Incompetence	<p>52.—(1) A panel shall find a member to be incompetent if the member's professional care of a patient displayed a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates that the member is unfit to continue to practise or that the member's practice should be restricted.</p>	<p>(4) Le sous-comité peut suspendre l'effet d'une ordonnance rendue en vertu du paragraphe (2) pour une durée déterminée et dans des conditions précisées.</p>	<p>Suspension d'ordonnance</p>
Order	<p>(2) If a panel finds a member is incompetent, it may make an order doing any one or more of the following:</p> <ol style="list-style-type: none"> 1. Directing the Registrar to revoke the member's certificate of registration. 2. Directing the Registrar to suspend the member's certificate of registration. 3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time. 	<p>52 (1) Le sous-comité conclut à l'incompétence d'un membre si les soins professionnels donnés à un patient manifestent un manque de connaissance, de compétence ou de jugement, ou de l'indifférence pour le bien-être du patient, d'un ordre ou dans une mesure qui démontre que le membre est incapable d'exercer sa profession ou que ses activités professionnelles doivent être restreintes.</p>	<p>Incompétence</p>
		<p>(2) Si le sous-comité conclut à l'incompétence d'un membre, il peut, par ordonnance :</p> <ol style="list-style-type: none"> 1. Enjoindre au registrateur de révoquer le certificat d'inscription du membre. 2. Enjoindre au registrateur de suspendre le certificat d'inscription du membre. 3. Enjoindre au registrateur d'assortir de conditions et de restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie. 	<p>Ordonnance</p>

Idem	(3) In making an order under subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.	(3) Lorsqu'il rend une ordonnance en vertu du paragraphe (2), le sous-comité peut préciser les conditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.	Idem
Costs if proceedings unwarranted	53. If a panel is of the opinion that the commencement of proceedings was unwarranted, it may make an order requiring the College to pay all or part of the member's legal costs.	53 Le sous-comité qui est d'avis que l'introduction d'une instance était injustifiée peut rendre une ordonnance exigeant de l'ordre qu'il paie tout ou partie des frais judiciaires du membre.	Frais en cas d'instances injustifiées
Decision to complainant	54. A panel shall give its decision and reasons in writing to the parties and, if the matter had been referred to the Discipline Committee by the Complaints Committee, to the complainant in the matter.	54 Le sous-comité communique sa décision motivée par écrit aux parties et, si la question a été renvoyée au comité de discipline par le comité des plaintes, au plaignant.	Communication de la décision au plaignant
Release of evidence	55. The Discipline Committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined.	55 Le comité de discipline communique, sur demande, les documents et choses présentés en preuve lors d'une audience à la personne qui les a produits, dans un délai raisonnable après que la question en litige a été tranchée de façon définitive.	Communication des preuves
Publication of decisions	56. —(1) The College shall publish a panel's decision and its reasons, or a summary of its reasons, in its annual report and may publish the decision and reasons or summary in any other publication of the College.	56 (1) L'ordre doit publier la décision motivée du sous-comité, ou la décision et un résumé des motifs à l'appui de celle-ci, dans son rapport annuel. Il peut publier la décision motivée ou la décision et le résumé des motifs dans n'importe quelle autre de ses publications.	Publication des décisions
Publication of member's name	(2) In publishing a decision and reasons or summary under subsection (1), the College shall publish the name of the member who was the subject of the proceeding if, <ul style="list-style-type: none"> (a) the results of the proceeding may be obtained by a person from the register; or (b) the member requests the publication of his or her name. 	(2) Lorsqu'il publie une décision motivée ou une décision et un résumé des motifs aux termes du paragraphe (1), l'ordre publie le nom du membre qui fait l'objet de l'instance si, selon le cas : <ul style="list-style-type: none"> a) quiconque peut connaître l'issue de l'instance en consultant le tableau; b) le membre demande que son nom soit publié. 	Publication du nom du membre
Withholding of member's name	(3) The College shall not publish the member's name unless it is required to do so under subsection (2).	(3) L'ordre ne publie pas le nom du membre à moins d'y être tenu aux termes du paragraphe (2).	Non-publication du nom du membre
INCAPACITY			
Registrar's inquiry	57. If the Registrar believes that a member may be incapacitated, the Registrar shall make inquiries he or she considers appropriate and shall report the results of the inquiries to the Executive Committee.	57 Le registrateur qui croit qu'un membre est peut-être frappé d'incapacité mène les enquêtes qu'il estime appropriées et présente au bureau un rapport sur le résultat de ces enquêtes.	Enquête du registrateur
Appointment of board of inquiry	58. —(1) The Executive Committee may appoint a board of inquiry to inquire into whether a member is incapacitated if it receives, <ul style="list-style-type: none"> (a) a report from the Registrar under section 57; or (b) a referral from a panel of the Complaints Committee under paragraph 2 of subsection 26 (2). 	58 (1) Une commission d'enquête chargée de mener une enquête afin d'établir si un membre est frappé d'incapacité peut être constituée par le bureau si celui-ci reçoit, selon le cas : <ul style="list-style-type: none"> a) un rapport du registrateur visé à l'article 57; b) un renvoi effectué par un sous-comité du comité des plaintes en vertu de la disposition 2 du paragraphe 26 (2). 	Constitution d'une commission d'enquête
Notice to member	(2) The Executive Committee shall give a member notice that it intends to appoint a board of inquiry to inquire into whether the member is incapacitated before it appoints a board.	(2) Le bureau avise au préalable le membre de son intention de constituer une commission d'enquête pour mener une enquête afin d'établir si le membre est frappé d'incapacité.	Avis adressé au membre
Composition of board	(3) A board of inquiry shall be composed of one member of the Council who was appointed by the Lieutenant Governor in Council and two or more members of the College.	(3) La commission d'enquête se compose d'un membre du conseil qui a été nommé par le lieutenant-gouverneur en conseil et d'au moins deux membres de l'ordre.	Composition de la commission
Inquiries by board	59. —(1) A board of inquiry shall make inquiries it considers appropriate.	59 (1) La commission d'enquête mène les enquêtes qu'elle estime appropriées.	Enquêtes de la commission
Physical or mental examinations	(2) If, after making inquiries, a board of inquiry has reasonable and probable grounds to believe that the member who is the subject of the inquiry is incapacitated, the board may require the member to submit to physical or mental examinations conducted or ordered by a health professional specified by the board and may, subject to section 63, make an order	(2) Si, au terme de ses enquêtes, la commission d'enquête a des motifs raisonnables et probables de croire que le membre qui fait l'objet de l'enquête est frappé d'incapacité, elle peut exiger de lui qu'il subisse des examens physiques ou mentaux pratiqués ou ordonnés par un professionnel de la santé qu'elle désigne et peut, sous réserve de l'article 63, rendre	Examens physiques ou mentaux

directing the Registrar to suspend the member's certificate of registration until he or she submits to the examinations.

60. A board of inquiry shall report to the Executive Committee and shall give a copy of its report and a copy of any report on an examination required under subsection 59 (2) to the member who was the subject of the inquiry.

61. After receiving the report of a board of inquiry, the Executive Committee may refer the matter to the Fitness to Practise Committee.

62.—(1) The Executive Committee may, subject to section 63, make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if,

- (a) it has referred a matter involving the member to the Fitness to Practise Committee; and
- (b) it is of the opinion that the physical or mental state of the member exposes or is likely to expose his or her patients to harm or injury.

(2) If an order is made under subsection (1) by the Executive Committee in relation to a matter referred to the Fitness to Practise Committee,

- (a) the College shall prosecute the matter expeditiously; and
- (b) the Fitness to Practise Committee shall give precedence to the matter.

(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Fitness to Practise Committee.

63. No order shall be made with respect to a member by a board of inquiry under subsection 59 (2) or by the Executive Committee under subsection 62 (1) unless the member has been given,

- (a) notice of the intention of the board or Committee to make the order;
- (b) at least fourteen days to make written submissions to the board or Committee; and
- (c) in the case of an order by the Executive Committee under subsection 62 (1), a copy of the provisions of section 62.

64.—(1) The chair of the Fitness to Practise Committee shall select a panel from among the members of the Committee to hold a hearing of any matter referred to the Committee by the Executive Committee.

(2) A panel shall be composed of at least three persons, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(3) Three members of a panel constitute a quorum.

65. The College, the member who is alleged to be incapacitated and any other person specified by the panel are parties to a hearing.

66.—(1) A report prepared and signed by a health professional containing his or her findings and the facts upon which they are based is admissible as evidence at a hearing without proof of its making or of the health professional's signature if the party introducing the report gives the other parties a copy of the report at least ten days before the hearing.

une ordonnance enjoignant au registrateur de suspendre le certificat d'inscription du membre jusqu'à ce qu'il ait subi ces examens.

60 La commission d'enquête présente un rapport au bureau et en remet une copie, ainsi qu'une copie de tout rapport relatif aux examens exigés aux termes du paragraphe 59 (2), au membre qui a fait l'objet de l'enquête.

61 Après avoir reçu le rapport d'une commission d'enquête, le bureau peut renvoyer la question au comité d'aptitude professionnelle.

62 (1) Le bureau peut, sous réserve de l'article 63, rendre une ordonnance provisoire enjoignant au registrateur de suspendre le certificat d'inscription d'un membre ou de l'assortir de conditions ou de restrictions si :

- a) d'une part, il a renvoyé au comité d'aptitude professionnelle une question mettant en cause le membre;
- b) d'autre part, il est d'avis que l'état physique ou mental du membre expose ou exposera vraisemblablement ses patients à un préjudice ou à des blessures.

(2) Si le bureau rend une ordonnance en vertu du paragraphe (1) à l'égard d'une question renvoyée au comité d'aptitude professionnelle :

- a) d'une part, l'ordre traite la question avec célérité;
- b) d'autre part, le comité d'aptitude professionnelle donne priorité à la question.

(3) L'ordonnance prévue au paragraphe (1) demeure en vigueur jusqu'à ce que la question soit tranchée par un sous-comité du comité d'aptitude professionnelle.

63 Aucune ordonnance ne peut être rendue à l'égard d'un membre par une commission d'enquête en vertu du paragraphe 59 (2) ou par le bureau en vertu du paragraphe 62 (1) sans que le membre :

- a) ait été avisé de l'intention de la commission ou du bureau de rendre l'ordonnance;
- b) ait bénéficié d'un délai d'au moins quatorze jours pour présenter des observations par écrit à la commission ou au bureau;
- c) ait reçu copie des dispositions de l'article 62, dans le cas d'une ordonnance émanant du bureau, prévue au paragraphe 62 (1).

64 (1) Le président du comité d'aptitude professionnelle constitue un sous-comité dont les membres sont choisis parmi les membres du comité pour tenir une audience sur toute question renvoyée au comité par le bureau.

(2) Le sous-comité se compose d'au moins trois personnes, dont l'une est une personne nommée au conseil par le lieutenant-gouverneur en conseil.

(3) Trois membres constituent le quorum d'un sous-comité.

65 Sont parties à une audience l'ordre, le membre dont il est allégué qu'il est frappé d'incapacité et toute autre personne que précise le sous-comité.

66 (1) Tout rapport dressé et signé par un professionnel de la santé et qui comprend ses conclusions et les faits sur lesquels celles-ci sont fondées est recevable en preuve lors d'une audience sans qu'il soit nécessaire de prouver son authenticité ou celle de la signature du professionnel de la santé, si

Board's report

Referral to Fitness to Practise Committee

Interim suspension

Procedure following interim suspension

Duration of order

Restrictions on orders

Panels for Fitness to Practise hearings

Composition

Quorum

Parties

Reports of health professionals

Rapport de la commission

Renvoi au comité d'aptitude professionnelle

Suspension provisoire

Procédure suivant la suspension provisoire

Effet de l'ordonnance

Restrictions relatives aux ordonnances

Sous-comité constitué pour les questions d'aptitude professionnelle

Composition

Quorum

Parties

Rapports de professionnels de la santé

Testimony of health professionals

(2) A health professional may not give evidence in his or her professional capacity at a hearing unless a report, prepared and signed by the health professional containing his or her findings and the facts upon which they are based, is introduced as evidence.

Cross-examination

(3) If a report described in subsection (1) is introduced by a party, the other parties may summon and cross-examine the person who prepared the report.

Procedural provisions

67. The following provisions apply with necessary modifications to a hearing by a panel:

1. Subsection 22 (4) (findings of fact).
2. Subsection 38 (4) (exclusion from panel).
3. Section 39 (panel members deemed to continue).
4. Section 42 (disclosure of evidence).
5. Section 43 (no communication by panel members).
6. Section 44 (legal advice).
7. Section 47 (sexual misconduct witnesses).
8. Section 50 (members of panel who participate).
9. Section 55 (release of evidence).

Hearings closed

68.—(1) A hearing shall, subject to subsection (2), be closed to the public.

Open on request of member in some cases

(2) A hearing shall be open to the public if the person who is alleged to be incapacitated requests it in a written notice received by the Registrar before the day the hearing commences, unless the panel is satisfied that,

- (a) matters involving public security may be disclosed;
- (b) financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected other than the person whose capacity is being investigated or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;
- (c) a person involved in a criminal proceeding or civil suit may be prejudiced; or
- (d) the safety of any person may be jeopardized.

Orders

69.—(1) If a panel finds that a member is incapacitated, it shall make an order doing any one or more of the following:

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.

Idem

(2) In making an order under subsection (1), a panel may specify criteria to be satisfied for the

la partie qui le présente en remet une copie aux autres parties au moins dix jours avant l'audience.

(2) Un professionnel de la santé ne peut témoigner en sa qualité de professionnel à une audience que s'il est présenté en preuve un rapport dressé et signé par lui et qui comprend ses conclusions et les faits sur lesquels celles-ci sont fondées.

Témoignage des professionnels de la santé

(3) Si le rapport visé au paragraphe (1) est présenté par une partie, les autres parties peuvent assigner et contre-interroger la personne qui a dressé le rapport.

Contre-interrogatoire

67 Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, aux audiences tenues par les sous-comités :

Dispositions relatives à la procédure

1. Le paragraphe 22 (4) (conclusions de fait).
2. Le paragraphe 38 (4) (exclusion).
3. L'article 39 (les membres du sous-comité sont réputés maintenus).
4. L'article 42 (divulgence des preuves).
5. L'article 43 (interdiction aux membres des sous-comités de communiquer).
6. L'article 44 (avis juridiques).
7. L'article 47 (témoins d'inconduite sexuelle).
8. L'article 50 (membres du sous-comité qui participent).
9. L'article 55 (communication des preuves).

68 (1) Sous réserve du paragraphe (2), les audiences sont tenues à huis clos.

Audiences à huis clos

(2) Une audience est publique si la personne dont il est allégué qu'elle est frappée d'incapacité en fait la demande par un avis écrit que le registraire reçoit avant la date à laquelle commence l'audience, sauf si le sous-comité est convaincu que, selon le cas :

Audience publique sur demande du membre dans certains cas

- a) des questions touchant à la sécurité publique risquent d'être divulguées;
- b) risquent d'être divulguées lors de l'audience des questions financières, personnelles ou autres de nature telle qu'il vaut mieux, compte tenu des circonstances, éviter leur divulgation dans l'intérêt de toute personne intéressée, à l'exception de la personne dont la capacité fait l'objet d'une enquête, ou dans l'intérêt public qu'adhérer au principe selon lequel les audiences doivent être publiques;
- c) une personne engagée dans une instance criminelle ou dans une poursuite ou instance civile pourrait être lésée;
- d) la sécurité de quiconque risque d'être mise en danger.

69 (1) Si un sous-comité conclut qu'un membre est frappé d'incapacité, il doit, par ordonnance :

Ordonnance

1. Enjoindre au registraire de révoquer le certificat d'inscription du membre.
2. Enjoindre au registraire de suspendre le certificat d'inscription du membre.
3. Enjoindre au registraire d'assortir des conditions et des restrictions précisées le certificat d'inscription du membre pour une durée déterminée ou indéfinie.

(2) Lorsqu'il rend une ordonnance en vertu du paragraphe (1), le sous-comité peut préciser les con-

Idem

removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration.

APPEALS TO COURT

70.—(1) A party to proceedings before the Board concerning a registration hearing or review or to proceedings before a panel of the Discipline or Fitness to Practise Committee, other than a hearing of an application under subsection 72 (1), may appeal from the decision of the Board or panel to the Divisional Court.

(2) An appeal under subsection (1) may be made on questions of law or fact or both.

(3) In an appeal under subsection (1), the Court has all the powers of the panel that dealt with the matter and, in an appeal from the Board, the Court also has all the powers of the Board.

71. An order made by a panel of the Discipline Committee on the grounds of incompetence or by a panel of the Fitness to Practise Committee on the grounds of incapacity, directing the Registrar to revoke, suspend or impose terms, limitations or conditions on a member's certificate, takes effect immediately despite any appeal.

REINSTATEMENT

72.—(1) A person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings may apply in writing to the Registrar to have a new certificate issued or the suspension removed.

(2) An application under subsection (1) shall not be made earlier than,

- (a) one year after the revocation or suspension; or
- (b) six months after a previous application under subsection (1).

73.—(1) The Registrar shall refer the application, if the revocation or suspension was on the grounds of,

- (a) professional misconduct or incompetence, to the Discipline Committee; or
- (b) incapacity, to the Fitness to Practise Committee.

(2) The chair of a committee to which an application is referred shall select a panel from among the members of the committee to hold a hearing of the application.

(3) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Discipline Committee:

1. Subsection 22 (4) (findings of fact).
2. Subsection 38 (2) (composition).
3. Subsection 38 (3) (composition).

ditions auxquelles le membre doit satisfaire pour obtenir l'annulation d'une suspension ou la suppression des conditions et restrictions dont est assorti son certificat d'inscription.

APPELS PORTÉS DEVANT LA COUR

70 (1) Toute partie à une instance devant la Commission concernant une audience ou un réexamen relatifs à une inscription ou toute partie à une instance devant un sous-comité du comité de discipline ou du comité d'aptitude professionnelle, à l'exclusion de l'audition d'une demande visée au paragraphe 72 (1), peut interjeter appel de la décision de la Commission ou du sous-comité devant la Cour divisionnaire.

(2) L'appel interjeté en vertu du paragraphe (1) est recevable à l'égard de questions de droit ou de questions de fait, ou des deux.

(3) Dans le cadre d'un appel interjeté en vertu du paragraphe (1), la Cour est investie de tous les pouvoirs du sous-comité qui a traité de la question et, dans le cadre de l'appel d'une décision de la Commission, est en outre investie de tous les pouvoirs de la Commission.

71 L'ordonnance rendue par un sous-comité du comité de discipline pour cause d'incompétence, ou par un sous-comité du comité d'aptitude professionnelle pour cause d'incapacité, et qui enjoint au registraire de révoquer ou de suspendre le certificat d'un membre, ou de l'assortir de restrictions ou de conditions, entre en vigueur immédiatement même s'il y a appel.

REMISE EN VIGUEUR

72 (1) La personne dont le certificat d'inscription a été révoqué ou suspendu par suite de procédures disciplinaires ou de procédures pour incapacité peut demander par écrit au registraire qu'un nouveau certificat lui soit délivré ou que la suspension soit annulée.

(2) La demande prévue au paragraphe (1) ne peut être présentée avant l'écoulement de l'un des délais suivants :

- a) un an après la révocation ou la suspension;
- b) six mois après la présentation de la dernière demande présentée en vertu du paragraphe (1).

73 (1) Le registraire renvoie la demande :

- a) au comité de discipline, si la révocation ou la suspension a pour motif une faute professionnelle ou l'incompétence;
- b) au comité d'aptitude professionnelle, si la révocation ou la suspension a pour motif l'incapacité.

(2) Le président du comité auquel une demande est renvoyée choisit, parmi les membres du comité, les membres du sous-comité chargé de procéder à l'audience relative à la demande.

(3) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à l'audience relative à une demande par un sous-comité du comité de discipline :

1. Le paragraphe 22 (4) (conclusions de fait).
2. Le paragraphe 38 (2) (composition).
3. Le paragraphe 38 (3) (composition).

Appeals from decisions of the Board

Basis of appeal

Court's powers

No stay of certain orders pending appeal

Applications for reinstatement

Time of application

Referral to committee

hearings

procedural revisions

Appel des décisions de la Commission

Fondement de l'appel

Pouvoirs de la Cour

Entrée en vigueur de certaines ordonnances

Demandes de remise en vigueur

Délai de présentation de la demande

Renvoi au comité compétent

Audiences

Dispositions relatives à la procédure

4. Subsection 38 (5) (quorum).
5. Section 43 (no communication by panel members).
6. Section 44 (legal advice).
7. Section 45 (hearings open).
8. Section 47 (sexual misconduct witnesses).
9. Section 48 (transcript of hearings).
10. Section 50 (members of panel who participate).
11. Section 55 (release of evidence).

Idem

(4) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Fitness to Practise Committee:

1. Subsection 22 (4) (findings of fact).
2. Section 43 (no communication by panel members).
3. Section 44 (legal advice).
4. Section 47 (sexual misconduct witnesses).
5. Section 48 (transcript of hearings).
6. Section 50 (members of panel who participate).
7. Section 55 (release of evidence).
8. Subsection 64 (2) (composition).
9. Subsection 64 (3) (quorum).
10. Section 68 (hearings closed).

Order

(5) A panel may, after a hearing, make an order doing any one or more of the following:

1. Directing the Registrar to issue a certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration.

Decision

(6) A panel that held a hearing of an application shall give its decision and reasons in writing to the applicant and the Registrar.

Orders without hearing

74. The Council or Executive Committee may, without a hearing, with respect to a person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings, make an order doing any one or more of the following:

1. Directing the Registrar to issue a new certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration if an order is made under paragraph 1 or 2.

REGISTRAR'S POWERS OF INVESTIGATION

Investigators

75. The Registrar may appoint one or more investigators to determine whether a member has committed an act of professional misconduct or is incompetent if.

4. Le paragraphe 38 (5) (quorum).
5. L'article 43 (interdiction aux membres des sous-comités de communiquer).
6. L'article 44 (avis juridiques).
7. L'article 45 (audiences publiques).
8. L'article 47 (témoins d'inconduite sexuelle).
9. L'article 48 (transcription des audiences).
10. L'article 50 (membres du sous-comité qui participent).
11. L'article 55 (communication des preuves).

Idem

(4) Les dispositions suivantes s'appliquent, avec les adaptations nécessaires, à l'audience relative à une demande par un sous-comité du comité d'aptitude professionnelle :

1. Le paragraphe 22 (4) (conclusions de fait).
2. L'article 43 (interdiction aux membres des sous-comités de communiquer).
3. L'article 44 (avis juridiques).
4. L'article 47 (témoins d'inconduite sexuelle).
5. L'article 48 (transcription des audiences).
6. L'article 50 (membres du sous-comité qui participent).
7. L'article 55 (communication des preuves).
8. Le paragraphe 64 (2) (composition).
9. Le paragraphe 64 (3) (quorum).
10. L'article 68 (audiences à huis clos).

(5) À la suite d'une audience, le sous-comité peut, par ordonnance :

Ordonnance

1. Enjoindre au registrateur de délivrer un certificat d'inscription à l'auteur de la demande.
2. Enjoindre au registrateur d'annuler la suspension du certificat d'inscription de l'auteur de la demande.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription de l'auteur de la demande.

(6) Le sous-comité qui tient une audience relative à une demande communique sa décision motivée par écrit à l'auteur de la demande et au registrateur.

Décision

74 Dans le cas d'une personne dont le certificat d'inscription a été révoqué ou suspendu par suite de procédures disciplinaires ou de procédures pour incapacité, le conseil ou le bureau peut, par ordonnance et sans qu'une audience soit tenue :

Ordonnance sans audience

1. Enjoindre au registrateur de délivrer un nouveau certificat d'inscription à l'auteur de la demande.
2. Enjoindre au registrateur d'annuler la suspension du certificat d'inscription de l'auteur de la demande.
3. Enjoindre au registrateur d'assortir des conditions et des restrictions précisées le certificat d'inscription de l'auteur de la demande si une ordonnance est rendue en vertu de la disposition 1 ou 2.

POUVOIRS D'ENQUÊTE DU REGISTRATEUR

75 Le registrateur peut nommer un ou plusieurs enquêteurs chargés d'établir si un membre a commis une faute professionnelle ou est incompetent, dans les cas suivants :

Enquêteurs

(a) the Registrar believes on reasonable and probable grounds that the member has committed an act of professional misconduct or is incompetent and the Executive Committee approves of the appointment;

(b) the Executive Committee has received a report from the Quality Assurance Committee with respect to the member and has requested the Registrar to conduct an investigation; or

(c) the Complaints Committee has received a written complaint about the member and has requested the Registrar to conduct an investigation.

76.—(1) An investigator may inquire into and examine the practice of the member to be investigated and has, for the purposes of the investigation, all the powers of a commission under Part II of the *Public Inquiries Act*.

(2) An investigator may, on the production of his or her appointment, enter at any reasonable time the business premises of the member and may examine anything found there that is relevant to the investigation.

(3) No person shall obstruct an investigator or withhold or conceal from him or her or destroy anything that is relevant to the investigation.

(4) This section applies despite any provision in any Act relating to the confidentiality of health records.

77.—(1) A justice of the peace may, on the application of the investigator, issue a warrant authorizing an investigator to enter and search a place and examine anything that is relevant to the investigation if the justice of the peace is satisfied that the investigator has been properly appointed and that there are reasonable and probable grounds for believing that:

(a) the member being investigated has committed an act of professional misconduct or is incompetent; and

(b) there is something relevant to the investigation at the place.

(2) A warrant issued under subsection (1) does not authorize an entry or search after sunset and before sunrise unless it is expressly stated in the warrant.

(3) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by other persons and may enter a place by force.

(4) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) shall produce his or her identification, on request, to any person at the place.

78.—(1) An investigator may copy, at the College's expense, a document or object that an investigator may examine under subsection 76 (2) or under the authority of a warrant issued under subsection 77 (1).

(2) An investigator may remove a document or object described in subsection (1) if:

(a) it is not practicable to copy it in the place where it is examined; or

(b) a copy of it is not sufficient for the purposes of the investigation.

a) le registrateur croit, en se fondant sur des motifs raisonnables et probables, que le membre a commis une faute professionnelle ou est incompetent, et le bureau approuve la nomination;

b) le bureau a reçu un rapport du comité d'assurance de la qualité concernant le membre et a demandé au registrateur de mener une enquête;

c) le comité des plaintes a reçu une plainte par écrit au sujet du membre et a demandé au registrateur de mener une enquête.

76 (1) L'enquêteur peut enquêter sur les activités professionnelles du membre qui fait l'objet d'une enquête et, pour les besoins de l'enquête, est investi de tous les pouvoirs d'une commission en vertu de la partie II de la loi intitulée *Public Inquiries Act* («*Loi sur les enquêtes publiques*»).

(2) L'enquêteur peut, sur production d'une attestation de sa nomination, pénétrer, à toute heure raisonnable, dans le lieu de travail du membre et examiner tout ce qui s'avère pertinent à l'enquête.

(3) Nul ne doit entraver le travail d'un enquêteur, ni garder par-devers soi, lui dissimuler ou détruire quoi que ce soit qui s'avère pertinent.

(4) Le présent article s'applique malgré les dispositions d'autres lois relatives à la confidentialité des dossiers médicaux.

77 (1) Un juge de paix peut délivrer à l'enquêteur qui en fait la demande un mandat l'autorisant à pénétrer dans un lieu et à y perquisitionner, ainsi qu'à examiner tout ce qui s'avère pertinent, s'il est convaincu que l'enquêteur a été nommé de façon régulière et qu'il existe des motifs raisonnables et probables de croire que :

a) d'une part, le membre qui fait l'objet de l'enquête a commis une faute professionnelle ou est incompetent;

b) d'autre part, il se trouve des choses pertinentes dans ce lieu.

(2) Le mandat délivré aux termes du paragraphe (1) n'a pas pour effet d'autoriser une perquisition avant le lever du soleil et après le coucher du soleil, sauf indication contraire expresse dans le mandat.

(3) L'enquêteur qui pénètre dans un lieu et y perquisitionne en vertu d'un mandat délivré aux termes du paragraphe (1) peut être aidé d'autres personnes et avoir recours à la force pour y pénétrer.

(4) L'enquêteur qui pénètre dans un lieu et y perquisitionne en vertu d'un mandat délivré aux termes du paragraphe (1) est tenu de présenter une pièce d'identité à toute personne qui se trouve sur les lieux et qui en fait la demande.

78 (1) L'enquêteur peut, aux frais de l'ordre, faire une copie des documents ou des objets qu'il peut examiner en vertu du paragraphe 76 (2) ou d'un mandat délivré aux termes du paragraphe 77 (1).

(2) L'enquêteur peut enlever les documents ou objets visés au paragraphe (1) si, selon le cas :

a) il n'est pas possible d'en faire une copie sur les lieux mêmes;

b) une copie de ceux-ci ne suffit pas aux fins de l'enquête.

Powers of investigators

Pouvoirs des enquêteurs

Idem

Idem

Obstruction prohibited

Interdiction d'entraver

Conflicts

Conflits

Entries and searches

Perquisitions

Searches by day unless stated

Perquisition de jour sauf indication contraire

Assistance and entry by force

Aide et recours à la force

Investigator to show identification

Obligation de l'enquêteur de présenter une pièce d'identité

Copying of documents and objects

Reproduction de documents et d'objets

Removal of documents and objects

Enlèvement de documents et d'objets

Return of documents and objects or copies	<p>(3) If it is practicable to copy a document or object removed under subsection (2), the investigator shall,</p> <p>(a) if it was removed under clause (2) (a), return the document or object within a reasonable time; or</p> <p>(b) if it was removed under clause (2) (b), provide the person who was in possession of the document or object with a copy of it within a reasonable time.</p>	<p>(3) S'il est possible de faire une copie des documents ou objets enlevés en vertu du paragraphe (2), l'enquêteur :</p> <p>a) s'ils ont été enlevés en vertu de l'alinéa (2) a), restitue les documents ou objets dans un délai raisonnable;</p> <p>b) s'ils ont été enlevés en vertu de l'alinéa (2) b), fournit à la personne qui était en possession des documents ou des objets une copie de ceux-ci, dans un délai raisonnable.</p>	Restitution des documents et objets ou de copies
Copy as evidence	<p>(4) A copy of a document or object certified by an investigator to be a true copy shall be received in evidence in any proceeding to the same extent and shall have the same evidentiary value as the document or object itself.</p>	<p>(4) Les copies des documents ou des objets qui sont certifiées conformes aux originaux par un enquêteur sont recevables en preuve dans toute instance dans la même mesure que les originaux et ont la même valeur probante que ceux-ci.</p>	Copies à titre de preuve
Definition	<p>(5) In this section, "document" means a record of information in any form and includes any part of it.</p>	<p>(5) Dans le présent article, «document» s'entend de tout élément d'information sous quelque forme que ce soit et, notamment, d'une partie de celui-ci.</p>	Définition
Report of investigation	<p>79. The Registrar shall report the results of an investigation to,</p> <p>(a) the Executive Committee if the investigator was appointed under clause 75 (a) or (b);</p> <p>(b) the Complaints Committee if the investigator was appointed under clause 75 (c), at the request of the Complaints Committee; or</p> <p>(c) the Board if the investigator was appointed under clause 75 (c) by the Board exercising the Registrar's powers under subsection 28 (4).</p>	<p>79 Le registrateur présente un rapport faisant état du résultat de l'enquête à l'un ou l'autre des organes suivants, selon le cas :</p> <p>a) le bureau, si l'enquêteur a été nommé aux termes de l'alinéa 75 a) ou b);</p> <p>b) le comité des plaintes, si l'enquêteur a été nommé aux termes de l'alinéa 75 c), à la demande du comité des plaintes;</p> <p>c) la Commission, si l'enquêteur a été nommé aux termes de l'alinéa 75 c) par la Commission qui exerçait les pouvoirs du registrateur aux termes du paragraphe 28 (4).</p>	Rapport d'enquête
QUALITY ASSURANCE COMMITTEE			
Quality assurance program required	<p>80. The Council shall make regulations under paragraph 25 of subsection 95 (1) prescribing a quality assurance program.</p>	<p>80 Le conseil prend des règlements en application de la disposition 25 du paragraphe 95 (1) prescrivant un programme d'assurance de la qualité.</p>	Programme d'assurance de la qualité requis
Assessors	<p>81. The Quality Assurance Committee may appoint assessors for the purposes of a quality assurance program.</p>	<p>81 Le comité d'assurance de la qualité peut nommer des évaluateurs aux fins du programme d'assurance de la qualité.</p>	Évaluateurs
Co-operation with Committee and assessors	<p>82.—(1) Every member shall co-operate with the Quality Assurance Committee and with any assessor it appoints and in particular every member shall,</p> <p>(a) permit the assessor to enter and inspect the premises where the member practises;</p> <p>(b) permit the assessor to inspect the member's records of the care of patients;</p> <p>(c) give the Committee or the assessor the information in respect of the care of patients or in respect of the member's records of the care of patients the Committee or assessor requests in the form the Committee or assessor specifies;</p> <p>(d) confer with the Committee or the assessor if requested to do so by either of them; and</p> <p>(e) participate in a program designed to evaluate the knowledge, skill and judgment of the member, if requested to do so by the Committee.</p>	<p>82 (1) Chaque membre doit collaborer avec le comité d'assurance de la qualité, ainsi qu'avec tout évaluateur nommé par le comité, et, entre autres :</p> <p>a) permettre à l'évaluateur de pénétrer dans les locaux où il exerce sa profession et de les inspecter;</p> <p>b) permettre à l'évaluateur d'examiner ses dossiers relativement aux soins qu'il donne à ses patients;</p> <p>c) fournir au comité ou à l'évaluateur les renseignements que l'un ou l'autre demande et sous la forme que l'un ou l'autre précise, relativement aux soins qu'il donne à ses patients ou aux dossiers qu'il tient à cet égard;</p> <p>d) s'entretenir avec le comité ou l'évaluateur si l'un ou l'autre le lui demande;</p> <p>e) participer à un programme visant à évaluer ses connaissances, sa compétence et son jugement, si le comité le lui demande.</p>	Collaboration entre le comité et les évaluateurs
Inspection of premises	<p>(2) Every person who controls premises where a member practises, other than a private dwelling, shall allow an assessor to enter and inspect the premises.</p>	<p>(2) Toute personne ayant le contrôle des locaux dans lesquels exerce un membre, à l'exception d'un logement privé, permet à l'évaluateur d'y pénétrer et de les inspecter.</p>	Inspection des locaux
Inspection of records	<p>(3) Every person who controls records relating to a member's care of patients shall allow an assessor to inspect the records.</p>	<p>(3) Toute personne ayant le contrôle des dossiers relatifs aux soins donnés par le membre à des patients permet à l'évaluateur de les examiner.</p>	Examen des dossiers

Exception	(4) Subsection (3) does not require a patient or his or her representative to allow an assessor to inspect records relating to the patient's care.	(4) Le paragraphe (3) n'a pas pour effet d'exiger que le patient ou son représentant permette à l'évaluateur d'examiner les dossiers relatifs aux soins du patient.	Exception
Conflict	(5) This section applies despite any provision in any Act relating to the confidentiality of health records.	(5) Le présent article s'applique malgré les dispositions d'autres lois relatives à la confidentialité des dossiers médicaux.	Conflit
Confidentiality of information	83. —(1) Except as provided in this section, the Quality Assurance Committee and any assessor appointed by it shall not disclose, to any other committee, information that: (a) was given by the member; or (b) relates to the member and was obtained under section 82.	83 (1) Sauf disposition contraire du présent article, le comité d'assurance de la qualité et tout évaluateur nommé par ce dernier ne communiquent à aucun autre comité : a) les renseignements qu'a fournis le membre; b) les renseignements qui concernent le membre et qui ont été obtenus aux termes de l'article 82.	Caractère confidentiel des renseignements
Exception if member gave false information	(2) Information described in subsection (1) may be disclosed for the purpose of showing that the member knowingly gave false information to the Quality Assurance Committee or an assessor.	(2) Les renseignements visés au paragraphe (1) peuvent être communiqués en vue de montrer que le membre a fourni sciemment de faux renseignements au comité d'assurance de la qualité ou à un évaluateur.	Exception en cas de faux renseignements
Referrals to Executive Committee	(3) If the Quality Assurance Committee is of the opinion, based on an assessment, that a member may have committed an act of professional misconduct or may be incompetent or incapacitated, the Committee may disclose the name of the member and allegations against the member to the Executive Committee.	(3) Si le comité d'assurance de la qualité est d'avis, en se fondant sur une évaluation, qu'un membre a pu commettre une faute professionnelle ou qu'il peut être incompétent ou frappé d'incapacité, il peut communiquer au bureau son nom, ainsi que les allégations faites contre lui.	Renvoi au bureau
Use in other Committees	(4) Information that was disclosed contrary to subsection (1) shall not be used against the member to whom it relates in a proceeding before the Discipline or Fitness to Practise Committees.	(4) Les renseignements qui ont été communiqués contrairement au paragraphe (1) ne doivent pas être utilisés contre le membre auquel ils se rapportent dans une instance devant le comité de discipline ou le comité d'aptitude professionnelle.	Utilisation des renseignements confidentiels

PATIENT RELATIONS PROGRAM

PROGRAMME DE RELATIONS AVEC LES PATIENTS

Patient relations program	84. —(1) The College shall have a patient relations program.	84 (1) L'ordre offre un programme de relations avec les patients.	Programme de relations avec les patients
Measures for sexual misconduct	(2) The patient relations program must include measures for preventing or dealing with professional misconduct of a sexual nature.	(2) Le programme de relations avec les patients doit comprendre des mesures visant à prévenir les fautes professionnelles d'ordre sexuel.	Mesures relatives aux inconduites sexuelles
idem	(3) The measures for preventing or dealing with professional misconduct of a sexual nature must include: (a) educational requirements for members; (b) guidelines for the conduct of members with their patients; (c) training for the College's staff; and (d) the provision of information to the public.	(3) Les mesures visant à prévenir les fautes professionnelles d'ordre sexuel ou à traiter de celles-ci doivent porter sur ce qui suit : a) les exigences en matière d'éducation auxquelles doivent satisfaire les membres; b) les principes directeurs régissant la conduite des membres avec leurs patients; c) la formation à donner au personnel de l'ordre; d) la communication de renseignements au public.	Idem
Report on program	(4) The Council shall give the Health Professions Regulatory Advisory Council a written report describing the patient relation program and, when changes are made to the program, a written report describing the changes.	(4) Le conseil remet au Conseil consultatif de réglementation des professions de la santé un rapport écrit décrivant le programme de relations avec les patients et, chaque fois que des modifications y sont apportées, un rapport écrit décrivant celles-ci.	Rapports touchant le programme
Advice to Council	85. The Patient Relations Committee shall advise the Council with respect to the patient relations program.	85 Le comité des relations avec les patients donne au conseil des conseils sur le programme de relations avec les patients.	Rôle consultatif du conseil

MISCELLANEOUS

DISPOSITIONS DIVERSES

Right to use French	86. —(1) A person has the right to use French in all dealings with the College.	86 (1) Toute personne a le droit d'utiliser le français dans ses rapports avec l'ordre.	Droit d'utilisation du français
Council to ensure right	(2) The Council shall take all reasonable measures and make all reasonable plans to ensure that	(2) Le conseil prend toutes les mesures raisonnables et élabore tous les plans raisonnables pour faire	Droit garanti par le conseil

persons may use French in all dealings with the College.

en sorte que les personnes puissent utiliser le français dans tous leurs rapports avec l'ordre.

Definition

(3) In this section, "dealings" means any service or procedure available to the public or to members and includes giving or receiving communications, information or notices, making applications, taking examinations or tests and participating in programs or in hearings or reviews.

(3) Dans le présent article, le terme «rapports» s'entend de tout service offert au public ou aux membres ainsi que de toute formalité administrative, et s'entend en outre du fait de donner ou de recevoir des communications, des renseignements ou des avis, de présenter des demandes, de passer des examens ou des tests, et de prendre part à des programmes, à des audiences ou à des réexamens.

Définition

Limitation

(4) A person's right under subsection (1) is subject to the limits that are reasonable in the circumstances.

(4) Le droit prévu au paragraphe (1) est assujéti à des limites qui soient raisonnables dans les circonstances.

Droit restreint

Injunctions

87. The College may apply to the Ontario Court (General Division) for an order directing a person to comply with a provision of the health profession Act, this Code, the *Regulated Health Professions Act, 1991* or the regulations under those Acts.

87 L'ordre peut, par voie de requête, demander à la Cour de l'Ontario (Division générale) qu'elle rende une ordonnance enjoignant à quiconque de se conformer à une disposition de la loi sur une profession de la santé, du présent code, de la *Loi de 1991 sur les professions de la santé réglementées* ou des règlements pris en application de ces lois.

Injonctions

Evidence of Registrar

88. A statement purporting to be certified by the Registrar under the seal of the College as a statement of information from the records kept by the Registrar in the course of his or her duties is admissible in court as proof, in the absence of evidence to the contrary, of the information in it without proof of the Registrar's appointment or signature or of the seal of the College.

88 L'état qui donne des renseignements provenant des dossiers que le registrateur tient dans l'exercice de ses fonctions et qui se présente comme étant certifié par le registrateur sous le sceau de l'ordre est recevable devant le tribunal comme preuve, en l'absence de preuve contraire, des renseignements qui y figurent sans qu'il soit nécessaire de prouver l'authenticité de la nomination ou de la signature du registrateur, ni celle du sceau de l'ordre.

Preuves émanant du registrateur

Limitation period

89.—(1) No person who is or was a member is liable to any action arising out of negligence or malpractice in respect of professional services requested of or rendered by the person unless the action is commenced within one year after the date when the person commencing the action knew or ought to have known the fact or facts upon which the negligence or malpractice is alleged.

89 (1) Quiconque est ou a été membre ne peut être poursuivi pour négligence professionnelle ou autre à l'égard des services professionnels qui lui ont été demandés ou qu'il a fournis, à moins que l'action ne soit introduite dans un délai d'un an après la date à laquelle la personne qui l'introduit a appris ou aurait dû apprendre le fait ou les faits sur lesquels repose l'allégation de négligence professionnelle ou autre.

Délai de prescription

Transition

(2) During the first year this section is in force, it does not operate to shorten the time period, provided by statutory law as it was immediately before this section comes into force, during which an action could be brought.

(2) Pendant la première année où il est en vigueur, le présent article n'a pas pour effet d'abréger le délai d'introduction d'une action prévu par le droit législatif tel qu'il existait immédiatement avant l'entrée en vigueur du présent article.

Transition

Reporting of members

90.—(1) A person who terminates the employment or revokes, suspends or imposes restrictions on the privileges of a member or who dissolves a partnership or association with a member for reasons of professional misconduct, incompetence or incapacity shall file with the Registrar within thirty days after the termination, revocation, suspension, imposition or dissolution a written report setting out the reasons.

90 (1) Quiconque met fin à l'emploi d'un membre, lui retire ses privilèges, les suspend ou les assortit de restrictions, ou dissout la société en nom collectif ou l'association qu'il forme avec le membre, pour des motifs de faute professionnelle, d'incompétence ou d'incapacité, dépose auprès du registrateur, dans les trente jours suivant l'accomplissement d'un de ces actes, un rapport écrit énonçant les motifs de sa décision.

Dépôt de rapports au sujet des membres

Idem

(2) If a person intended to terminate the employment of a member or to revoke the member's privileges for reasons of professional misconduct, incompetence or incapacity but the person did not do so because the member resigned or voluntarily relinquished his or her privileges, the person shall file with the Registrar within thirty days after the resignation or relinquishment a written report setting out the reasons upon which the person had intended to act.

(2) Quiconque avait l'intention de mettre fin à l'emploi d'un membre ou de lui retirer ses privilèges pour des motifs de faute professionnelle, d'incompétence ou d'incapacité, mais ne l'a pas fait parce que le membre a démissionné ou a renoncé volontairement à ses privilèges, dépose auprès du registrateur, dans les trente jours suivant la démission ou la renonciation, un rapport écrit énonçant les motifs justifiant son intention d'agir.

Idem

Application

(3) This section applies to every person, other than a patient, who employs or offers privileges to a member or associates in partnership or otherwise with a member for the purpose of offering health services.

(3) Le présent article s'applique à toute personne, à l'exception d'un patient, qui emploie un membre ou qui s'associe à un membre dans une société en nom collectif ou autrement, ou qui lui offre des privilèges aux fins de la prestation de services de santé.

Demande

Immunity for reports

(4) No action or other proceeding shall be instituted against a person for making a report in good faith under this section.

(4) Sont irrecevables les actions ou autres instances introduites contre les personnes qui présentent un rapport de bonne foi aux termes du présent article.

Immunité touchant les rapports

Service by mail	<p>91.—(1) A notice or a decision to be given under the health profession Act, this Code or the regulations to a person may be given by mail.</p>	<p>91 (1) Les avis ou les décisions qui doivent être donnés à des personnes aux termes de la loi sur une profession de la santé, du présent code ou des règlements peuvent être envoyés par la poste.</p>	Signification par la poste
Idem	<p>(2) If a notice or decision under the health profession Act, this Code or the regulations is sent by prepaid first class mail addressed to the person at the person's last known address, there is a rebuttable presumption that the notice was received by the person on the fifth day after the notice was mailed.</p>	<p>(2) Si l'avis ou la décision visé par la loi sur une profession de la santé, le présent code ou les règlements est envoyé par courrier affranchi de première classe à la personne, à sa dernière adresse connue, il existe une présomption réfutable selon laquelle la personne a reçu l'avis ou la décision le cinquième jour suivant sa mise à la poste.</p>	Idem
Making false representations to obtain certificates	<p>92.—(1) Every person who makes a representation, knowing it to be false, for the purpose of having a certificate of registration issued is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.</p>	<p>92 (1) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque fait une déclaration qu'il sait fausse en vue de faire délivrer un certificat d'inscription.</p>	Fausses déclarations faites pour obtenir un certificat
Assisting the making of false representation	<p>(2) Every person who knowingly assists a person in committing an offence under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.</p>	<p>(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque aide sciemment une personne à commettre l'infraction visée au paragraphe (1).</p>	Aide dans la commission de l'infraction
Offence	<p>93.—(1) Every person who contravenes an order made under section 45 or 47 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$20,000 for a subsequent offence.</p>	<p>93 (1) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ pour une première infraction, et d'une amende d'au plus 20 000 \$ pour une infraction subséquente, quiconque contrevient à une ordonnance rendue en vertu de l'article 45 ou 47.</p>	Infraction
Idem	<p>(2) Every person who contravenes subsection 76 (3) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.</p>	<p>(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque contrevient au paragraphe 76 (3).</p>	Idem
Idem	<p>(3) Every person who contravenes subsection 82 (2), (3) or 90 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.</p>	<p>(3) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, ou d'au plus 10 000 \$ pour une infraction subséquente, quiconque contrevient au paragraphe 82 (2) ou (3), ou 90 (1).</p>	Idem
By-laws	<p>94.—(1) The Council may make by-laws relating to the administrative and internal affairs of the College and, without limiting the generality of the foregoing, the Council may make by-laws,</p>	<p>94 (1) Le conseil peut adopter des règlements administratifs concernant les affaires administratives et internes de l'ordre pour, notamment :</p>	Règlements administratifs
	<ul style="list-style-type: none"> (a) adopting a seal for 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 the President and Vice-President of the College, the selection of the chairs of the committees, the filling of a vacancy in those offices, and setting out the duties and powers of the President, Vice-President and the chairs; (f) respecting the calling, holding and conducting of the Council meetings and respecting the duties of the Council's members; (g) respecting the calling, holding and conducting of meetings of the members; (h) providing for the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and for the payment of the expenses of the Council and committees in the conduct of their business; (i) providing for the appointment, composition, powers and duties of committees other than the committees required by subsection 10 (1); 	<ul style="list-style-type: none"> a) adopter le sceau de l'ordre; b) prévoir la passation des documents par l'ordre; c) traiter des affaires bancaires et financières; d) déterminer l'exercice financier de l'ordre et prévoir la vérification de ses comptes et de ses opérations; e) prévoir la marche à suivre en ce qui concerne l'élection du président et du vice-président de l'ordre, le choix des présidents des comités et la façon de combler les vacances de ces postes, et énoncer les fonctions et les pouvoirs des titulaires de ces postes; f) traiter de la convocation, de la tenue et du déroulement des réunions du conseil, ainsi que des fonctions de ses membres; g) traiter de la convocation, de la tenue et du déroulement des réunions des membres; h) fixer la rémunération de ses membres et des membres des comités, à l'exception des personnes nommées par le lieutenant-gouverneur en conseil, et prévoir le paiement de ses dépenses et de celles des comités dans l'exercice de leurs activités; i) prévoir la nomination et la composition des comités autres que ceux prévus au paragraphe 10 (1), ainsi que leurs pouvoirs et leurs fonctions; 	

	(j) delegating to the Executive Committee powers and duties of the Council, other than the power to make, amend or revoke regulations and by-laws;	j) déléguer au bureau ses pouvoirs et ses fonctions, à l'exception du pouvoir de prendre, de modifier ou d'abroger les règlements et les règlements administratifs;	
	(k) providing for a code of ethics for the members;	k) prévoir un code de déontologie pour les membres;	
	(l) providing for the appointment of inspectors for the purposes of regulations made under paragraph 20 of subsection 95 (1);	l) prévoir la nomination d'inspecteurs aux fins des règlements pris en application de la disposition 20 du paragraphe 95 (1);	
	(m) providing procedures for the making, amending and revoking of by-laws;	m) prévoir une marche à suivre pour adopter, modifier et abroger les règlements administratifs;	
	(n) prescribing forms and providing for their use;	n) prescrire des formules et prévoir les modalités de leur emploi;	
	(o) respecting the management of the property of the College;	o) traiter de la gestion des biens de l'ordre;	
	(p) authorizing the College to make arrangements for the indemnity of members against professional liability and providing levies to be paid by members;	p) autoriser l'ordre à conclure des ententes aux fins de la protection des membres contre la responsabilité professionnelle et prévoir les contributions que doivent payer les membres;	
	(q) respecting membership of the College in a national organization of bodies with similar functions, the payment of annual assessments and representation at meetings;	q) traiter de l'affiliation de l'ordre à une association nationale regroupant des organismes chargés de fonctions analogues, du paiement des cotisations annuelles et de la représentation aux réunions;	
	(r) authorizing the making of grants to advance scientific knowledge or the education of persons wishing to practise the profession, to maintain or improve the standards of practice of the profession or to provide public information about, and encourage interest in, the past and present role of the profession in society.	r) autoriser l'octroi de subventions en vue de faire avancer la connaissance scientifique ou de promouvoir l'éducation des personnes qui désirent exercer la profession, de maintenir ou de rehausser les normes d'exercice de la profession ou de renseigner le public sur le rôle passé et présent de la profession au sein de la société, et d'encourager le public à s'y intéresser.	
Meetings by telecommunications, etc.	(2) A by-law made under clause (1) (f) or (g) may provide for meetings to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously.	(2) Le règlement administratif adopté en vertu de l'alinéa (1) f) ou g) peut prévoir que des réunions soient tenues de façon que tous les participants puissent communiquer les uns avec les autres simultanément et instantanément.	Réunions à l'aide des télécommunications
Copies of by-laws	(3) A copy of the by-laws made by the Council shall be given to the Minister and to each member and shall be available for public inspection in the office of the College.	(3) Une copie des règlements administratifs adoptés par le conseil est envoyée au ministre ainsi qu'à chaque membre, et est mise à la disposition du public aux fins de consultation dans les bureaux de l'ordre.	Copie des règlements administratifs
Unanimous by-laws, etc.	(4) A by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council called, constituted and held for the purpose.	(4) Les règlements administratifs ou les résolutions que signent tous les membres du conseil sont aussi valides et exécutoires que s'ils avaient été adoptés à une réunion du conseil convoquée, formée et tenue à cette fin.	Unanimité des règlements administratifs
Regulations	95. —(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, 1. respecting the election of Council members including the requirements for members to be able to vote; 2. respecting the qualification and terms of office of Council members who are elected; 3. prescribing conditions disqualifying elected members from sitting on the Council and governing the removal of disqualified Council members; 4. respecting the qualifications, selection, appointment and terms of office of committee members who are not members of the Council; 5. prescribing conditions disqualifying committee members from sitting on committees and gov-	95 (1) Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen par le ministre, le conseil peut, par règlement : 1. traiter de l'élection de ses membres ainsi que des exigences auxquelles ils doivent satisfaire pour pouvoir voter; 2. traiter des qualités requises et du mandat de ses membres qui sont élus; 3. prescrire les conditions qui rendent les membres élus incapables de siéger au conseil et celles qui régissent la destitution des membres du conseil jugés incapables; 4. traiter des qualités requises, du choix, de la nomination et du mandat des membres des comités qui ne sont pas membres du conseil; 5. prescrire les conditions qui rendent les membres d'un comité incapables d'y siéger et cel-	Règlements

- erning the removal of disqualified committee members;
6. respecting the filling of vacancies on the Council or its committees;
 7. providing for the composition of the committees mentioned in subsection 10 (1);
 8. prescribing classes of certificates of registration and imposing terms, conditions and limitations on the certificates of registration of a class;
 9. respecting the issuing, suspension, revocation and expiration of certificates of registration or classes of them;
 10. prescribing standards and qualifications for the issue of certificates of registration;
 11. prescribing registration requirements as non-exemptible requirements;
 12. defining specialties in the profession, providing for certificates relating to those specialties, the qualifications for and suspension and revocation of those certificates and governing the use of prescribed terms, titles or designations by members indicating a specialization in the profession;
 13. requiring, for purposes associated with the registration of members, the successful completion of examinations as set, from time to time, by the College, other persons or associations of persons;
 14. respecting the maintenance of the register kept by the Registrar, prescribing information as information to be kept in the register, designating information kept in the register as public and providing for the issuing of certificates respecting the information contained in the register;
 15. respecting the reporting and publication of decisions of panels;
 16. prescribing the standards of practice of the profession and prohibiting members from acting beyond the scope of practice of the profession in the course of practising the profession;
 17. governing or prohibiting the delegation by or to members of controlled acts set out in subsection 27 (2) of the *Regulated Health Professions Act, 1991*;
 18. respecting the promotion or advertising of the practice of the profession;
 19. requiring members to keep prescribed records in respect of their practices;
 20. requiring and providing for the inspection and examination of premises used in connection with the practice of the profession and of equipment, books, accounts, reports and records of members relating to their practices;
 21. prescribing what constitutes a conflict of interest in the practice of the profession and regulating or prohibiting the practice of the profession in cases in which there is a conflict of interest;
- les qui régissent la destitution des membres d'un comité jugés incapables;
6. traiter de la façon de combler les vacances au sein du conseil ou de ses comités;
 7. prévoir la composition des comités mentionnés au paragraphe 10 (1);
 8. prescrire les catégories de certificats d'inscription et fixer les conditions et les restrictions dont sont assortis les certificats d'inscription d'une catégorie donnée;
 9. traiter de la délivrance, de la suspension, de la révocation et de l'expiration des certificats d'inscription ou des catégories de ceux-ci;
 10. prescrire les normes et les conditions de délivrance des certificats d'inscription;
 11. prescrire les exigences d'inscription auxquelles il est impossible de se soustraire;
 12. définir les spécialités de la profession, prévoir les certificats relatifs à ces spécialités et les qualités nécessaires à leur obtention, prévoir la suspension et la révocation de ces certificats, et régir l'emploi par les membres des termes, désignations ou titres prescrits qui indiquent une spécialisation dans la profession;
 13. exiger, aux fins reliées à l'inscription des membres, la réussite aux examens qu'établit, de temps à autre, l'ordre, d'autres personnes ou d'autres associations de personnes;
 14. traiter de la tenue du tableau que dresse le registrateur, prescrire les renseignements devant y être consignés, désigner comme étant de caractère public certains renseignements consignés au tableau et prévoir la délivrance de certificats relativement aux renseignements figurant au tableau;
 15. traiter de la façon de rendre compte des décisions des sous-comités et de leur publication;
 16. prescrire les normes d'exercice de la profession et interdire aux membres d'outrepasser, dans l'exercice de leur profession, les limites du champ d'application de celle-ci;
 17. régir ou interdire la délégation, par des membres ou à des membres, de l'exécution des actes autorisés visés au paragraphe 27 (2) de la *Loi de 1991 sur les professions de la santé réglementées*;
 18. traiter de la promotion de l'exercice de la profession, ou de la publicité à cet égard;
 19. exiger des membres qu'ils tiennent les dossiers prescrits relativement à l'exercice de leur profession;
 20. exiger et prévoir l'inspection des locaux servant à l'exercice de la profession et de l'équipement, et l'examen des livres, comptes, rapports et dossiers des membres relatifs à l'exercice de leur profession;
 21. prescrire ce qui constitue un conflit d'intérêts dans l'exercice de la profession et réglementer ou interdire l'exercice de la profession en cas de conflit d'intérêts;

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| <p>22. prescribing what constitutes a conflict of interest for members of the Council or a committee and regulating or prohibiting the carrying out of the duties of those members in cases in which there is a conflict of interest;</p> <p>23. providing for a meeting of a Committee or a panel that is held for any purpose other than for the conducting of a hearing to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously;</p> <p>24. defining professional misconduct for the purpose of clause 51 (1) (c);</p> <p>25. prescribing a quality assurance program;</p> <p>26. regulating or prohibiting the use of terms, titles and designations by members in respect of their practices;</p> <p>27. providing for the compilation of statistical information with respect to services provided by members and requiring members to provide the information necessary for the compilation;</p> <p>28. requiring members to give the College their home addresses and prescribed information about the places they practise the profession, the services they provide there and the names, business addresses and telephone numbers of their associates, partners and employees and prescribing the form and manner in which the information shall be given;</p> <p>29. requiring members to give the College information about their participation in continuing education programs and prescribing the form and manner in which the information shall be given;</p> <p>30. respecting the duties and office of the Registrar;</p> <p>31. requiring members to pay prescribed annual fees and prescribed fees for registration, examinations and continuing education programs and for anything the Registrar is required or authorized to do and requiring members to pay prescribed penalties for the late payment of any fee;</p> <p>32. requiring persons to pay fees, set by the Registrar or prescribed, for anything the Registrar is required or authorized to do;</p> <p>33. providing for the exemption of any member from the regulations made by the Council;</p> <p>34. requiring members to have professional liability insurance satisfying prescribed requirements or to belong to a prescribed association that provides protection against professional liability and requiring members to give proof of the insurance or membership to the Registrar in the prescribed manner;</p> <p>35. respecting the designation of life or honorary members of the College and prescribing their rights and privileges;</p> | <p>22. prescrire ce qui constitue un conflit d'intérêts pour ses membres ou les membres d'un comité, et réglementer ou interdire l'exercice des fonctions de ces membres en cas de conflit d'intérêts;</p> <p>23. prévoir que des réunions soient tenues par les comités ou les sous-comités, à d'autres fins que la tenue d'une audience, de façon que tous les participants puissent communiquer les uns avec les autres simultanément et instantanément;</p> <p>24. définir le terme «faute professionnelle» pour l'application de l'alinéa 51 (1) c);</p> <p>25. prescrire un programme d'assurance de la qualité;</p> <p>26. réglementer ou interdire l'emploi par les membres de certains termes, titres ou désignations relativement à l'exercice de leur profession;</p> <p>27. prévoir la collecte de renseignements statistiques sur les services fournis par les membres et exiger de ces derniers qu'ils fournissent les renseignements nécessaires à cette collecte;</p> <p>28. exiger des membres qu'ils fournissent à l'ordre leur adresse personnelle et les renseignements prescrits sur les lieux où ils exercent leur profession, sur les services qu'ils y dispensent, ainsi que les noms, adresses professionnelles et numéros de téléphone de leurs associés et employés, et prescrire la forme et la manière selon lesquelles ces renseignements doivent être fournis;</p> <p>29. exiger des membres qu'ils fournissent à l'ordre des renseignements au sujet de leur participation à des programmes d'éducation permanente et prescrire la forme et la manière selon lesquelles ces renseignements doivent être fournis;</p> <p>30. traiter des fonctions et du poste du registraire;</p> <p>31. exiger des membres qu'ils acquittent les cotisations annuelles prescrites, ainsi que les droits prescrits pour l'inscription, l'examen et la scolarité relatifs aux programmes d'éducation permanente, et les frais relatifs à tout ce que le registraire doit ou peut faire, et exiger des membres qu'ils versent les amendes prescrites en cas d'acquiescement des droits en retard;</p> <p>32. exiger de personnes qu'elles acquittent les frais, fixés par le registraire ou prescrits, relatifs à tout ce que ce dernier doit ou peut faire;</p> <p>33. prévoir l'exemption de tout membre de l'application des règlements qu'il prend;</p> <p>34. exiger des membres qu'ils aient une assurance-responsabilité professionnelle qui satisfasse aux exigences prescrites ou qu'ils adhèrent à une association prescrite qui offre la protection contre la responsabilité professionnelle, et exiger des membres qu'ils fournissent au registraire la preuve de leur assurance ou de leur adhésion de la manière prescrite;</p> <p>35. traiter de la désignation des membres à vie ou des membres honoraires de l'ordre et prescrire leurs droits et privilèges;</p> |
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36. respecting the giving of notice of meetings and hearings that are to be open to the public;
37. prescribing anything that is referred to in the health profession Act or this Code as being prescribed;
38. prescribing forms for the purposes of the health profession Act or this Code and providing for their use.

36. traiter de la communication des avis de réunions et d'audiences publiques;
37. prescrire tout ce qui est indiqué comme étant prescrit dans la loi sur une profession de la santé et le présent code;
38. prescrire les formules pour l'application de la loi sur une profession de la santé ou du présent code, et prévoir les modalités de leur emploi.

Idem

(2) Regulations made under paragraph 25 of subsection (1) may require members to participate in continuing education programs.

(2) Les règlements pris en application de la disposition 25 du paragraphe (1) peuvent exiger des membres qu'ils participent à des programmes d'éducation permanente.

Idem

Scope of regulations

(3) A regulation may be general or particular in its application.

(3) Les règlements peuvent avoir une portée générale ou particulière.

Portée des règlements

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 44

**An Act respecting the regulation
of the Professions of Audiology and
Speech-Language Pathology**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 44

**Loi concernant la réglementation
des professions d'audiologue et
d'orthophoniste**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the professions of audiology and speech-language pathology by the College of Audiologists and Speech-Language Pathologists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the professions, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that audiologists are authorized to perform. Section 15 restricts the use of the title "audiologist" or "speech-language pathologist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the professions of audiology and speech-language pathology.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession d'audiologue et de la profession d'orthophoniste par l'Ordre des audiologues et des orthophonistes de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation des professions, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les audiologues peuvent accomplir. L'article 15 réserve aux membres l'usage du titre d'«audiologue» ou d'«orthophoniste». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession d'audiologue et de la profession d'orthophoniste.

**An Act respecting the regulation
of the Professions of Audiology and
Speech-Language Pathology**

**Loi concernant la réglementation
des professions d'audiologue et
d'orthophoniste**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

"College" means the College of Audiologists and Speech-Language Pathologists of Ontario; ("Ordre")

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

"member" means a member of the College; ("membre")

«membre» Membre de l'Ordre. («member»)

"profession" means the professions of audiology and speech-language pathology; ("profession")

«Ordre» L'Ordre des audiologues et des orthophonistes de l'Ontario. («College»)

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

«profession» La profession d'audiologue et la profession d'orthophoniste. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

"College" means the College of Audiologists and Speech-Language Pathologists of Ontario; ("ordre")

«loi sur une profession de la santé» La présente loi. («health profession Act»)

"health profession Act" means this Act; ("loi sur une profession de la santé")

«ordre» L'Ordre des audiologues et des orthophonistes de l'Ontario. («College»)

"profession" means the professions of audiology and speech-language pathology; ("profession")

«profession» La profession d'audiologue et la profession d'orthophoniste. («profession»)

"regulations" means the regulations under this Act. ("règlements")

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3.—(1) The practice of audiology is the assessment of auditory function and the

3 (1) L'exercice de la profession d'audiologue consiste dans l'évaluation de la fonc-

Definitions

Définitions

Health Professions Procedural Code
Terms in Code

Code des professions de la santé

Termes figurant dans le Code

Definitions in Code

Définitions du Code

Scope of practice

Champ d'application

treatment and prevention of auditory dysfunction to develop, maintain, rehabilitate or augment auditory and communicative functions.

Idem

(2) The practice of speech-language pathology is the assessment of speech and language functions and the treatment and prevention of speech and language dysfunctions or disorders to develop, maintain, rehabilitate or augment oral motor or communicative functions.

Authorized acts

4. In the course of engaging in the practice of audiology, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to prescribe a hearing aid for a hearing impaired person.

College established

5. The College is established under the name College of Audiologists and Speech-Language Pathologists of Ontario in English and Ordre des audiologues et des orthophonistes de l'Ontario in French.

Council

6.—(1) The Council shall be composed of,

- (a) at least six and no more than ten persons who are members elected in the prescribed number and manner;
- (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) two persons selected in the prescribed manner from among members who are members of a faculty of audiology or speech-language pathology of a university in Ontario.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Executive Committee

8.—(1) The Executive Committee shall be composed of,

- (a) the President and Vice-President of the Council;

tion auditive et dans le traitement et la prévention des troubles de l'audition en vue de développer, de maintenir, de restaurer ou d'accroître les fonctions auditive et de communication.

Idem

(2) L'exercice de la profession d'orthophoniste consiste dans l'évaluation des fonctions de la parole et du langage, ainsi que dans le traitement et la prévention des troubles ou perturbations de la parole et du langage en vue de développer, de maintenir, de restaurer ou d'accroître les fonctions orale motrice et de communication.

Actes autorisés

4 Dans l'exercice de la profession d'audiologue, un membre est autorisé à prescrire, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, des appareils de correction auditive aux personnes malentendantes.

Création de l'Ordre

5 L'Ordre est créé sous le nom d'Ordre des audiologues et des orthophonistes de l'Ontario en français et sous le nom de College of Audiologists and Speech-Language Pathologists of Ontario en anglais.

Conseil

6 (1) Le conseil se compose :

- a) d'au moins six et d'au plus dix personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins quatre et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
- c) deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'une faculté d'audiologie ou d'orthophonie d'une université ontarienne.

Qui peut voter aux élections

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Président et vice-président

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Bureau

8 (1) Le bureau se compose des personnes suivantes :

- a) le président et le vice-président du conseil;

- (b) two members of the Council who are members of the College; and
- (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

(2) The President of the Council shall be the chair of the Executive Committee.

9. The Registration Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

10. The Complaints Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

11. The Discipline Committee shall be composed of,

- (a) three members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) five members.

12. The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

13. The Quality Assurance Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

14. The Council shall appoint the members of the committees mentioned in sections 8 to 13.

15.—(1) No person other than a member shall use the titles "audiologist" or "speech-language pathologist", a variation or abbrevi-

b) deux membres du conseil qui sont membres de l'Ordre;

c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

(2) Le président du conseil assume la présidence du bureau.

9 Le comité d'inscription se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

10 Le comité des plaintes se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

11 Le comité de discipline se compose des personnes suivantes :

- a) trois membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) cinq membres.

12 Le comité d'aptitude professionnelle se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

13 Le comité d'assurance de la qualité se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

14 Le conseil nomme les membres des comités visés aux articles 8 à 13.

15 (1) Nul autre qu'un membre ne doit employer les titres d'«audiologue» ou d'«orthophoniste», une variante ou une

Président

Comité d'inscription

Comité des plaintes

Comité de discipline

Comité d'aptitude professionnelle

Comité d'assurance de la qualité

Nominations des membres

Titres réservés

ation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as an audiologist or a speech-language pathologist or in a specialty of audiology or speech-language pathology.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d'audiologue ou d'orthophoniste, ou une spécialité de l'audiologie ou de l'orthophonie.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

16.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

16 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

17. Every person who contravenes subsection 15 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

17 Quiconque contrevient au paragraphe 15 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

18. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations,

18 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement :

Règlement

- (a) respecting the qualifications, selection and terms of office of Council members who are selected; and
- (b) respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

- a) traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis;
- b) traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Transition before Act in force

19.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

19 (1) Le lieutenant-gouverneur en conseil peut nommer un conseil transitoire.

Transitoire avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités

Pouvoir du conseil transitoire

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(4) The Minister may,

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

20.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(3) Sections 8 to 13 do not apply to committees of the transitional Council.

pourraient faire en vertu de la présente loi si elle était en vigueur.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

(4) Le ministre peut :

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

20 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

(3) Les articles 8 à 13 ne s'appliquent pas aux comités du conseil transitoire.

Idem

Pouvoirs du ministre

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Règlements

Idem

Frais

Transition après l'entrée en vigueur de la Loi

Mandat des membres du conseil transitoire

Composition des comités

Commence-
ment

21.—(1) This Act, except section 19, comes into force on a day to be named by proclamation of the Lieutenant Governor.

21 (1) La présente loi, à l'exclusion de l'article 19, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

Idem

(2) Section 19 comes into force on the day this Act receives Royal Assent.

(2) L'article 19 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Short title

22. The short title of this Act is the *Audiology and Speech-Language Pathology Act, 1991*.

22 Le titre abrégé de la présente loi est *Loi de 1991 sur les audiologues et les orthophonistes*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 44

**An Act respecting the regulation
of the Professions of Audiology and
Speech-Language Pathology**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

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Projet de loi 44

**Loi concernant la réglementation
des professions d'audiologiste et
d'orthophoniste**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

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EXPLANATORY NOTE

The Bill provides for the regulation of the professions of audiology and speech-language pathology by the College of Audiologists and Speech-Language Pathologists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the professions, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that audiologists are authorized to perform. Section 8 restricts the use of the title "audiologist", "speech-language pathologist" and "speech therapist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the professions of audiology and speech-language pathology.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession d'audiologiste et de la profession d'orthophoniste par l'Ordre des audiologistes et des orthophonistes de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation des professions, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les audiologistes peuvent accomplir. L'article 8 réserve aux membres l'usage du titre d'«audiologiste» ou d'«orthophoniste». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession d'audiologiste et de la profession d'orthophoniste.

**An Act respecting the regulation
of the Professions of Audiology and
Speech-Language Pathology**

**Loi concernant la réglementation
des professions d'audiologiste et
d'orthophoniste**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Audiologists and Speech-Language Pathologists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the professions of audiology and speech-language pathology; (“profession”)

«Ordre» L'Ordre des audiologistes et des orthophonistes de l'Ontario. («College»)

«profession» La profession d'audiologiste et la profession d'orthophoniste. («profession»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Audiologists and Speech-Language Pathologists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des audiologistes et des orthophonistes de l'Ontario. («College»)

“profession” means the professions of audiology and speech-language pathology; (“profession”)

«profession» La profession d'audiologiste et la profession d'orthophoniste. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

3.—(1) The practice of audiology is the assessment of auditory function and the treatment and prevention of auditory dysfunction to develop, maintain, rehabilitate or augment auditory and communicative functions.

3 (1) L'exercice de la profession d'audiologiste consiste dans l'évaluation de la fonction auditive et dans le traitement et la prévention des troubles de l'audition en vue de développer, de maintenir, de restaurer ou d'accroître les fonctions auditive et de communication.

Champ d'application

Idem

(2) The practice of speech-language pathology is the assessment of speech and language functions and the treatment and prevention of speech and language dysfunctions or disorders to develop, maintain, rehabilitate or augment oral motor or communicative functions.

(2) L'exercice de la profession d'orthophoniste consiste dans l'évaluation des fonctions de la parole et du langage, ainsi que dans le traitement et la prévention des troubles ou perturbations de la parole et du langage en vue de développer, de maintenir, de restaurer ou d'accroître les fonctions orale motrice et de communication.

Idem

Authorized acts

4. In the course of engaging in the practice of audiology, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to prescribe a hearing aid for a hearing impaired person.

4 Dans l'exercice de la profession d'audiologiste, un membre est autorisé à prescrire, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, des appareils de correction auditive aux personnes malentendantes.

Actes autorisés

College established

5. The College is established under the name College of Audiologists and Speech-Language Pathologists of Ontario in English and Ordre des audiologistes et des orthophonistes de l'Ontario in French.

5 L'Ordre est créé sous le nom d'Ordre des audiologistes et des orthophonistes de l'Ontario en français et sous le nom de College of Audiologists and Speech-Language Pathologists of Ontario en anglais.

Création de l'Ordre

Council

6.—(1) The Council shall be composed of,

6 (1) Le conseil se compose :

Conseil

(a) at least eight and no more than nine persons who are members elected in the prescribed number and manner;

a) d'au moins huit et d'au plus neuf personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrite;

(b) at least six and no more than seven persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins six et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;

(c) two persons selected in the prescribed manner from among members who are members of a faculty of audiology or speech-language pathology of a university in Ontario.

c) de deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'une faculté d'audiologie ou d'orthophonie d'une université ontarienne.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président vice-président

8.—(1) No person other than a member shall use the titles “audiologist”, “speech-language pathologist” or “speech therapist”, a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as an audiologist or a speech-language pathologist or in a specialty of audiology or speech-language pathology.

(3) In this section, “abbreviation” includes an abbreviation of a variation.

9.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister’s notice of the suggestion.

10. Every person who contravenes subsection 8 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

11. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations respecting the qualifications, selection and terms of office of Council members who are selected.

12.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the

8 (1) Nul autre qu’un membre ne doit employer les titres d’«audiologiste», d’«orthophoniste» ou de «logopède», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu’un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d’audiologiste ou d’orthophoniste, ou une spécialité de l’audiologie ou de l’orthophonie.

(3) Dans le présent article, le terme «abréviation» s’entend en outre de l’abréviation d’une variante.

9 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d’un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L’avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l’Ordre, de l’avis de proposition du ministre.

10 Quiconque contrevient au paragraphe 8 (1) ou (2) est coupable d’une infraction et passible, sur déclaration de culpabilité, d’une amende d’au plus 5 000 \$ pour une première infraction, et d’une amende d’au plus 10 000 \$ pour une infraction subséquente.

11 Sous réserve de l’approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement, traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis.

12 (1) Le lieutenant-gouverneur en conseil peut nommer un conseil transitoire.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l’entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi

Restricted titles

Representations of qualification, etc.

Definition

Notice if suggestions referred to Advisory Council

Requirements re notice

Offence

Regulations

Transition before Act force

Powers of transitional Council

Idem

Titres réservés

Déclaration de compétence

Définition

Avis en cas de présentation d’une proposition au Conseil consultatif

Exigences relatives à l’avis

Infraction

Règlements

Transition avant l’entrée en vigueur de la Loi

Pouvoirs du conseil transitoire

Idem

Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Powers of Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du ministre

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation d conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

13.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

13 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Commencement

14.—(1) This Act, except section 12, comes into force on a day to be named by proclamation of the Lieutenant Governor.

14 (1) La présente loi, à l'exclusion de l'article 12, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 12 comes into force on the day this Act receives Royal Assent.

(2) L'article 12 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem (3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

Idem (4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

Short title **15.** The short title of this Act is the *Audiology and Speech-Language Pathology Act, 1991*.

Idem (3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem (4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Titre abrégé **15** Le titre abrégé de la présente loi est *Loi de 1991 sur les audiologistes et les orthophonistes*.

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1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 44

*(Chapter 19
Statutes of Ontario, 1991)*

**An Act respecting the regulation
of the Professions of Audiology and
Speech-Language Pathology**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

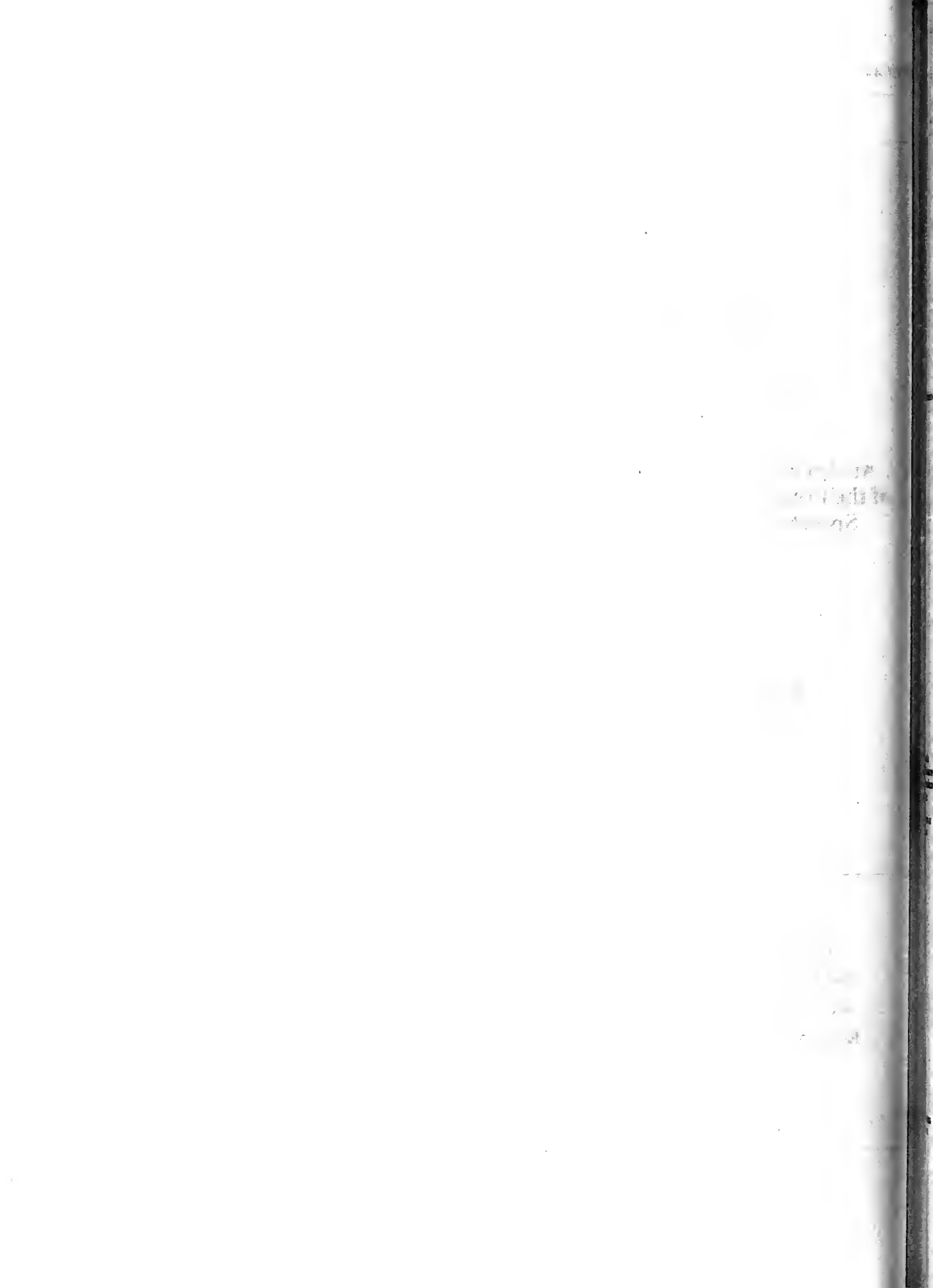
Projet de loi 44

*(Chapitre 19
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation
des professions d'audiologiste et
d'orthophoniste**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991



**An Act respecting the regulation
of the Professions of Audiology and
Speech-Language Pathology**

**Loi concernant la réglementation
des professions d'audiologiste et
d'orthophoniste**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

“College” means the College of Audiologists and Speech-Language Pathologists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the professions of audiology and speech-language pathology; (“profession”)

«Ordre» L'Ordre des audiologistes et des orthophonistes de l'Ontario. («College»)

«profession» La profession d'audiologiste et la profession d'orthophoniste. («profession»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

Code des professions de la santé

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

Termes figurant dans le Code

“College” means the College of Audiologists and Speech-Language Pathologists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des audiologistes et des orthophonistes de l'Ontario. («College»)

“profession” means the professions of audiology and speech-language pathology; (“profession”)

«profession» La profession d'audiologiste et la profession d'orthophoniste. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

Définitions du Code

Definitions

Health Professions Procedural Code

Terms in Code

Definitions in Code

Scope of practice

3.—(1) The practice of audiology is the assessment of auditory function and the treatment and prevention of auditory dysfunction to develop, maintain, rehabilitate or augment auditory and communicative functions.

3 (1) L'exercice de la profession d'audiologiste consiste dans l'évaluation de la fonction auditive et dans le traitement et la prévention des troubles de l'audition en vue de développer, de maintenir, de restaurer ou d'accroître les fonctions auditive et de communication.

Champ d'application

Idem

(2) The practice of speech-language pathology is the assessment of speech and language functions and the treatment and prevention of speech and language dysfunctions or disorders to develop, maintain, rehabilitate or augment oral motor or communicative functions.

(2) L'exercice de la profession d'orthophoniste consiste dans l'évaluation des fonctions de la parole et du langage, ainsi que dans le traitement et la prévention des troubles ou perturbations de la parole et du langage en vue de développer, de maintenir, de restaurer ou d'accroître les fonctions orale motrice et de communication.

Idem

Authorized acts

4. In the course of engaging in the practice of audiology, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to prescribe a hearing aid for a hearing impaired person.

4 Dans l'exercice de la profession d'audiologiste, un membre est autorisé à prescrire, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, des appareils de correction auditive aux personnes malentendantes.

Actes autorisés

College established

5. The College is established under the name College of Audiologists and Speech-Language Pathologists of Ontario in English and Ordre des audiologistes et des orthophonistes de l'Ontario in French.

5 L'Ordre est créé sous le nom d'Ordre des audiologistes et des orthophonistes de l'Ontario en français et sous le nom de College of Audiologists and Speech-Language Pathologists of Ontario en anglais.

Création de l'Ordre

Council

6.—(1) The Council shall be composed of,

6 (1) Le conseil se compose :

Conseil

(a) at least eight and no more than nine persons who are members elected in the prescribed number and manner;

a) d'au moins huit et d'au plus neuf personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) at least six and no more than seven persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins six et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;

(c) two persons selected in the prescribed manner from among members who are members of a faculty of audiology or speech-language pathology of a university in Ontario.

c) de deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'une faculté d'audiologie ou d'orthophonie d'une université ontarienne.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président vice-président

Restricted titles

8.—(1) No person other than a member shall use the titles "audiologist", "speech-language pathologist" or "speech therapist",

8 (1) Nul autre qu'un membre ne doit employer les titres d'«audiologiste», d'«orthophoniste» ou de «logopède», une

Titres réservés

a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as an audiologist or a speech-language pathologist or in a specialty of audiology or speech-language pathology.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

9.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

10. Every person who contravenes subsection 8 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

11. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations respecting the qualifications, selection and terms of office of Council members who are selected.

12.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d'audiologiste ou d'orthophoniste, ou une spécialité de l'audiologie ou de l'orthophonie.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

9 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

10 Quiconque contrevient au paragraphe 8 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

11 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement, traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis.

12 (1) Le lieutenant-gouverneur en conseil peut nommer un conseil transitoire.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Representations of qualification, etc.

Definition

Notice if suggestions referred to Advisory Council

Requirements re notice

Offence

Regulations

Transition before Act in force

owers of transitional Council

Item

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Règlements

Transition avant l'entrée en vigueur de la Loi

Pouvoirs du conseil transitoire

Idem

Powers of
Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

Transitional
Council to
comply with
Minister's
request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

Transition
after Act in
force

13.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

Terms of
members of
transitional
Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

Commence-
ment

14.—(1) This Act, except section 12, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 12 comes into force on the day this Act receives Royal Assent.

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(4) Le ministre peut :

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du
ministre

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du
conseil transi-
toire de satis-
faire à
l'exigence du
ministre

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

13 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition
après l'entré
en vigueur
de la Loi

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des
membres du
conseil tran-
sitaire

14 (1) La présente loi, à l'exclusion de l'article 12, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

(2) L'article 12 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

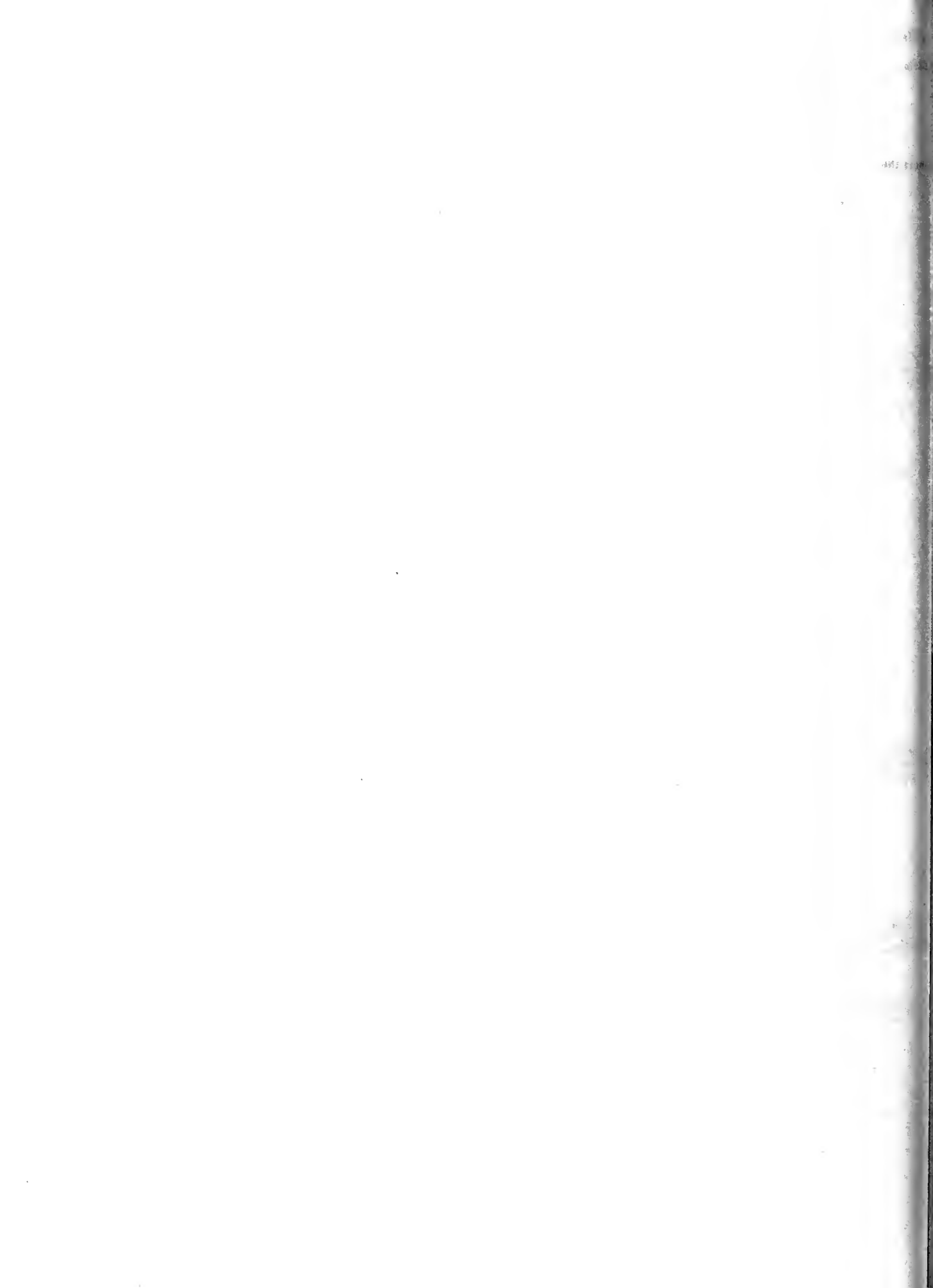
Idem

Idem (4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

Short title **15.** The short title of this Act is the *Audiology and Speech-Language Pathology Act, 1991.*

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi. **Idem**

15 Le titre abrégé de la présente loi est *Loi de 1991 sur les audiologistes et les orthophonistes.* **Titre abrégé**



1st SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 45

**An Act respecting the regulation
of the Profession of Chiropody**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 45

**Loi concernant la réglementation
de la profession de podologue**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of chiropody by the College of Chiropodists of Ontario. The Board of Regents appointed under the *Chiropody Act* is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 5 sets out the controlled acts that members of the College are authorized to perform. Section 17 restricts the use of the titles "chiropodist" and "podiatrist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of chiropody.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de podologue par l'Ordre des podologues de l'Ontario. Le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*») est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 5 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 17 réserve aux membres l'usage des titres de «podologue» et de «podiatre». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de podologue.

An Act respecting the regulation of the Profession of Chiroprody

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,

“College” means the College of Chiroprodists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of chiroprody; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Chiroprodists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of chiroprody; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3.—(1) There shall be a class of members called podiatrists.

(2) No person shall be added to the class of members called podiatrists after the 31st day of July, 1993.

4. The practice of chiroprody is the assessment of the foot and the treatment and pre-

Loi concernant la réglementation de la profession de podologue

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des podologues de l'Ontario. («College»)

«profession» La profession de podologue. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des podologues de l'Ontario. («College»)

«profession» La profession de podologue. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 (1) Est constituée une catégorie de membres appelés podiatres.

(2) Nul ne peut venir s'ajouter à la catégorie de membres appelés podiatres après le 31 juillet 1993.

4 L'exercice de la podologie consiste dans l'évaluation des pieds ainsi que dans le traite-

Définitions

Définitions

health professions procedural code terms in code

Code des professions de la santé

Termes figurant dans le Code

Definitions Code

Définitions du Code

Podiatrists

Podiatres

Limitation class

Admission limitée dans la catégorie

Scope of practice

Champ d'application

vention of diseases, disorders or dysfunctions of the foot by therapeutic, orthotic or palliative means.

Authorized acts

5.—(1) In the course of engaging in the practice of chiropody, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Cutting into subcutaneous tissues of the foot.
2. Administering substances by injection into feet.
3. Prescribing drugs.

Idem

(2) In the course of engaging in the practice of chiropody, a member who is a podiatrist is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Communicating a conclusion identifying a disease, disorder or dysfunction of the foot.
2. Cutting into subcutaneous tissues of the foot and bony tissues of the fore-foot.
3. Administering substances by injection into feet.
4. Prescribing drugs.

Board continued as College

6. The Board of Regents appointed under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, is continued under the name College of Chiropodists of Ontario in English and *Ordre des podologues de l'Ontario* in French.

Council

7.—(1) The Council shall be composed of,

- (a) at least seven and no more than ten persons who are members elected in the prescribed number and manner;
- (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) one or two persons selected in the prescribed manner from among members who are faculty members of an educational institution in Ontario that is

ment et la prévention des maladies, dysfonctions ou troubles du pied par des moyens thérapeutiques, orthétiques ou palliatifs.

Actes autorisés

5 (1) Dans l'exercice de la podologie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Pratiquer des incisions dans le tissu sous-cutané.
2. Administrer des substances par voie d'injection dans les pieds.
3. Prescrire des médicaments.

Idem

(2) Dans l'exercice de la podologie, un membre podiatre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Communiquer une conclusion constatant une maladie, un trouble ou une dysfonction du pied.
2. Pratiquer des incisions dans le tissu sous-cutané du pied et dans le tissu osseux de l'avant-pied.
3. Administrer des substances par voie d'injection dans les pieds.
4. Prescrire des médicaments.

Maintien d'un Conseil d'administration en tant qu'Ordre

6 Le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, est maintenu sous le nom d'*Ordre des podologues de l'Ontario* en français et de *College of Chiropodists of Ontario* en anglais.

Conseil

7 (1) Le conseil se compose :

- a) d'au moins sept et d'au plus dix personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins quatre personnes et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
- c) une ou deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'un établissement d'enseignement

authorized to grant diplomas or degrees in chiropody.

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

8. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

9.—(1) The Executive Committee shall be composed of,

- (a) the President and Vice-President of the Council;
- (b) one member of the Council who is a member of the College; and
- (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

(2) The President of the Council shall be the chair of the Executive Committee.

10. The Registration Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

11. The Complaints Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

12. The Discipline Committee shall be composed of,

- (a) three members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

13. The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

14. The Quality Assurance Committee shall be composed of,

ontarien habilité à décerner des diplômes ou des grades en podologie.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

9 (1) Le bureau se compose des personnes suivantes :

- a) le président et le vice-président du conseil;
- b) un membre du conseil qui est membre de l'Ordre;
- c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

(2) Le président du conseil assume la présidence du bureau.

10 Le comité d'inscription se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

11 Le comité des plaintes se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

12 Le comité de discipline se compose des personnes suivantes :

- a) trois membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) deux membres.

13 Le comité d'aptitude professionnelle se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

14 Le comité d'assurance de la qualité se compose des personnes suivantes :

Who can vote in elections

President and Vice-President

Executive Committee

Chair

Registration Committee

Complaints Committee

Discipline Committee

Fitness to Practise Committee

Quality Assurance Committee

Qui peut voter aux élections

Président et vice-président

Bureau

Président

Comité d'inscription

Comité des plaintes

Comité de discipline

Comité d'aptitude professionnelle

Comité d'assurance de la qualité

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

Appointment of members

15. The Council shall appoint the members of the committees mentioned in sections 9 to 14.

15 Le conseil nomme les membres des comités visés aux articles 9 à 14.

Nomination des membres

Imposition of duties on the Chiroprody Review Committee

16. The Council may give the Chiroprody Review Committee appointed under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

16 Le conseil peut imposer au comité d'étude de la podologie, constitué en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

Imposition d'obligations au comité d'étude de la podologie

Restricted titles

17.—(1) No person other than a member shall use the titles "chiroprodist" or "podiatrist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

17 (1) Nul autre qu'un membre ne doit employer les titres de «podologue» ou de «podiatre», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Titres réservés

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a chiroprodist or podiatrist or in a specialty of chiroprody.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de podologue ou de podiatre, ou une spécialité de la podologie.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

18.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

18 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

19. Every person who contravenes subsection 17 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

19 Quiconque contrevient au paragraphe 17 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

20. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations,

20 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement :

Règlement

- (a) restricting the substances that may be administered by injection and the

- a) limiter les substances pouvant être administrées par voie d'injection et les

drugs that may be prescribed by members in the course of engaging in the practice of chiropody;

- (b) respecting the qualifications, number, selection and terms of office of Council members who are selected; and
- (c) respecting the delegation by or to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

Transition

21. A person who, on the day before this Act comes into force, is registered as a chiropodist under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

Transition before Act in force

22.—(1) The transitional Council is the Board of Regents appointed under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, as the Board exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

Powers of Minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

médicaments pouvant être prescrits par des membres exerçant la podologie;

- b) traiter des compétences, du nombre, du choix et du mandat des membres du conseil qui sont choisis;
- c) traiter de la délégation, par des membres ou à des membres, de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Disposition transitoire

21 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de podologue aux termes de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Transition avant l'entrée en vigueur de la Loi

22 (1) Le conseil transitoire est le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Pouvoirs du conseil transitoire

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Idem

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Pouvoirs du ministre

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

23.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

23 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Composition of committees

(4) Sections 9 to 14 do not apply to committees of the transitional Council.

(4) Les articles 9 à 14 ne s'appliquent pas aux comités du conseil transitoire.

Composition des comités

Commencement

24.—(1) This Act, except section 22, comes into force on a day to be named by proclamation of the Lieutenant Governor.

24 (1) La présente loi, à l'exclusion de l'article 22, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 22 comes into force on the day this Act receives Royal Assent.

(2) L'article 22 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Short title

25. The short title of this Act is the *Chiropractic Act, 1991*.

25 Le titre abrégé de la présente loi est *Loi de 1991 sur les podologues*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 45

**An Act respecting the regulation
of the Profession of Chiropody**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

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Projet de loi 45

**Loi concernant la réglementation
de la profession de podologue**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

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The Bill provides for the regulation of the profession of chiropody by the College of Chiropodists of Ontario. The Board of Regents appointed under the *Chiropody Act* is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 5 sets out the controlled acts that members of the College are authorized to perform. Section 10 restricts the use of the titles "chiropodist" and "podiatrist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of chiropody.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de podologue par l'Ordre des podologues de l'Ontario. Le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*») est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 5 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 10 réserve aux membres l'usage des titres de «podologue» et de «podiatre». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de podologue.

An Act respecting the regulation of the Profession of Chiroprody

Loi concernant la réglementation de la profession de podologue

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Chiroprodists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of chiroprody; (“profession”)

«Ordre» L'Ordre des podologues de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de podologue. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Chiroprodists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des podologues de l'Ontario. («College»)

“profession” means the profession of chiroprody; (“profession”)

«profession» La profession de podologue. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3.—(1) There shall be a class of members called podiatrists.

3 (1) Est constituée une catégorie de membres appelés podiatres.

(2) No person shall be added to the class of members called podiatrists after the 31st day of July, 1993.

(2) Nul ne peut venir s'ajouter à la catégorie de membres appelés podiatres après le 31 juillet 1993.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Podiatrists

Podiatres

Limitation class

Admission limitée dans la catégorie

Scope of practice

4. The practice of chiropody is the assessment of the foot and the treatment and prevention of diseases, disorders or dysfunctions of the foot by therapeutic, orthotic or palliative means.

4 L'exercice de la podologie consiste dans l'évaluation des pieds ainsi que dans le traitement et la prévention des maladies, dysfonctions ou troubles du pied par des moyens thérapeutiques, orthétiques ou palliatifs.

Champ d'application

Authorized acts

5.—(1) In the course of engaging in the practice of chiropody, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

5 (1) Dans l'exercice de la podologie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Actes autorisés

1. Cutting into subcutaneous tissues of the foot.

1. Pratiquer des incisions dans le tissu sous-cutané.

2. Administering, by injection into feet, a substance designated in the regulations.

2. Administrer, par voie d'injection dans les pieds, les substances désignées dans les règlements.

3. Prescribing drugs designated in the regulations.

3. Prescrire les médicaments désignés dans les règlements.

Idem

(2) In the course of engaging in the practice of chiropody, a member who is a podiatrist is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

(2) Dans l'exercice de la podologie, un membre podiatre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Idem

1. Communicating a diagnosis identifying a disease or disorder of the foot as the cause of a person's symptoms.

1. Communiquer les diagnostics attribuant les symptômes que présentent des personnes à des maladies ou à des troubles du pied.

2. Cutting into subcutaneous tissues of the foot and bony tissues of the fore-foot.

2. Pratiquer des incisions dans le tissu sous-cutané du pied et dans le tissu osseux de l'avant-pied.

3. Administering, by injection into feet, a substance designated in the regulations.

3. Administrer, par voie d'injection dans les pieds, les substances désignées dans les règlements.

4. Prescribing drugs designated in the regulations.

4. Prescrire les médicaments désignés dans les règlements.

Board continued as College

6. The Board of Regents appointed under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, is continued under the name College of Chiropodists of Ontario in English and Ordre des podologues de l'Ontario in French.

6 Le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, est maintenu sous le nom d'Ordre des podologues de l'Ontario en français et de College of Chiropodists of Ontario en anglais.

Maintien d'administration en tant qu'Ordre

Council

7.—(1) The Council shall be composed of,

7 (1) Le conseil se compose :

Conseil

(a) at least six and no more than nine persons who are members elected in the prescribed number and manner;

a) d'au moins six et d'au plus neuf personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins cinq et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and

(c) one or two persons selected in the prescribed manner from among members who are faculty members of an educational institution in Ontario that is authorized to grant diplomas or degrees in chiropody.

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

8. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

9. The Council may give the Chiropody Review Committee appointed under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

10.—(1) No person other than a member shall use the titles "chiroprapist" or "podiatrist", a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a chiroprapist or podiatrist or in a specialty of chiropody.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

11.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

12. Every person who contravenes subsection 10 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;

c) d'une ou deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes ou des grades en podologie.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

9 Le conseil peut imposer au comité d'étude de la podologie, constitué en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

10 (1) Nul autre qu'un membre ne doit employer les titres de «podologue» ou de «podiatre», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de podologue ou de podiatre, ou une spécialité de la podologie.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

11 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

12 Quiconque contrevient au paragraphe 10 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première

Qui peut voter aux élections

Président et vice-président

Imposition d'obligations au comité d'étude de la podologie

Titres réservés

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Who can vote in elections

President and Vice-president

Imposition of duties on the Chiropody Review Committee

Restricted titles

Representations of qualification, etc.

Definition

Notice if suggestions referred to Advisory Council

Requirements relative to notice

Offence

Regulations

13. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) designating the substances that may be administered by injection and the drugs that may be prescribed by members in the course of engaging in the practice of chiropody; and
- (b) respecting the qualifications, number, selection and terms of office of Council members who are selected.

Transition

14. A person who, on the day before this Act comes into force, is registered as a chiropodist under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

Transition before Act in force

15.—(1) The transitional Council is the Board of Regents appointed under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, as the Board exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

Powers of Minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;

infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

13 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement :

Règlements

- a) désigner les substances pouvant être administrées par voie d'injection et les médicaments pouvant être prescrits par des membres exerçant la podologie;
- b) traiter des compétences, du nombre, du choix et du mandat des membres du conseil qui sont choisis.

Disposition transitoire

14 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de podologue aux termes de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Transition avant l'entrée en vigueur de la Loi

15 (1) Le conseil transitoire est le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Pouvoirs du conseil transitoire

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Idem

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Pouvoirs du ministre

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

16.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

16 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

17.—(1) This Act, except section 15, comes into force on a day to be named by proclamation of the Lieutenant Governor.

17 (1) La présente loi, à l'exclusion de l'article 15, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) Section 15 comes into force on the day this Act receives Royal Assent.

(2) L'article 15 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la

Idem

Transitional Council to comply with Minister's request

Regulations

idem

expenses

transition after Act in force

terms of members of transitional council

vacancies

commence-ment

idem

idem

idem

applies in respect of this Act, does not come into force until one year after this Act comes into force. ▲

mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi. ▲

Short title

18. The short title of this Act is the *Chiropody Act, 1991*.

18 Le titre abrégé de la présente loi est *Loi de 1991 sur les podologues*. Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 45

*(Chapter 20
Statutes of Ontario, 1991)*

**An Act respecting the regulation
of the Profession of Chiropody**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

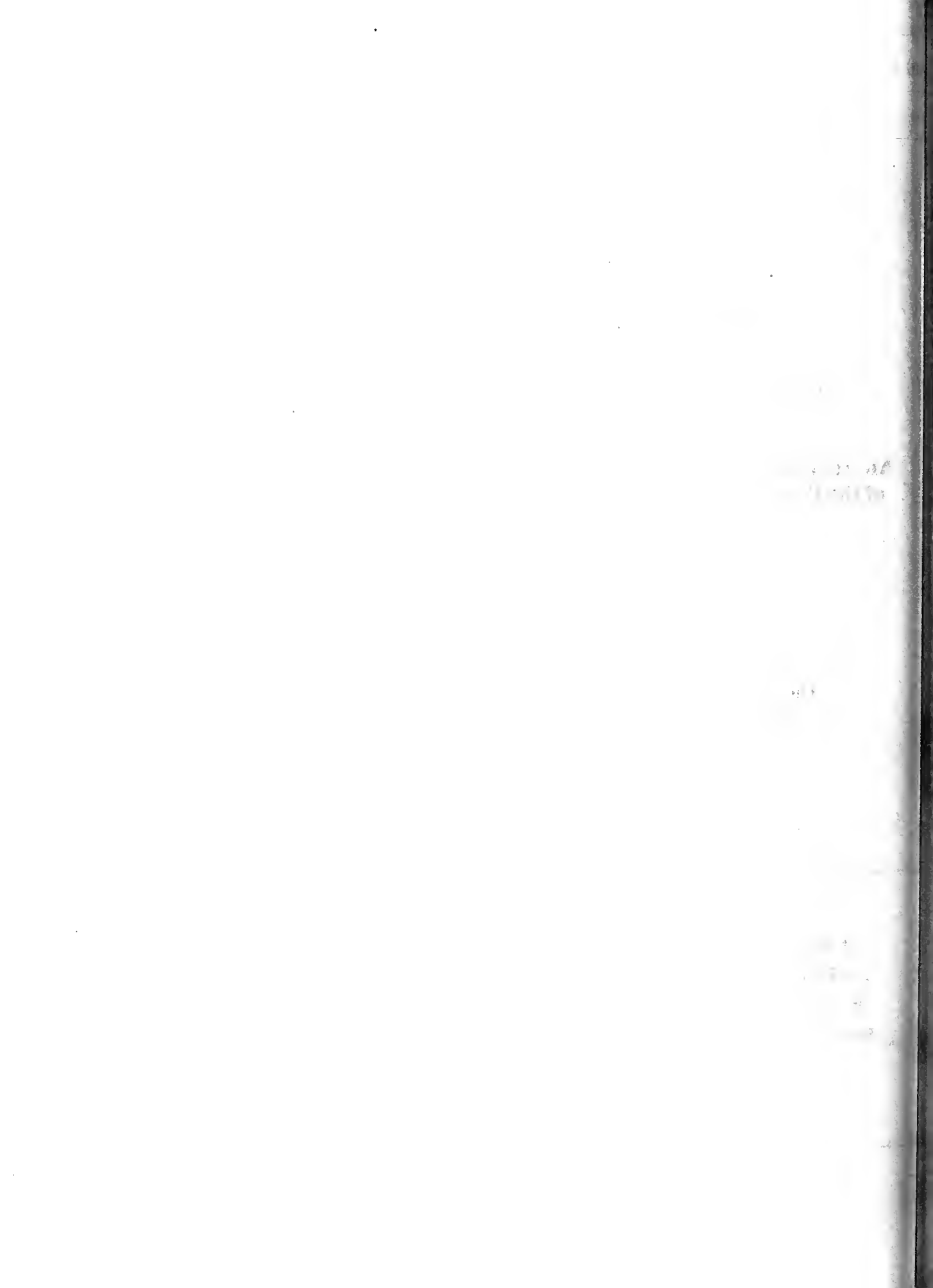
Projet de loi 45

*(Chapitre 20
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation
de la profession de podologue**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991



An Act respecting the regulation of the Profession of Chiropody

Loi concernant la réglementation de la profession de podologue

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

“College” means the College of Chiropodists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of chiropody; (“profession”)

«Ordre» L'Ordre des podologues de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de podologue. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

Code des professions de la santé

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

Termes figurant dans le Code

“College” means the College of Chiropodists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des podologues de l'Ontario. («College»)

“profession” means the profession of chiropody; (“profession”)

«profession» La profession de podologue. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

Définitions du Code

3.—(1) There shall be a class of members called podiatrists.

3 (1) Est constituée une catégorie de membres appelés podiatres.

Podiatres

(2) No person shall be added to the class of members called podiatrists after the 31st day of July, 1993.

(2) Nul ne peut venir s'ajouter à la catégorie de membres appelés podiatres après le 31 juillet 1993.

Admission limitée dans la catégorie

Scope of practice

4. The practice of chiropody is the assessment of the foot and the treatment and prevention of diseases, disorders or dysfunctions of the foot by therapeutic, orthotic or palliative means.

4 L'exercice de la podologie consiste dans l'évaluation des pieds ainsi que dans le traitement et la prévention des maladies, dysfonctions ou troubles du pied par des moyens thérapeutiques, orthétiques ou palliatifs.

Champ d'application

Authorized acts

5.—(1) In the course of engaging in the practice of chiropody, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

5 (1) Dans l'exercice de la podologie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Actes autorisés

1. Cutting into subcutaneous tissues of the foot.
2. Administering, by injection into feet, a substance designated in the regulations.
3. Prescribing drugs designated in the regulations.

1. Pratiquer des incisions dans le tissu sous-cutané.
2. Administrer, par voie d'injection dans les pieds, les substances désignées dans les règlements.
3. Prescrire les médicaments désignés dans les règlements.

Idem

(2) In the course of engaging in the practice of chiropody, a member who is a podiatrist is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

(2) Dans l'exercice de la podologie, un membre podiatre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Idem

1. Communicating a diagnosis identifying a disease or disorder of the foot as the cause of a person's symptoms.
2. Cutting into subcutaneous tissues of the foot and bony tissues of the fore-foot.
3. Administering, by injection into feet, a substance designated in the regulations.
4. Prescribing drugs designated in the regulations.

1. Communiquer les diagnostics attribuant les symptômes que présentent des personnes à des maladies ou à des troubles du pied.
2. Pratiquer des incisions dans le tissu sous-cutané du pied et dans le tissu osseux de l'avant-pied.
3. Administrer, par voie d'injection dans les pieds, les substances désignées dans les règlements.
4. Prescrire les médicaments désignés dans les règlements.

Board continued as College

6. The Board of Regents appointed under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, is continued under the name College of Chiropodists of Ontario in English and Ordre des podologues de l'Ontario in French.

6 Le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, est maintenu sous le nom d'Ordre des podologues de l'Ontario en français et de College of Chiropodists of Ontario en anglais.

Maintien du Conseil d'administration en tant qu'Ordre

Council

- 7.—(1) The Council shall be composed of,
- (a) at least six and no more than nine persons who are members elected in the prescribed number and manner;
 - (b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and

- 7 (1) Le conseil se compose :
- a) d'au moins six et d'au plus neuf personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) d'au moins cinq et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;

Conseil

(c) one or two persons selected in the prescribed manner from among members who are faculty members of an educational institution in Ontario that is authorized to grant diplomas or degrees in chiropody.

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

8. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

9. The Council may give the Chiropody Review Committee appointed under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

10.—(1) No person other than a member shall use the titles "chiropodist" or "podiatrist", a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a chiropodist or podiatrist or in a specialty of chiropody.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

11.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

12. Every person who contravenes subsection 10 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

13. Subject to the approval of the Lieutenant Governor in Council and with prior

c) d'une ou deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes ou des grades en podologie.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

9 Le conseil peut imposer au comité d'étude de la podologie, constitué en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

10 (1) Nul autre qu'un membre ne doit employer les titres de «podologue» ou de «podiatre», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de podologue ou de podiatre, ou une spécialité de la podologie.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

11 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

12 Quiconque contrevient au paragraphe 10 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

13 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après exa-

Who can
vote in elec-
tions

President
and Vice-
president

Imposition
of duties on
the Chiro-
pody Review
Committee

Restricted
titles

Representa-
tions of
qualification,
etc.

Definition

Notice if
suggestions
referred to
Advisory
Council

Require-
ments re-
lative
to

Offence

Regulations

Qui peut
voter aux
élections

Président et
vice-président

Imposition
d'obligations
au comité
d'étude de la
podologie

Titres réserv-
és

Déclaration
de compé-
tence

Définition

Avis en cas
de présenta-
tion d'une
proposition
au Conseil
consultatif

Exigences
relatives à
l'avis

Infraction

Règlements

review by the Minister, the Council may make regulations,

- (a) designating the substances that may be administered by injection and the drugs that may be prescribed by members in the course of engaging in the practice of chiropody;
- (b) respecting the qualifications, number, selection and terms of office of Council members who are selected.

men du ministre, le conseil peut, par règlement :

- a) désigner les substances pouvant être administrées par voie d'injection et les médicaments pouvant être prescrits par des membres exerçant la podologie;
- b) traiter des compétences, du nombre, du choix et du mandat des membres du conseil qui sont choisis.

Transition

14. A person who, on the day before this Act comes into force, is registered as a chiropodist under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

14 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de podologue aux termes de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Disposition transitoire

Transition before Act in force

15.—(1) The transitional Council is the Board of Regents appointed under the *Chiropody Act*, being chapter 72 of the Revised Statutes of Ontario, 1980, as the Board exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

15 (1) Le conseil transitoire est le Conseil d'administration constitué en vertu de la loi intitulée *Chiropody Act* («*Loi sur les podologues*»), qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1980, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

(4) Le ministre peut :

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du ministre

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence du conseil et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

16.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

16 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Commencement

17.—(1) This Act, except section 15, comes into force on a day to be named by proclamation of the Lieutenant Governor.

17 (1) La présente loi, à l'exclusion de l'article 15, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

idem

(2) Section 15 comes into force on the day this Act receives Royal Assent.

(2) L'article 15 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

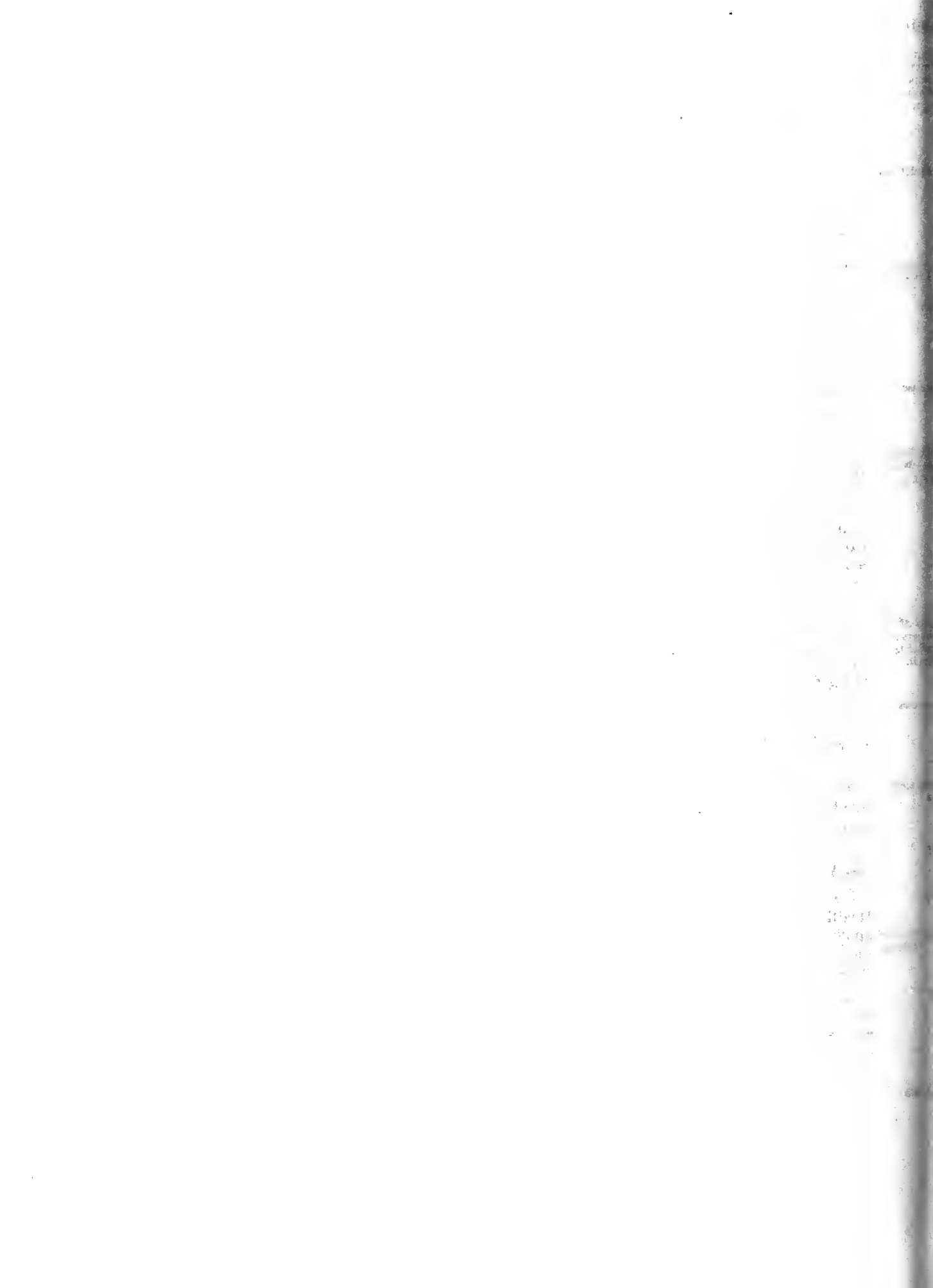
Idem

short title

18. The short title of this Act is the *Chiroprody Act, 1991*.

18 Le titre abrégé de la présente loi est *Loi de 1991 sur les podologues*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 46

**An Act respecting the regulation
of the Profession of Chiropractic**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 46

**Loi concernant la réglementation
de la profession de chiropraticien**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of chiropractic by the College of Chiropractors of Ontario. The Board of Directors of Chiropractic is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 16 restricts the use of the title "chiropractor" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of chiropractic.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de chiropraticien par l'Ordre des chiropraticiens de l'Ontario. Le Conseil d'administration des chiropraticiens est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé au paragraphe 2 (1), faire partie du projet de loi. L'article énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 16 réserve aux membres l'usage du titre «chiropraticien». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de chiropraticien.

An Act respecting the regulation of the Profession of Chiropractic

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,

“College” means the College of Chiropractors of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of chiropractic; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Chiropractors of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of chiropractic; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of chiropractic is the assessment of conditions related to the spine, nervous system and joints of the extremities and the diagnosis, treatment and prevention of dysfunctions or disorders arising from the structures or functions of the spine and the effects of those dysfunctions or disorders on the nervous system, primarily by the adjust-

Loi concernant la réglementation de la profession de chiropraticien

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des chiropraticiens de l'Ontario. («College»)

«profession» La profession de chiropraticien. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des chiropraticiens de l'Ontario. («College»)

«profession» La profession de chiropraticien. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la chiropratique consiste dans l'évaluation des états pathologiques liés à la colonne vertébrale, au système nerveux et aux articulations des membres, et dans le diagnostic, le traitement et la prévention des dysfonctions ou troubles découlant des structures ou fonctions de la colonne vertébrale et découlant des effets de ces dysfonctions ou

Définitions

Définitions

Code des professions de la santé

Code des professions de la santé

Termes figurant dans le Code

Définitions du Code

Définitions du Code

Champ d'application

Champ d'application

ment of the spinal column or other joints to enhance function.

troubles sur le système nerveux, essentiellement par des manipulations de la colonne vertébrale ou d'autres articulations pour en améliorer le fonctionnement.

Authorized acts

4. In the course of engaging in the practice of chiropractic, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

4 Dans l'exercice de la chiropratique, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Actes autorisés

1. Communicating a conclusion, identifying a dysfunction or disorder arising from the structures or functions of the spine and their effects on the nervous system as the cause of a person's symptoms.
2. Moving the joints of the spine beyond a person's usual physiological range of motion using a fast, low amplitude thrust.

1. Communiquer les conclusions attribuant les symptômes de personnes à des dysfonctions ou à des troubles découlant des structures ou fonctions de la colonne vertébrale ainsi qu'à leurs effets sur le système nerveux.
2. Mouvoir les articulations de la colonne vertébrale au-delà de l'arc de mouvement physiologique habituel de personnes au moyen d'impulsions rapides de faible amplitude.

Board continued as College

5. The Board of Directors of Chiropractic is continued under the name College of Chiropractors of Ontario in English and Ordre des chiropraticiens de l'Ontario in French.

5 Le Conseil d'administration des chiropraticiens est maintenu sous le nom d'Ordre des chiropraticiens de l'Ontario en français et sous le nom de College of Chiropractors of Ontario en anglais.

Maintien du Conseil d'administration en tant qu'Ordre

Council

- 6.—(1)** The Council shall be composed of,
- (a) at least eight and no more than twelve persons who are members elected in the prescribed number and manner; and
 - (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

- 6 (1)** Le conseil se compose :
- a) d'au moins huit et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) d'au moins quatre et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Conseil

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Executive Committee

8.—(1) The Executive Committee shall be composed of,

8 (1) Le bureau se compose des personnes suivantes :

Bureau

- (a) the President and Vice-President of the Council;
- (b) two members of the Council who are members of the College; and

- a) le président et le vice-président du conseil;
- b) deux membres du conseil qui sont membres de l'Ordre;

(c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Chair
(2) The President of the Council shall be the chair of the Executive Committee.

(2) Le président du conseil assume la présidence du bureau. Président

Registration Committee
9. The Registration Committee shall be composed of,

9 Le comité d'inscription se compose des personnes suivantes : Comité d'inscription

(a) two members of the Council who are members of the College; and

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Complaints Committee
10. The Complaints Committee shall be composed of,

10 Le comité des plaintes se compose des personnes suivantes : Comité des plaintes

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

(c) one member.

c) un membre.

Discipline Committee
11. The Discipline Committee shall be composed of,

11 Le comité de discipline se compose des personnes suivantes : Comité de discipline

(a) three members of the Council who are members of the College;

a) trois membres du conseil qui sont membres de l'Ordre;

(b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;

(c) two members.

c) deux membres.

Fitness to Practise Committee
12. The Fitness to Practise Committee shall be composed of,

12 Le comité d'aptitude professionnelle se compose des personnes suivantes : Comité d'aptitude professionnelle

(a) two members of the Council who are members of the College; and

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Quality Assurance Committee
13. The Quality Assurance Committee shall be composed of,

13 Le comité d'assurance de la qualité se compose des personnes suivantes : Comité d'assurance de la qualité

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

(c) two members.

c) deux membres.

Appointment members
14. The Council shall appoint the members of the committees mentioned in sections 8 to 13.

14 Le conseil nomme les membres des comités visés aux articles 8 à 13. Nomination des membres

Position duties on Chiropractic Review Committee
15. The Council may give the Chiropractic Review Committee continued under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

15 Le conseil peut imposer au comité d'étude de la chiropratique, maintenu en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi. Imposition d'obligations au comité d'étude de la chiropratique

Restricted
16.—(1) No person other than a member shall use the title "chiropractor", a variation

16 (1) Nul autre qu'un membre ne doit employer le titre de «chiropraticien», une Titre réservé

or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a chiropractor or in a specialty of chiropractic.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de chiropraticien, ou une spécialité de la chiropratique.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

17.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

17 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

18. Every person who contravenes subsection 16 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

18 Quiconque contrevient au paragraphe 16 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Transitional

19. A person who, on the day before this Act comes into force, is registered as a chiropractor under the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

19 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de chiropraticien aux termes de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), qui constitue le chapitre 127 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Dispositio transitoire

Transition before Act in force

20.—(1) The transitional Council is the Board of Directors of Chiropractic as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

20 (1) Le conseil transitoire est le Conseil d'administration des chiropraticiens, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs conseil transitoire

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

(4) The Minister may,

(4) Le ministre peut :

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

21.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

21 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Idem

Pouvoirs du ministre

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Règlements

Idem

Frais

Transition après l'entrée en vigueur de la Loi

Mandat des membres du conseil transitoire

Vacances

Composition of committees	(4) Sections 8 to 13 do not apply to committees of the transitional Council.	(4) Les articles 8 à 13 ne s'appliquent pas aux comités du conseil transitoire.	Composition des comités
Commencement	22.—(1) This Act, except section 20, comes into force on a day to be named by proclamation of the Lieutenant Governor.	22 (1) La présente loi, à l'exclusion de l'article 20, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Idem	(2) Section 20 comes into force on the day this Act receives Royal Assent.	(2) L'article 20 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.	(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.	Idem
Short title	23. The short title of this Act is the <i>Chiropractic Act, 1991</i> .	23 Le titre abrégé de la présente loi est <i>Loi de 1991 sur les chiropraticiens</i> .	Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 46

**An Act respecting the regulation
of the Profession of Chiropractic**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

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Projet de loi 46

**Loi concernant la réglementation
de la profession de chiropraticien**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

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EXPLANATORY NOTE

The Bill provides for the regulation of the profession of chiropractic by the College of Chiropractors of Ontario. The Board of Directors of Chiropractic is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 9 restricts the use of the title "chiropractor" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of chiropractic.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de chiropraticien par l'Ordre des chiropraticiens de l'Ontario. Le Conseil d'administration des chiropraticiens est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé au paragraphe 2 (1), faire partie du projet de loi. L'article énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 9 réserve aux membres l'usage du titre de «chiropraticien». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de chiropraticien.

An Act respecting the regulation of the Profession of Chiropractic

Loi concernant la réglementation de la profession de chiropraticien

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Chiropractors of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of chiropractic; (“profession”)

«Ordre» L'Ordre des chiropraticiens de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de chiropraticien. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Chiropractors of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des chiropraticiens de l'Ontario. («College»)

“profession” means the profession of chiropractic; (“profession”)

«profession» La profession de chiropraticien. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of chiropractic is the assessment of conditions related to the spine, nervous system and joints and the diagnosis, prevention and treatment, primarily by adjustment, of,

3 L'exercice de la chiropratique consiste dans l'évaluation des états pathologiques relatifs à la colonne vertébrale, au système nerveux et aux articulations, et dans le diagnostic, la prévention et le traitement, essen-

Definitions

Définitions

Health Professions Procedural Code

Terms in Code

Definitions Code

Scope of practice

Code des professions de la santé

Termes figurant dans le Code

Définitions du Code

Champ d'application

- (a) dysfunctions or disorders arising from the structures or functions of the spine and the effects of those dysfunctions or disorders on the nervous system; and
- (b) dysfunctions or disorders arising from the structures or functions of the joints. ▲

4. In the course of engaging in the practice of chiropractic, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Communicating a diagnosis identifying, as the cause of a person's symptoms,
- i. a disorder arising from the structures or functions of the spine and their effects on the nervous system, or
 - ii. a disorder arising from the structures or functions of the joints of the extremities. ▲

2. Moving the joints of the spine beyond a person's usual physiological range of motion using a fast, low amplitude thrust.

3. Putting a finger beyond the anal verge for the purpose of manipulating the tailbone. ▲

5. The Board of Directors of Chiropractic is continued under the name College of Chiropractors of Ontario in English and Ordre des chiropraticiens de l'Ontario in French.

6. (1) The Council shall be composed of,

(a) nine persons who are members elected in the prescribed manner; and ▲

(b) seven persons appointed by the Lieutenant Governor in Council who are not,

(i) members,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(2) Subject to the regulations, every member who practises or resides in Ontario and

tellement par des manipulations, des manœuvres suivantes :

a) les dysfonctions ou troubles découlant des structures ou des fonctions de la colonne vertébrale et découlant des effets de ces dysfonctions ou troubles sur le système nerveux;

b) les dysfonctions ou troubles découlant des structures ou des fonctions des articulations. ▲

4. Dans l'exercice de la chiropratique, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Communiquer les diagnostics attribuant les symptômes que présentent des personnes à l'une des causes suivantes :

i. des troubles découlant des structures ou des fonctions de la colonne vertébrale et de leurs effets sur le système nerveux,

ii. des troubles découlant des structures ou des fonctions des articulations des membres. ▲

2. Mouvoir les articulations de la colonne vertébrale au-delà de l'arc de mouvement physiologique habituel de personnes au moyen d'impulsions rapides de faible amplitude.

3. Introduire un doigt au-delà de la marge de l'anus en vue de manipuler le coccyx. ▲

5. Le Conseil d'administration des chiropraticiens est maintenu sous le nom d'Ordre des chiropraticiens de l'Ontario en français et sous le nom de College of Chiropractors of Ontario en anglais.

6. (1) Le conseil se compose :

a) de neuf personnes qui sont membres et qui sont élues de la manière prescrite; ▲

b) de sept personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) membres,

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside

Actes autorisés

Maintien d'administration en tant qu'Ordre

Conseil

Qui peut voter aux élections

who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

8. The Council may give the Chiropractic Review Committee continued under the Health Insurance Act duties that are not inconsistent with the Committee's duties under that Act.

9.—(1) No person other than a member shall use the title "chiropractor", a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a chiropractor or in a specialty of chiropractic.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

10.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the Regulated Health Professions Act, 1991, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

12. A person who, on the day before this Act comes into force, is registered as a chiropractor under the Drugless Practitioners Act, being chapter 127 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

8 Le conseil peut imposer au comité d'étude de la chiropratique, maintenu en vertu de la loi intitulée Health Insurance Act («Loi sur l'assurance-santé»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

9 (1) Nul autre qu'un membre ne doit employer le titre de «chiropraticien», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de chiropraticien, ou une spécialité de la chiropratique.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la Loi de 1991 sur les professions de la santé réglementées, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

12 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de chiropraticien aux termes de la loi intitulée Drugless Practitioners Act («Loi sur les praticiens ne prescrivant pas de médicaments»), qui constitue le chapitre 127 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

President and Vice-President

Position duties of the Chiropractic Review Committee

Restricted titles

Representatives of qualification

Definition

Notice if suggestions referred to Advisory Council

Requirements relative to notice

Offence

Transitional

President et vice-président

Imposition d'obligations au comité d'étude de la chiropratique

Titre réservé

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Disposition transitoire

Transition
before Act
in force

13.—(1) The transitional Council is the Board of Directors of Chiropractic as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

13 (1) Le conseil transitoire est le Conseil d'administration des chiropraticiens, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition
avant l'entré
en vigueur
la Loi

Powers of
transitional
Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil tran
sitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of
Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs d
ministre

Transitional
Council to
comply with
Minister's
request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation
conseil tran
sitoire de s
faire à
l'exigence
ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlemen

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition
after Act in
force

14.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accor-

14 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué confor-

Transition
après l'entré
en vigueur
la Loi

dance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

15.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 13 comes into force on the day this Act receives Royal Assent.

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

16. The short title of this Act is the *Chiropractic Act, 1991*.

mément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

15 (1) La présente loi, à l'exclusion de l'article 13, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) L'article 13 entre en vigueur le jour où la présente loi reçoit la sanction royale.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

16 Le titre abrégé de la présente loi est *Loi de 1991 sur les chiropraticiens*.

Mandat des membres du conseil transitoire

Vacances

Entrée en vigueur

Idem

Idem

Idem

Titre abrégé

Terms of members of transitional Council

Vacancies

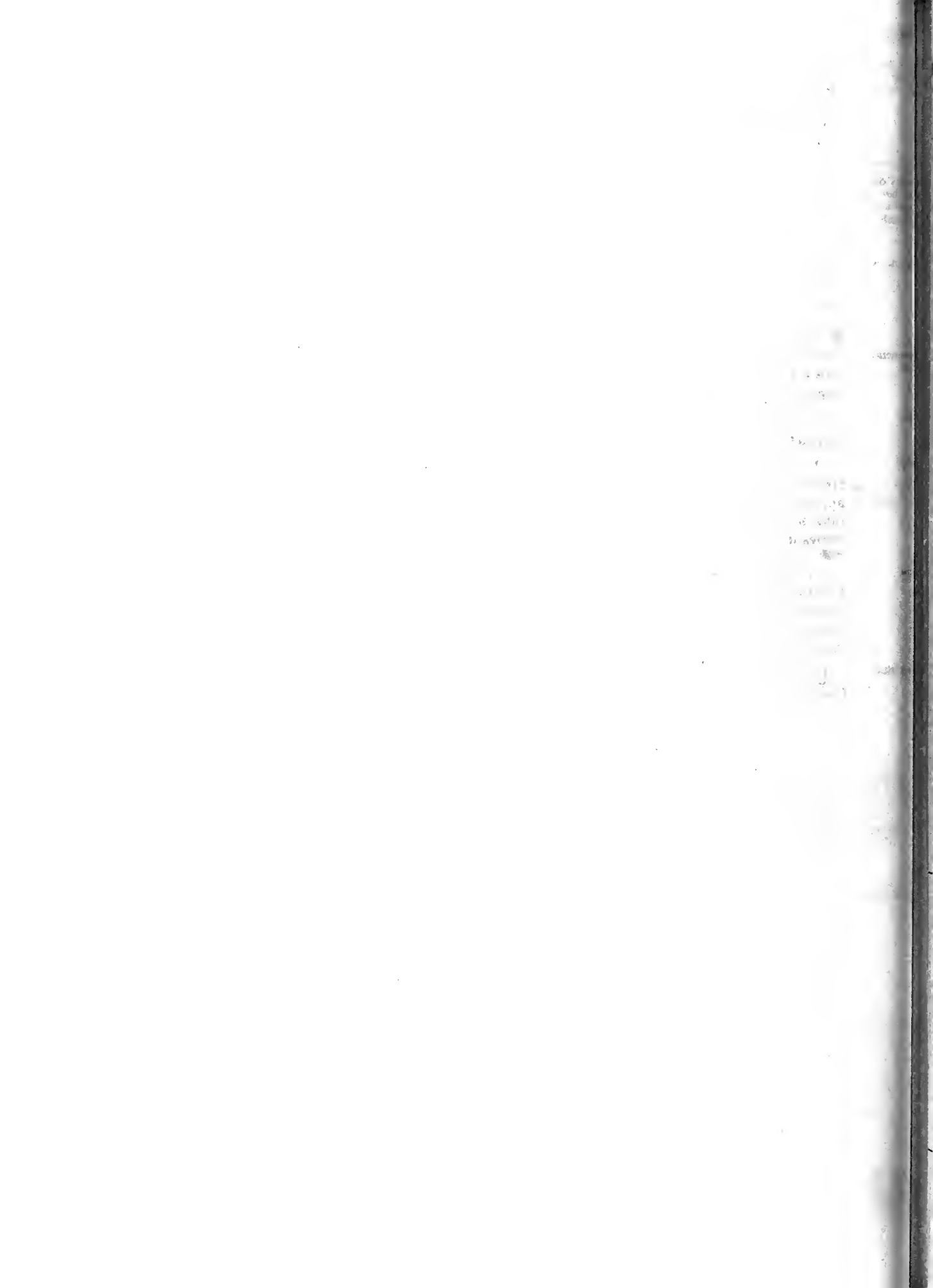
Commencement

Idem

Idem

Idem

Short title



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 46

*(Chapter 21
Statutes of Ontario, 1991)*

**An Act respecting the regulation
of the Profession of Chiropractic**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

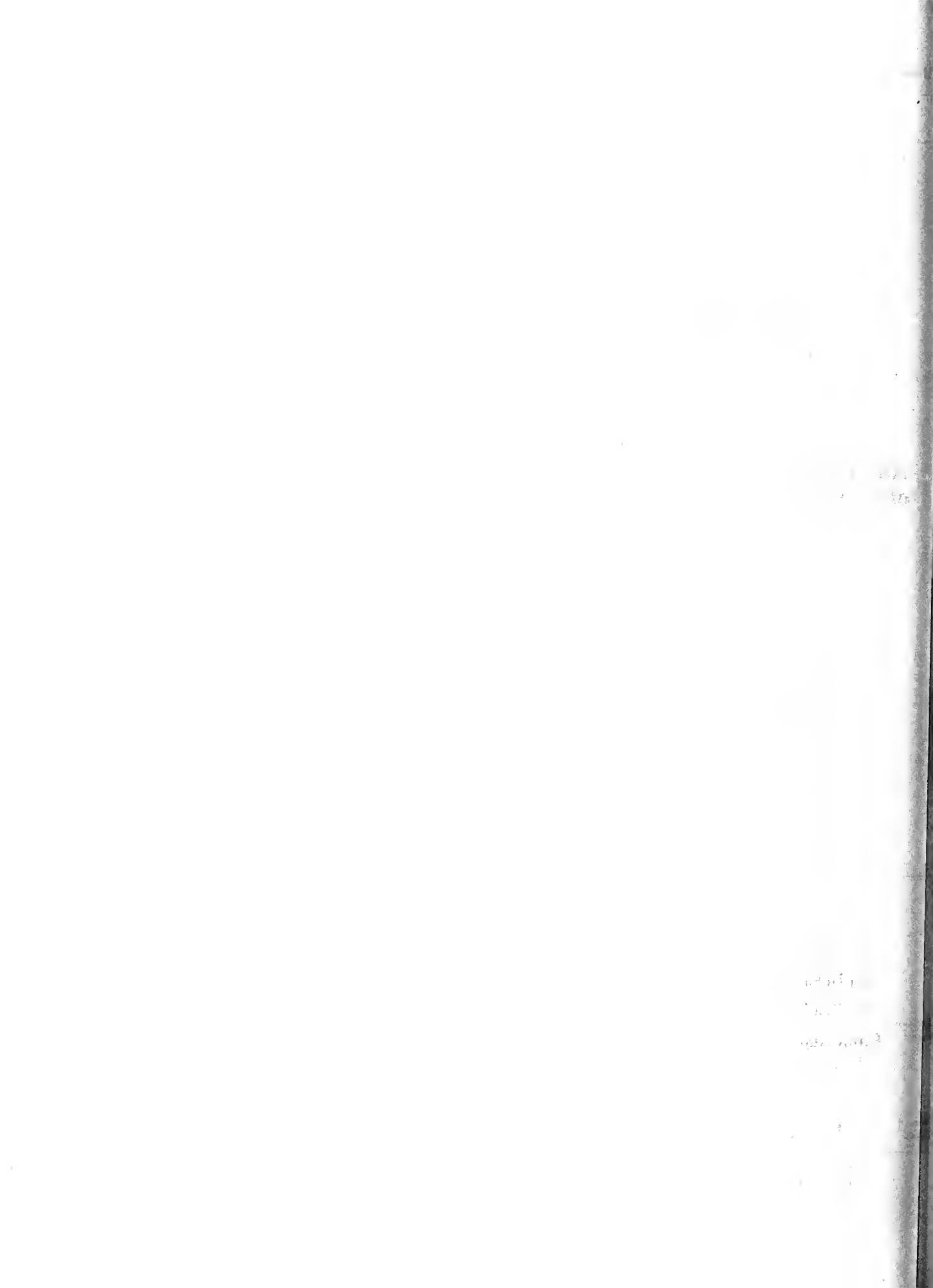
Projet de loi 46

*(Chapitre 21
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation
de la profession de chiropraticien**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991



An Act respecting the regulation of the Profession of Chiropractic

Loi concernant la réglementation de la profession de chiropraticien

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Chiropractors of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of chiropractic; (“profession”)

«Ordre» L'Ordre des chiropraticiens de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de chiropraticien. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Chiropractors of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des chiropraticiens de l'Ontario. («College»)

“profession” means the profession of chiropractic; (“profession”)

«profession» La profession de chiropraticien. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of chiropractic is the assessment of conditions related to the spine, nervous system and joints and the diagnosis, prevention and treatment, primarily by adjustment, of,

3 L'exercice de la chiropratique consiste dans l'évaluation des états pathologiques relatifs à la colonne vertébrale, au système nerveux et aux articulations, et dans le diagnostic, la prévention et le traitement, essen-

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

- (a) dysfunctions or disorders arising from the structures or functions of the spine and the effects of those dysfunctions or disorders on the nervous system; and
- (b) dysfunctions or disorders arising from the structures or functions of the joints.

Authorized acts

4. In the course of engaging in the practice of chiropractic, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Communicating a diagnosis identifying, as the cause of a person's symptoms,
 - i. a disorder arising from the structures or functions of the spine and their effects on the nervous system, or
 - ii. a disorder arising from the structures or functions of the joints of the extremities.
2. Moving the joints of the spine beyond a person's usual physiological range of motion using a fast, low amplitude thrust.
3. Putting a finger beyond the anal verge for the purpose of manipulating the tailbone.

Board continued as College

5. The Board of Directors of Chiropractic is continued under the name College of Chiropractors of Ontario in English and Ordre des chiropraticiens de l'Ontario in French.

Council

- 6.—(1)** The Council shall be composed of,
- (a) nine persons who are members elected in the prescribed manner; and
 - (b) seven persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the

tiellement par des manipulations, des maux suivants :

- a) les dysfonctions ou troubles découlant des structures ou des fonctions de la colonne vertébrale et découlant des effets de ces dysfonctions ou troubles sur le système nerveux;
- b) les dysfonctions ou troubles découlant des structures ou des fonctions des articulations.

4 Dans l'exercice de la chiropratique, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Actes autorisés

1. Communiquer les diagnostics attribuant les symptômes que présentent des personnes à l'une des causes suivantes :
 - i. des troubles découlant des structures ou des fonctions de la colonne vertébrale et de leurs effets sur le système nerveux,
 - ii. des troubles découlant des structures ou des fonctions des articulations des membres.
2. Mouvoir les articulations de la colonne vertébrale au-delà de l'arc de mouvement physiologique habituel de personnes au moyen d'impulsions rapides de faible amplitude.
3. Introduire un doigt au-delà de la marge de l'anus en vue de manipuler le coccyx.

5 Le Conseil d'administration des chiropraticiens est maintenu sous le nom d'Ordre des chiropraticiens de l'Ontario en français et sous le nom de College of Chiropractors of Ontario en anglais.

Maintien Conseil d'administration en tant qu'Ordre

6 (1) Le conseil se compose :

Conseil

- a) de neuf personnes qui sont membres et qui sont élues de la manière prescrite;
- b) de sept personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation

Qui peut voter aux élections

annual membership fee is entitled to vote in an election of members of the Council.

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

8. The Council may give the Chiropractic Review Committee continued under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

9.—(1) No person other than a member shall use the title "chiropractor", a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a chiropractor or in a specialty of chiropractic.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

10.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

12. A person who, on the day before this Act comes into force, is registered as a chiropractor under the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

annuelle a droit de vote lors d'une élection des membres du conseil.

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

8 Le conseil peut imposer au comité d'étude de la chiropratique, maintenu en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

9 (1) Nul autre qu'un membre ne doit employer le titre de «chiropraticien», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de chiropraticien, ou une spécialité de la chiropratique.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

12 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de chiropraticien aux termes de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), qui constitue le chapitre 127 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Président et vice-président

Imposition d'obligations au comité d'étude de la chiropratique

Titre réservé

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Disposition transitoire

President and Vice-President

Imposition of duties on the Chiropractic Review Committee

Restricted titles

Representations of qualification, etc.

Definition

Notice if suggestions referred to advisory council

Requirements relative to notice

Offence

Transitional

Transition before Act in force

13.—(1) The transitional Council is the Board of Directors of Chiropractic as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

13 (1) Le conseil transitoire est le Conseil d'administration des chiropraticiens, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du ministre

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlement

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

14.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accor-

14 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué confor-

Transition après l'entrée en vigueur de la Loi

dance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

mément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Commencement

15.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

15 (1) La présente loi, à l'exclusion de l'article 13, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

dem

(2) Section 13 comes into force on the day this Act receives Royal Assent.

(2) L'article 13 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

dem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

dem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Idem

short title

16. The short title of this Act is the *Chiropractic Act, 1991*.

16 Le titre abrégé de la présente loi est *Loi de 1991 sur les chiropraticiens*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 47

**An Act respecting the regulation
of the Profession of Dental Hygiene**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 47

**Loi concernant la réglementation
de la profession d'hygiéniste dentaire**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dental hygiene by the College of Dental Hygienists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 15 restricts the use of the title "dental hygienist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dental hygiene.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession d'hygiéniste dentaire par l'Ordre des hygiénistes dentaires de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 15 réserve aux membres l'usage du titre d'«hygiéniste dentaire». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession d'hygiéniste dentaire.

An Act respecting the regulation of the Profession of Dental Hygiene

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,

“College” means the College of Dental Hygienists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of dental hygiene; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Dental Hygienists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of dental hygiene; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of dental hygiene is the assessment of teeth and adjacent tissues and treatment by preventive and therapeutic means and, on the order of a member of the Royal College of Dental Surgeons of Ontario, the provision of restorative and orthodontic procedures and services.

Loi concernant la réglementation de la profession d'hygiéniste dentaire

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des hygiénistes dentaires de l'Ontario. («College»)

«profession» La profession d'hygiéniste dentaire. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des hygiénistes dentaires de l'Ontario. («College»)

«profession» La profession d'hygiéniste dentaire. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de l'hygiène dentaire consiste dans l'évaluation des dents et des tissus adjacents et leur traitement par des moyens préventifs et thérapeutiques, et, sur l'ordre d'un membre de l'Ordre royal des chirurgiens dentistes de l'Ontario, dans la prestation d'actes et de soins de restauration et d'orthodontie.

Définitions

Définitions

health professions procedural code terms in code

Code des professions de la santé

Termes figurant dans le Code

Definitions Code

Définitions du Code

scope of practice

Champ d'application

Authorized acts

4. In the course of engaging in the practice of dental hygiene, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Scaling teeth and root planing including curetting surrounding tissue on the order of a member of the Royal College of Dental Surgeons of Ontario.
2. Orthodontic and restorative procedures on the order of a member of the Royal College of Dental Surgeons of Ontario.

College established

5. The College is established under the name College of Dental Hygienists of Ontario in English and Ordre des hygiénistes dentaires de l'Ontario in French.

Council

6.—(1) The Council shall be composed of,

- (a) at least seven and no more than ten persons who are members elected in the prescribed number and manner;
- (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) one or two persons selected in the prescribed manner from among members who are faculty members of an educational institution in Ontario that is authorized to grant a diploma or degree in dental hygiene.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Executive Committee

8.—(1) The Executive Committee shall be composed of,

- (a) the President and Vice-President of the Council;
- (b) two members of the Council who are members of the College; and

4 Dans l'exercice de l'hygiène dentaire, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Le détartrage des dents et le polissage des racines, y compris le curetage des tissus avoisinants, sur ordonnance d'un membre de l'Ordre royal des chirurgiens dentistes de l'Ontario.
2. Des actes d'orthodontie et de restauration sur ordonnance d'un membre de l'Ordre royal des chirurgiens dentistes de l'Ontario.

Actes autorisés

5 L'Ordre est créé sous le nom d'Ordre des hygiénistes dentaires de l'Ontario en français et sous le nom de College of Dental Hygienists of Ontario en anglais.

Création de l'Ordre

6 (1) Le conseil se compose :

Conseil

- a) d'au moins sept et d'au plus dix personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrite;
- b) d'au moins quatre et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
- c) une ou deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes ou grades en hygiène dentaire.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président vice-président

8 (1) Le bureau se compose des personnes suivantes :

Bureau

- a) le président et le vice-président du conseil;
- b) deux membres du conseil qui sont membres de l'Ordre;

(c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

(2) Le président du conseil assume la présidence du bureau.

Président

Registration Committee

9. The Registration Committee shall be composed of,

9 Le comité d'inscription se compose des personnes suivantes :

Comité d'inscription

(a) two members of the Council who are members of the College; and

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Complaints Committee

10. The Complaints Committee shall be composed of,

10 Le comité des plaintes se compose des personnes suivantes :

Comité des plaintes

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

(c) one member.

c) un membre.

Discipline Committee

11. The Discipline Committee shall be composed of,

11 Le comité de discipline se compose des personnes suivantes :

Comité de discipline

(a) three members of the Council who are members of the College;

a) trois membres du conseil qui sont membres de l'Ordre;

(b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;

(c) two members.

c) deux membres.

Fitness to Practise Committee

12. The Fitness to Practise Committee shall be composed of,

12 Le comité d'aptitude professionnelle se compose des personnes suivantes :

Comité d'aptitude professionnelle

(a) two members of the Council who are members of the College; and

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Quality Assurance Committee

13. The Quality Assurance Committee shall be composed of,

13 Le comité d'assurance de la qualité se compose des personnes suivantes :

Comité d'assurance de la qualité

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

(c) two members.

c) deux membres.

Appointment members

14. The Council shall appoint the members of the committees mentioned in sections 8 to 13.

14 Le conseil nomme les membres des comités visés aux articles 8 à 13.

Nomination des membres

Restricted

15.—(1) No person other than a member shall use the title "dental hygienist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

15 (1) Nul autre qu'un membre ne doit employer le titre d'«hygiéniste dentaire», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Titre réservé

Representation of qualification

(2) No person other than a member shall hold himself or herself out as a person who is

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité

Déclaration de compétence

qualified to practise in Ontario as a dental hygienist or in a specialty of dental hygiene.

pour exercer en Ontario la profession d'hygiéniste dentaire, ou une spécialité de l'hygiène dentaire.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

16.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

16 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

17. Every person who contravenes subsection 15 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

17 Quiconque contrevient au paragraphe 15 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

18. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations,

18 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement :

Règlement

- (a) restricting the drugs that a member may use in the course of engaging in the practice of dental hygiene;
- (b) respecting the qualifications, number, selection and terms of office of Council members who are selected; and
- (c) respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

- a) limiter les médicaments auxquels un membre peut recourir dans l'exercice de l'hygiène dentaire;
- b) traiter des compétences, du nombre, du choix et du mandat des membres du conseil qui sont choisis;
- c) traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Transitional

19. A person who, on the day before this Act comes into force, was registered as a dental hygienist under Regulation 446 (Dental Hygienists) of Revised Regulations of Ontario, 1980 made under the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

19 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre d'hygiéniste dentaire aux termes du Règlement 446 (Dental Hygienists) des Règlements refondus de l'Ontario de 1980, pris en application de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), qui constitue le chapitre 196 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Dispositif transitoire

Transition before Act in force

20.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

20 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition avant l'entrée en vigueur de la Loi

Powers of
transitional
Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil transi-
toire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of
Minister

(4) The Minister may,

(4) Le ministre peut :

Pouvoirs du
ministre

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Transitional
Council to
comply with
Minister's
request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du
conseil transi-
toire de satis-
faire à
l'exigence du
ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition
Act in
force

21.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

21 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition
après l'entrée
en vigueur de
la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Composition of committees

(3) Sections 8 to 13 do not apply to committees of the transitional Council.

(3) Les articles 8 à 13 ne s'appliquent pas aux comités du conseil transitoire.

Composition des comités

Commencement

22.—(1) This Act, except section 20, comes into force on a day to be named by proclamation of the Lieutenant Governor.

22 (1) La présente loi, à l'exclusion de l'article 20, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 20 comes into force on the day this Act receives Royal Assent.

(2) L'article 20 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Short title

23. The short title of this Act is the *Dental Hygiene Act, 1991*.

23 Le titre abrégé de la présente loi est *Loi de 1991 sur les hygiénistes dentaires*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 47

**An Act respecting the regulation
of the Profession of Dental Hygiene**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

Projet de loi 47

**Loi concernant la réglementation
de la profession d'hygiéniste dentaire**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dental hygiene by the College of Dental Hygienists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 9 restricts the use of the title "dental hygienist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dental hygiene.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession d'hygiéniste dentaire par l'Ordre des hygiénistes dentaires de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 9 réserve aux membres l'usage du titre d'«hygiéniste dentaire». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession d'hygiéniste dentaire.

An Act respecting the regulation of the Profession of Dental Hygiene

Loi concernant la réglementation de la profession d'hygiéniste dentaire

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

"College" means the College of Dental Hygienists of Ontario; ("Ordre")

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

"member" means a member of the College; ("membre")

«membre» Membre de l'Ordre. («member»)

"profession" means the profession of dental hygiene; ("profession")

«Ordre» L'Ordre des hygiénistes dentaires de l'Ontario. («College»)

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

«profession» La profession d'hygiéniste dentaire. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

"College" means the College of Dental Hygienists of Ontario; ("ordre")

«loi sur une profession de la santé» La présente loi. («health profession Act»)

"health profession Act" means this Act; ("loi sur une profession de la santé")

«ordre» L'Ordre des hygiénistes dentaires de l'Ontario. («College»)

"profession" means the profession of dental hygiene; ("profession")

«profession» La profession d'hygiéniste dentaire. («profession»)

"regulations" means the regulations under this Act. ("règlements")

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of dental hygiene is the assessment of teeth and adjacent tissues and treatment by preventive and therapeutic means and the provision of restorative and orthodontic procedures and services.

3 L'exercice de l'hygiène dentaire consiste dans l'évaluation des dents et des tissus adjacents et leur traitement par des moyens préventifs et thérapeutiques, et dans la prestation d'actes et de soins de restauration et d'orthodontie.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions in Code

Définitions du Code

Scope of practice

Champ d'application

Authorized acts

4. In the course of engaging in the practice of dental hygiene, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

- 1. Scaling teeth and root planing including curetting surrounding tissue.
- 2. Orthodontic and restorative procedures.

Additional requirements for authorized acts

5.—(1) A member shall not perform a procedure under the authority of section 4 unless the procedure is ordered by a member of the Royal College of Dental Surgeons of Ontario.

Grounds for misconduct

(2) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (1).

College established

6. The College is established under the name College of Dental Hygienists of Ontario in English and Ordre des hygiénistes dentaires de l'Ontario in French.

Council

7.—(1) The Council shall be composed of,

- (a) at least nine and no more than twelve persons who are members elected in the prescribed number and manner;
- (b) at least eight and no more than eleven persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) two persons selected in the prescribed manner from among members who are faculty members of an educational institution in Ontario that is authorized to grant a diploma or degree in dental hygiene.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

8. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Actes autorisés

4 Dans l'exercice de l'hygiène dentaire, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

- 1. Le détartrage des dents et le polissage des racines, y compris le curetage des tissus avoisinants.
- 2. Des actes d'orthodontie et de restauration.

Exigences supplémentaires relatives aux actes autorisés

5 (1) Le membre ne doit pas accomplir d'actes autorisés en vertu de l'article 4 à moins qu'un membre de l'Ordre royal des chirurgiens dentistes de l'Ontario ne l'ordonne.

Motifs permettant de conclure à une faute professionnelle

(2) Un sous-comité du comité de discipline conclut qu'un membre a commis une faute professionnelle non seulement d'après les motifs énoncés au paragraphe 51 (1) du Code des professions de la santé, mais également si le membre contrevient au paragraphe (1).

Création de l'Ordre

6 L'Ordre est créé sous le nom d'Ordre des hygiénistes dentaires de l'Ontario en français et sous le nom de College of Dental Hygienists of Ontario en anglais.

Conseil

7 (1) Le conseil se compose :

- a) d'au moins neuf et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins huit et d'au plus onze personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
- c) de deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes ou grades en hygiène dentaire.

Qui peut voter aux élections

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Président et vice-président

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Restricted titles

9.—(1) No person other than a member shall use the title "dental hygienist", a variation or abbreviation or an equivalent in another language.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dental hygienist or in a specialty of dental hygiene.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

Notice if suggestions referred to Advisory Council

10.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*; a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements relative to notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

Offence

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

Regulations

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) restricting the drugs that a member may use in the course of engaging in the practice of dental hygiene; and
- (b) respecting the qualifications, selection and terms of office of Council members who are selected.

Transitional

13. A person who, on the day before this Act comes into force, was registered as a dental hygienist under Regulation 446 (Dental Hygienists) of Revised Regulations of Ontario, 1980 made under the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

9 (1) Nul autre qu'un membre ne doit employer le titre d'«hygiéniste dentaire», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d'hygiéniste dentaire, ou une spécialité de l'hygiène dentaire.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

12 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement :

- a) limiter les médicaments auxquels un membre peut recourir dans l'exercice de l'hygiène dentaire;
- b) traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis.

13 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre d'hygiéniste dentaire aux termes du Règlement 446 (Dental Hygienists) des Règlements refondus de l'Ontario de 1980, pris en application de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), qui constitue le chapitre 196 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Titre réservé

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Règlements

Disposition transitoire

Transition
before Act
in force

14.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

14 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition
avant l'entré
en vigueur
la Loi

Powers of
transitional
Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil transi-
toire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of
Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du
ministre

Transitional
Council to
comply with
Minister's
request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation
conseil transi-
toire de se
faire à
l'exigence
ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlemen-

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition
after Act in
force

15.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the

15 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce

Transition
après l'entré
en vigueur
la Loi

College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

16.—(1) This Act, except section 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 14 comes into force on the day this Act receives Royal Assent.

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

17. The short title of this Act is the *Dental Hygiene Act, 1991*.

qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

16 (1) La présente loi, à l'exclusion de l'article 14, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) L'article 14 entre en vigueur le jour où la présente loi reçoit la sanction royale.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

17 Le titre abrégé de la présente loi est *Loi de 1991 sur les hygiénistes dentaires*.

Mandat des membres du conseil transitoire

Entrée en vigueur

Idem

Idem

Idem

Titre abrégé

Terms of members of transitional Council

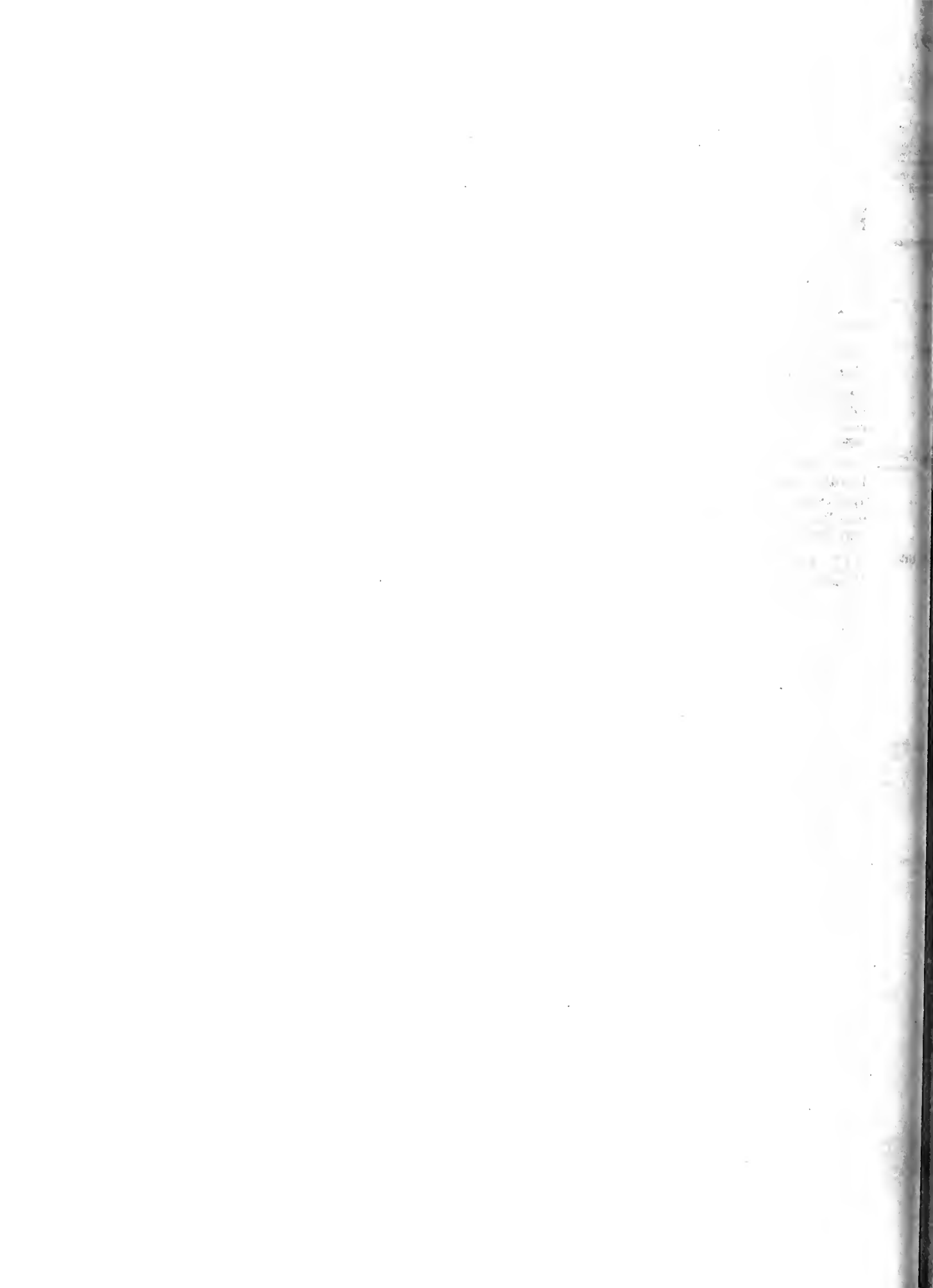
Commence-ment

Idem

Idem

Idem

Short title



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 47

*(Chapter 22
Statutes of Ontario, 1991)*

**An Act respecting the regulation
of the Profession of Dental Hygiene**

The Hon. F. Lankin
Minister of Health

Projet de loi 47

*(Chapitre 22
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation
de la profession d'hygiéniste dentaire**

L'honorable F. Lankin
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991

1000
1000

An Act respecting the regulation of the Profession of Dental Hygiene

Loi concernant la réglementation de la profession d'hygiéniste dentaire

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

"College" means the College of Dental Hygienists of Ontario; ("Ordre")

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

"member" means a member of the College; ("membre")

«membre» Membre de l'Ordre. («member»)

"profession" means the profession of dental hygiene; ("profession")

«Ordre» L'Ordre des hygiénistes dentaires de l'Ontario. («College»)

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

«profession» La profession d'hygiéniste dentaire. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

"College" means the College of Dental Hygienists of Ontario; ("ordre")

«loi sur une profession de la santé» La présente loi. («health profession Act»)

"health profession Act" means this Act; ("loi sur une profession de la santé")

«ordre» L'Ordre des hygiénistes dentaires de l'Ontario. («College»)

"profession" means the profession of dental hygiene; ("profession")

«profession» La profession d'hygiéniste dentaire. («profession»)

"regulations" means the regulations under this Act. ("règlements")

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of dental hygiene is the assessment of teeth and adjacent tissues and treatment by preventive and therapeutic means and the provision of restorative and orthodontic procedures and services.

3 L'exercice de l'hygiène dentaire consiste dans l'évaluation des dents et des tissus adjacents et leur traitement par des moyens préventifs et thérapeutiques, et dans la prestation d'actes et de soins de restauration et d'orthodontie.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

Authorized acts

4. In the course of engaging in the practice of dental hygiene, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

- 1. Scaling teeth and root planing including curetting surrounding tissue.
- 2. Orthodontic and restorative procedures.

Additional requirements for authorized acts

5.—(1) A member shall not perform a procedure under the authority of section 4 unless the procedure is ordered by a member of the Royal College of Dental Surgeons of Ontario.

Grounds for misconduct

(2) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (1).

College established

6. The College is established under the name College of Dental Hygienists of Ontario in English and Ordre des hygiénistes dentaires de l'Ontario in French.

Council

- 7.—(1) The Council shall be composed of,
- (a) at least nine and no more than twelve persons who are members elected in the prescribed number and manner;
 - (b) at least eight and no more than eleven persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
 - (c) two persons selected in the prescribed manner from among members who are faculty members of an educational institution in Ontario that is authorized to grant a diploma or degree in dental hygiene.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

8. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Actes autorisés

4 Dans l'exercice de l'hygiène dentaire, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

- 1. Le détartrage des dents et le polissage des racines, y compris le curetage des tissus avoisinants.
- 2. Des actes d'orthodontie et de restauration.

Exigences supplémentaires relatives aux actes autorisés

5 (1) Le membre ne doit pas accomplir d'actes autorisés en vertu de l'article 4 à moins qu'un membre de l'Ordre royal des chirurgiens dentistes de l'Ontario ne l'ordonne.

Motifs permettant de conclure à une faute professionnelle

(2) Un sous-comité du comité de discipline conclut qu'un membre a commis une faute professionnelle non seulement d'après les motifs énoncés au paragraphe 51 (1) du Code des professions de la santé, mais également si le membre contrevient au paragraphe (1).

Création de l'Ordre

6 L'Ordre est créé sous le nom d'Ordre des hygiénistes dentaires de l'Ontario en français et sous le nom de College of Dental Hygienists of Ontario en anglais.

Conseil

- 7 (1) Le conseil se compose :
- a) d'au moins neuf et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrite;
 - b) d'au moins huit et d'au plus onze personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
 - c) de deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes ou grades en hygiène dentaire.

Qui peut voter aux élections

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Président vice-président

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Restricted titles

9.—(1) No person other than a member shall use the title "dental hygienist", a variation or abbreviation or an equivalent in another language.

9 (1) Nul autre qu'un membre ne doit employer le titre d'«hygiéniste dentaire», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dental hygienist or in a specialty of dental hygiene.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d'hygiéniste dentaire, ou une spécialité de l'hygiène dentaire.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

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10.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the Regulated Health Professions Act, 1991, a suggested,

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la Loi de 1991 sur les professions de la santé réglementées, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) d^e règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

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Infraction

Regulations

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

12 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement :

Règlements

- (a) restricting the drugs that a member may use in the course of engaging in the practice of dental hygiene;
- (b) respecting the qualifications, selection and terms of office of Council members who are selected.

- a) limiter les médicaments auxquels un membre peut recourir dans l'exercice de l'hygiène dentaire;
- b) traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis.

Transitional

13. A person who, on the day before this Act comes into force, was registered as a dental hygienist under Regulation 446 (Dental Hygienists) of Revised Regulations of Ontario, 1980 made under the Health Disciplines Act, being chapter 196 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

13 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre d'hygiéniste dentaire aux termes du Règlement 446 (Dental Hygienists) des Règlements refondus de l'Ontario de 1980, pris en application de la loi intitulée Health Disciplines Act («Loi sur les sciences de la santé»), qui constitue le chapitre 196 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Disposition transitoire

Transition
before Act
in force

14.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

14 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition
avant l'ent
en vigueur
la Loi

Powers of
transitional
Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs d
conseil tran
sitaire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of
Minister

(4) The Minister may,

(4) Le ministre peut :

Pouvoirs d
ministre

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Transitional
Council to
comply with
Minister's
request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du
conseil tran
sitaire de s'a
faire à
l'exigence u
ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règleme

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition
after Act in
force

15.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the

15 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce

Transition
après l'ent
en vigueur de
la Loi

College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Commencement

16.—(1) This Act, except section 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

16 (1) La présente loi, à l'exclusion de l'article 14, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

idem

(2) Section 14 comes into force on the day this Act receives Royal Assent.

(2) L'article 14 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Idem

short title

17. The short title of this Act is the *Dental Hygiene Act, 1991*.

17 Le titre abrégé de la présente loi est *Loi de 1991 sur les hygiénistes dentaires*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 48

Projet de loi 48

**An Act respecting the regulation
of the Profession of Dental
Technology**

**Loi concernant la réglementation
de la profession de technicien
dentaire**

The Hon. E. Gigantes
Minister of Health

L'honorable E. Gigantes
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dental technology by the College of Dental Technologists of Ontario. The Governing Board of Dental Technicians is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 14 restricts the use of the titles "dental technologist" and "dental technician". The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dental technology.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de technicien dentaire par l'Ordre des techniciens dentaires de l'Ontario. Le Conseil d'administration des techniciens dentaires est maintenu mais porte dorénavant le nom de l'Ordre. Le Code de professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 14 restreint l'usage du titre de «technicien dentaire». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de technicien dentaire.

**An Act respecting the regulation
of the Profession of Dental
Technology**

**Loi concernant la réglementation
de la profession de technicien
dentaire**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Definitions

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

“College” means the College of Dental Technologists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of dental technology; (“profession”)

«Ordre» L'Ordre des techniciens dentaires de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de technicien dentaire. («profession»)

Health Professions Procedural Code
Terms in Code

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

Code des professions de la santé

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

Termes figurant dans le Code

“College” means the College of Dental Technologists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des techniciens dentaires de l'Ontario. («College»)

“profession” means the profession of dental technology; (“profession”)

«profession» La profession de technicien dentaire. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

Definitions in Code

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

Définitions du Code

Scope of practice

3. The practice of dental technology is the design, construction, repair or alteration of dental prosthetic, restorative and orthodontic devices on the order of a person authorized under a health profession Act as defined in

3 L'exercice de la technologie dentaire consiste dans la conception, la confection, la réparation ou la modification de prothèses dentaires de reconstitution et d'orthodontie sur ordonnance d'une personne habilitée par une loi sur une profession de la santé, telle

Champ d'application

the *Regulated Health Professions Act, 1991* to fit or dispense the devices.

que la définit la *Loi de 1991 sur les professions de la santé réglementées*, à adopter ou à préparer ces prothèses.

Governing Board continued as College

4. The Governing Board of Dental Technicians is continued under the name College of Dental Technologists of Ontario in English and Ordre des techniciens dentaires de l'Ontario in French.

4 Le Conseil d'administration des techniciens dentaires est maintenu sous le nom d'Ordre des techniciens dentaires de l'Ontario en français et sous le nom de College of Dental Technologists of Ontario en anglais.

Maintien du Conseil d'administration en tant qu'Ordre

Council

- 5.**—(1) The Council shall be composed of,
- (a) at least eight and no more than twelve persons who are members elected in the prescribed number and manner; and
 - (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

- 5** (1) Le conseil se compose :
- a) d'au moins huit et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) d'au moins quatre et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Conseil

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président e vice-préside

Executive Committee

- 7.**—(1) The Executive Committee shall be composed of,
- (a) the President and Vice-President of the Council;
 - (b) two members of the Council who are members of the College; and
 - (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

- 7** (1) Le bureau se compose des personnes suivantes :
- a) le président et le vice-président du conseil;
 - b) deux membres du conseil qui sont membres de l'Ordre;
 - c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Bureau

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

(2) Le président du conseil assume la présidence du bureau.

Président

Registration Committee

- 8.** The Registration Committee shall be composed of,
- (a) two members of the Council who are members of the College; and
 - (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

- 8** Le comité d'inscription se compose des personnes suivantes :
- a) deux membres du conseil qui sont membres de l'Ordre;
 - b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Comité d'inscription

Complaints Committee

- 9.** The Complaints Committee shall be composed of,
- (a) two members of the Council who are members of the College; and

- 9** Le comité des plaintes se compose des personnes suivantes :
- a) deux membres du conseil qui sont membres de l'Ordre;

Comité des plaintes

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

10. The Discipline Committee shall be composed of,

- (a) three members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

11. The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

12. The Quality Assurance Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

13. The Council shall appoint the members of the committees mentioned in sections 7 to 12.

14.—(1) No person other than a member shall use the title "dental technologist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

(2) No person shall use the title "dental technician" or a variation or abbreviation of it.

(3) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dental technologist or in a specialty of dental technology.

(4) Despite subsection (2), a member may use the title "dental technician" or a variation or abbreviation of it for three years after this Act comes into force.

(5) In this section, "abbreviation" includes an abbreviation of a variation.

15.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

10 Le comité de discipline se compose des personnes suivantes :

- a) trois membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) deux membres.

11 Le comité d'aptitude professionnelle se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

12 Le comité d'assurance de la qualité se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

13 Le conseil nomme les membres des comités visés aux articles 7 à 12.

14 (1) Nul autre qu'un membre ne doit employer le titre de «technicien dentaire», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

(2) Nul ne doit employer le titre de «dental technician», ou une variante ou une abréviation de celui-ci.

(3) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de technicien dentaire, ou une spécialité de la technologie dentaire.

(4) Malgré le paragraphe (2), un membre peut employer le titre de «dental technician», ou une variante ou une abréviation de celui-ci pendant trois ans après l'entrée en vigueur de la présente loi.

(5) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

15 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Comité de discipline

Comité d'aptitude professionnelle

Comité d'assurance de la qualité

Nomination des membres

Titre réservé

Idem

Déclaration de compétence

Exception

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

16. Every person who contravenes subsection 14 (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

16 Quiconque contrevient au paragraphe 14 (1), (2) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

17. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

17 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement, traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Règlements

Transition

18. A person who, on the day before this Act comes into force, is registered under the *Dental Technicians Act*, being chapter 114 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

18 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit sous le régime de la loi intitulée *Dental Technicians Act* («*Loi sur les techniciens dentaires*»), qui constitue le chapitre 114 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré aux termes de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Dispositif transitoire

Transition before Act in force

19.—(1) The transitional Council is the Governing Board of Dental Technicians as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

19 (1) Le conseil transitoire est le Conseil d'administration des techniciens dentaires, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registraire, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

(4) The Minister may,

(4) Le ministre peut :

Pouvoirs du ministre

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

20.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(4) Sections 7 to 12 do not apply to committees of the transitional Council.

21.—(1) This Act, except section 19, comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 19 comes into force on the day this Act receives Royal Assent.

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

20 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

(4) Les articles 7 à 12 ne s'appliquent pas aux comités du conseil transitoire.

21 (1) La présente loi, à l'exclusion de l'article 19, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) L'article 19 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Règlements

Idem

Frais

Transition après l'entrée en vigueur de la Loi

Mandat des membres du conseil transitoire

Vacances

Composition des comités

Entrée en vigueur

Idem

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

Short title

22. The short title of this Act is the *Dental Technology Act, 1991*.

Idem

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Titre abrégé

22 Le titre abrégé de la présente loi est *Loi de 1991 sur les techniciens dentaires*.

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 48

**An Act respecting the regulation
of the Profession of Dental
Technology**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

Projet de loi 48

**Loi concernant la réglementation
de la profession de technologue
dentaire**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dental technology by the College of Dental Technologists of Ontario. The Governing Board of Dental Technicians is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 7 restricts the use of the titles "dental technologist" and "dental technician". The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dental technology.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de technologue dentaire par l'Ordre des technologues dentaires de l'Ontario. Le Conseil d'administration des techniciens dentaire est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 7 restreint l'usage du titre de «technologue dentaire». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de technologue dentaire.

**An Act respecting the regulation
of the Profession of Dental
Technology**

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,

“College” means the College of Dental Technologists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of dental technology; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Dental Technologists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of dental technology; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of dental technology is the design, construction, repair or alteration of dental prosthetic, restorative and orthodontic devices.

**Loi concernant la réglementation
de la profession de technologue
dentaire**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des technologues dentaires de l'Ontario. («College»)

«profession» La profession de technologue dentaire. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des technologues dentaires de l'Ontario. («College»)

«profession» La profession de technologue dentaire. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la technologie dentaire consiste dans la conception, la confection, la réparation ou la modification de prothèses dentaires de reconstitution et d'orthodontie.

Definitions

Définitions

Health professions procedural code

Code des professions de la santé

Terms in code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

Governing Board continued as College

4. The Governing Board of Dental Technicians is continued under the name College of Dental Technologists of Ontario in English and Ordre des technologistes dentaires de l'Ontario in French.

4 Le Conseil d'administration des techniciens dentaires est maintenu sous le nom d'Ordre des technologistes dentaires de l'Ontario en français et sous le nom de College of Dental Technologists of Ontario en anglais.

Maintien du Conseil d'administration en tant qu'Ordre

Council

5.—(1) The Council shall be composed of,

5 (1) Le conseil se compose :

Conseil

(a) seven persons who are members elected in the prescribed manner; and

a) de sept personnes qui sont membres et qui sont élues de la manière prescrite;

(b) six persons appointed by the Lieutenant Governor in Council who are not,

b) de six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Restricted titles

7.—(1) No person other than a member shall use the title "dental technologist", a variation or abbreviation or an equivalent in another language.

7 (1) Nul autre qu'un membre ne doit employer le titre de «technologue dentaire», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Idem

(2) No person shall use the title "dental technician" or a variation or abbreviation of it.

(2) Nul ne doit employer le titre de «dental technician», ou une variante ou une abréviation de celui-ci.

Idem

Representations of qualification, etc.

(3) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dental technologist or in a specialty of dental technology.

(3) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de technologue dentaire, ou une spécialité de la technologie dentaire.

Déclaration de compétence

Exception

(4) Despite subsection (2), a member may use the title "dental technician" or a variation or abbreviation of it for three years after this Act comes into force.

(4) Malgré le paragraphe (2), un membre peut employer le titre de «dental technician», ou une variante ou une abréviation de celui-ci pendant trois ans après l'entrée en vigueur de la présente loi.

Exception

Definition

(5) In this section, "abbreviation" includes an abbreviation of a variation.

(5) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

8.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

8 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

(a) amendment to this Act;

a) de modification de la présente loi;

(b) amendment to a regulation made by the Council; or

b) de modification d'un règlement pris par le conseil;

(c) regulation to be made by the Council.

c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

9. Every person who contravenes subsection 7 (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

9 Quiconque contrevient au paragraphe 7 (1), (2) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Transition

10. A person who, on the day before this Act comes into force, is registered under the Dental Technicians Act, being chapter 114 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

10 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit sous le régime de la loi intitulée Dental Technicians Act («Loi sur les techniciens dentaires»), qui constitue le chapitre 114 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré aux termes de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Disposition transitoire

Transition before Act force

11.—(1) The transitional Council is the Governing Board of Dental Technicians as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

11 (1) Le conseil transitoire est le Conseil d'administration des techniciens dentaires, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la

Pouvoirs du ministre

Regulated Health Professions Act, 1991.

Loi de 1991 sur les professions de la santé réglementées.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation conseil transitoire de satisfaire à l'exigence d ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

12.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

12 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entr en vigueur la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat de membres d conseil transitoire

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Commencement

13.—(1) This Act, except section 11, comes into force on a day to be named by proclamation of the Lieutenant Governor.

13 (1) La présente loi, à l'exclusion de l'article 11, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 11 comes into force on the day this Act receives Royal Assent.

(2) L'article 11 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Idem

Short title

14. The short title of this Act is the *Dental Technology Act, 1991*.

14 Le titre abrégé de la présente loi est *Loi de 1991 sur les technologies dentaires*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 48

*(Chapter 23
Statutes of Ontario, 1991)*

An Act respecting the regulation of the Profession of Dental Technology

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

Projet de loi 48

*(Chapitre 23
Lois de l'Ontario de 1991)*

Loi concernant la réglementation de la profession de technologue dentaire

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991



**An Act respecting the regulation
of the Profession of Dental
Technology**

**Loi concernant la réglementation
de la profession de technologue
dentaire**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Dental Technologists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of dental technology; (“profession”)

«Ordre» L'Ordre des technologues dentaires de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de technologue dentaire. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Dental Technologists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des technologues dentaires de l'Ontario. («College»)

“profession” means the profession of dental technology; (“profession”)

«profession» La profession de technologue dentaire. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of dental technology is the design, construction, repair or alteration of dental prosthetic, restorative and orthodontic devices.

3 L'exercice de la technologie dentaire consiste dans la conception, la confection, la réparation ou la modification de prothèses dentaires de reconstitution et d'orthodontie.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

Governing Board continued as College

4. The Governing Board of Dental Technicians is continued under the name College of Dental Technologists of Ontario in English and Ordre des technologues dentaires de l'Ontario in French.

4 Le Conseil d'administration des techniciens dentaires est maintenu sous le nom d'Ordre des technologues dentaires de l'Ontario en français et sous le nom de College of Dental Technologists of Ontario en anglais.

Maintien d'administration en tant qu'Ordre

Council

5.—(1) The Council shall be composed of,

5 (1) Le conseil se compose :

Conseil

(a) seven persons who are members elected in the prescribed manner; and

a) de sept personnes qui sont membres et qui sont élues de la manière prescrite;

(b) six persons appointed by the Lieutenant Governor in Council who are not,

b) de six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Restricted titles

7.—(1) No person other than a member shall use the title "dental technologist", a variation or abbreviation or an equivalent in another language.

7 (1) Nul autre qu'un membre ne doit employer le titre de «technologue dentaire», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Idem

(2) No person shall use the title "dental technician" or a variation or abbreviation of it.

(2) Nul ne doit employer le titre de «dental technician», ou une variante ou une abréviation de celui-ci.

Idem

Representations of qualification, etc.

(3) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dental technologist or in a specialty of dental technology.

(3) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de technologue dentaire, ou une spécialité de la technologie dentaire.

Déclaration de compétence

Exception

(4) Despite subsection (2), a member may use the title "dental technician" or a variation or abbreviation of it for three years after this Act comes into force.

(4) Malgré le paragraphe (2), un membre peut employer le titre de «dental technician», ou une variante ou une abréviation de celui-ci pendant trois ans après l'entrée en vigueur de la présente loi.

Exception

Definition

(5) In this section, "abbreviation" includes an abbreviation of a variation.

(5) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

8.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

8 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

(a) amendment to this Act;

a) de modification de la présente loi;

(b) amendment to a regulation made by the Council; or

b) de modification d'un règlement pris par le conseil;

(c) regulation to be made by the Council.

c) de règlement qui soit pris par le conseil.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

9. Every person who contravenes subsection 7 (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

9 Quiconque contrevient au paragraphe 7 (1), (2) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

10. A person who, on the day before this Act comes into force, is registered under the *Dental Technicians Act*, being chapter 114 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

10 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit sous le régime de la loi intitulée *Dental Technicians Act* («*Loi sur les techniciens dentaires*»), qui constitue le chapitre 114 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré aux termes de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Disposition transitoire

11.—(1) The transitional Council is the Governing Board of Dental Technicians as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

11 (1) Le conseil transitoire est le Conseil d'administration des techniciens dentaires, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

(4) The Minister may,

(4) Le ministre peut :

Pouvoirs du ministre

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la

Regulated Health Professions Act, 1991.

Loi de 1991 sur les professions de la santé réglementées.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation de conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

12.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

12 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Commencement

13.—(1) This Act, except section 11, comes into force on a day to be named by proclamation of the Lieutenant Governor.

13 (1) La présente loi, à l'exclusion de l'article 11, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 11 comes into force on the day this Act receives Royal Assent.

(2) L'article 11 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Idem

Short title

14. The short title of this Act is the *Dental Technology Act, 1991*.

14 Le titre abrégé de la présente loi est *Loi de 1991 sur les technologues dentaires*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 49

**An Act respecting the regulation
of the Profession of Dentistry**

The Hon. E. Gigantes
Minister of Health

Projet de loi 49

**Loi concernant la réglementation
de la profession de dentiste**

L'honorable E. Gigantes
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dentistry by the Royal College of Dental Surgeons of Ontario which is continued. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 16 restricts the use of the titles "dentist" and "dental surgeon" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dentistry.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de dentiste par l'Ordre royal des chirurgiens dentistes de l'Ontario qui est maintenu. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 16 réserve aux membres l'usage des titres de «dentiste» et de «chirurgien dentiste». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de dentiste.

An Act respecting the regulation of the Profession of Dentistry

Loi concernant la réglementation de la profession de dentiste

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Definitions

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

“College” means the Royal College of Dental Surgeons of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of dentistry; (“profession”)

«Ordre» L'Ordre royal des chirurgiens dentistes de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de dentiste. («profession»)

Health Professions Procedural Code
Terms in Code

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

Code des professions de la santé

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

Termes figurant dans le Code

“College” means the Royal College of Dental Surgeons of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre royal des chirurgiens dentistes de l'Ontario. («College»)

“profession” means the profession of dentistry; (“profession”)

«profession» La profession de dentiste. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

Definitions Code

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

Définitions du Code

Scope of practice

3. The practice of dentistry is the assessment of the physical condition of the oral-facial complex and the diagnosis, treatment and prevention of any disease, disorder or dysfunction of the oral-facial complex.

3 L'exercice de la dentisterie consiste dans l'évaluation de l'état physique du complexe oro-facial et dans le diagnostic, le traitement et la prévention des maladies, troubles ou dysfonctions du complexe oro-facial.

Champ d'application

Authorized acts

4. In the course of engaging in the practice of dentistry, a member is authorized,

4 Dans l'exercice de la dentisterie, un membre est autorisé, sous réserve des condi-

Actes autorisés

subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Communicating a conclusion, identifying a disease, disorder or dysfunction of the oral-facial complex as the cause of a person's symptoms.
2. Performing a procedure on tissue of the oral-facial complex below the dermis, below the surface of a mucous membrane or in or below the surfaces of the teeth, including the scaling of teeth.
3. Harvesting tissue for the purpose of surgery on the oral-facial complex.
4. Setting a fracture of a bone of the oral-facial complex or setting a dislocation of a joint of the oral-facial complex.
5. Administering a substance by injection or inhalation.
6. Prescribing or dispensing drugs.
7. Fitting or dispensing a dental prosthesis, or an orthodontic appliance or a device used inside the mouth to protect teeth from abnormal functioning.

tions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Communiquer les conclusions attribuant les symptômes de personnes à des maladies, troubles ou dysfonctions du complexe oro-facial.
2. Pratiquer des interventions sur le tissu du complexe oro-facial sous le derme, sous la surface des muqueuses, ou dans les dents ou sous la surface des dents, y compris le détartrage des dents.
3. Prélever du tissu en vue de pratiquer des interventions chirurgicales au complexe oro-facial.
4. Consolider des fractures du complexe oro-facial ou réduire des luxations articulaires du complexe oro-facial.
5. Administrer des substances par voie d'injection ou d'inhalation.
6. Prescrire ou préparer des médicaments.
7. Adapter ou préparer des prothèses dentaires, ou des appareils d'orthodontie ou des dispositifs qui se portent dans la cavité buccale en vue de protéger les dents en cas de fonctionnement anormal de la denture.

College
continued

5. The College is continued under the name Royal College of Dental Surgeons of Ontario in English and Ordre royal des chirurgiens dentistes de l'Ontario in French.

5 L'Ordre est maintenu sous le nom d'Ordre royal des chirurgiens dentistes de l'Ontario en français et sous le nom de Royal College of Dental Surgeons of Ontario en anglais.

Maintien de
l'Ordre

Council

6.—(1) The Council shall be composed of,

- (a) at least ten and no more than fourteen persons who are members elected in the prescribed number and manner;
- (b) at least six and no more than eight persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) one person for each faculty of dentistry of a university in Ontario, selected in the prescribed manner from among members who are members of the faculty.

6 (1) Le conseil se compose :

- a) d'au moins dix et d'au plus quatorze personnes qui sont des membres et qui sont élues de la manière prescrite et selon le nombre prescrite;
- b) d'au moins six et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
- c) une personne pour chacune des facultés de dentisterie des universités ontariennes, choisie de la manière prescrite parmi les membres qui font partie du corps professoral de la faculté.

Conseil

Who can
vote in elec-
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside

Qui peut
voter aux
élections

who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

7. The Council shall have a President and Vice-President who shall be elected every two years by the Council from among the Council's members.

8.—(1) The Executive Committee shall be composed of,

- (a) the President and Vice-President of the Council;
- (b) two members of the Council who are members of the College; and
- (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

(2) The President of the Council shall be the chair of the Executive Committee.

9. The Registration Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

10. The Complaints Committee shall be composed of,

- (a) four members of the Council who are members of the College; and
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council.

11. The Discipline Committee shall be composed of,

- (a) seven members of the Council who are members of the College;
- (b) three members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) five members.

12. The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) one member.

13. The Quality Assurance Committee shall be composed of,

- (a) two members of the Council who are members of the College;

en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

7 Le conseil comprend un président et un vice-président qui, tous les deux ans, sont choisis parmi les membres du conseil et élus par ce dernier.

8 (1) Le bureau se compose des personnes suivantes :

- a) le président et le vice-président du conseil;
- b) deux membres du conseil qui sont membres de l'Ordre;
- c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

(2) Le président du conseil assume la présidence du bureau.

9 Le comité d'inscription se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

10 Le comité des plaintes se compose des personnes suivantes :

- a) quatre membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil.

11 Le comité de discipline se compose des personnes suivantes :

- a) sept membres du conseil qui sont membres de l'Ordre;
- b) trois membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) cinq membres.

12 Le comité d'aptitude professionnelle se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) un membre.

13 Le comité d'assurance de la qualité se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;

Président et vice-président

Bureau

Président

Comité d'inscription

Comité des plaintes

Comité de discipline

Comité d'aptitude professionnelle

Comité d'assurance de la qualité

resident and Vice-resident

Executive Committee

Chair

Registration Committee

Complaints Committee

Discipline Committee

Fitness to Practise Committee

Quality Assurance Committee

- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

Appointment of members

14. The Council shall appoint the members of the committees mentioned in sections 8 to 13.

Imposition of duties on the Dental Review Committee

15. The Council may give the Dental Review Committee appointed under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

Restricted titles

16.—(1) No person other than a member shall use the titles "dentist" or "dental surgeon", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dentist or dental surgeon or in a specialty of dentistry.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

Additional grounds for misconduct

17. In addition to the grounds set out in subsection 49 (1) of the *Health Professions Procedural Code*, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if a notice under the *Food and Drugs Act* (Canada) or the *Narcotic Control Act* (Canada) has been given to licensed dealers and pharmacists respecting the member.

Notice if suggestions referred to Advisory Council

18.—(1) The Registrar shall give a notice to each member if the Minister refers, to the Advisory Council as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

Offence

19. Every person who contravenes subsection 16 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not

- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

14 Le conseil nomme les membres des comités visés aux articles 8 à 13.

15 Le conseil peut imposer au comité d'étude de la dentisterie, constitué en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

16 (1) Nul autre qu'un membre ne doit employer les titres de «dentiste» ou de «chirurgien dentiste», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de dentiste ou de chirurgien dentiste, ou une spécialité de la dentisterie.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

17 Un groupe du comité de discipline est fondé à conclure qu'un membre a commis une faute professionnelle non seulement pour les motifs énoncés au paragraphe 49 (1) du Code des professions de la santé, mais également si un avis concernant le membre, prévu par la *Loi sur les aliments et drogues* (Canada) ou par la *Loi sur les stupéfiants* (Canada), a été donné aux fournisseurs et aux pharmaciens titulaires d'un permis.

18 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

19 Quiconque contrevient au paragraphe 16 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première

Nomination des membre

Imposition d'obligations au comité d'étude de la dentisterie

Titres réservés

Déclaration de compétence

Définition

Autres mot permettant conclure à une faute professionnelle

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

regulations

20. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations,

- (a) respecting the qualifications, selection and terms of office of Council members who are selected;
- (b) regulating the dispensing of drugs by members, requiring members to keep prescribed records and to provide to the Minister reports containing prescribed information respecting the dispensing of drugs; and
- (c) respecting the delegation by members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

transitional

21. A person who, on the day before this Act comes into force, holds a licence issued under Part II of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the licence was subject.

transitional
before Act
force

22.—(1) The transitional Council is the Council of the Royal College of Dental Surgeons of Ontario as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

powers of
transitional
council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

powers of
minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;

infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Règlements

20 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement :

- a) traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis;
- b) réglementer la préparation de médicaments par les membres et exiger d'eux qu'ils tiennent les registres prescrits et qu'ils fournissent au ministre des rapports renfermant les renseignements prescrits concernant la préparation de médicaments;
- c) traiter de la délégation par les membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Disposition
transitoire

21 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est titulaire d'un permis délivré en vertu de la partie II de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), qui constitue le chapitre 196 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction dont était assorti son permis.

Transition
avant l'entrée
en vigueur de
la Loi

22 (1) Le conseil transitoire est l'Ordre royal des chirurgiens dentistes de l'Ontario, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil transi-
toire

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

idem

(4) Le ministre peut :

Pouvoirs du
ministre

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

	(b) require the transitional Council to make, amend or revoke a regulation under this Act;	b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;	
	(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the <i>Regulated Health Professions Act, 1991</i> .	c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la <i>Loi de 1991 sur les professions de la santé réglementées</i> .	
Transitional Council to comply with Minister's request	(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.	(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.	Obligation de conseil transitoire de satisfaire à l'exigence du ministre
Regulations	(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.	(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.	Règlements
Idem	(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.	(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.	Idem
Expenses	(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).	(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).	Frais
Transition after Act comes into force	23. —(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.	23 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.	Transition après l'entrée en vigueur de la Loi
Terms of members of transitional Council	(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.	(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.	Mandat des membres du conseil transitoire
Vacancies	(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.	(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.	Vacances
Composition of committees	(4) Sections 8 to 13 do not apply to committees of the transitional Council.	(4) Les articles 8 à 13 ne s'appliquent pas aux comités du conseil transitoire.	Composition des comités
Commencement	24. —(1) This Act, except section 22, comes into force on a day to be named by proclamation of the Lieutenant Governor.	24 (1) La présente loi, à l'exclusion de l'article 22, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Idem	(2) Section 22 comes into force on the day this Act receives Royal Assent.	(2) L'article 22 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.	(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.	Idem

short title

**25. The short title of this Act is the
*Dentistry Act, 1991.***

**25 Le titre abrégé de la présente loi est
*Loi de 1991 sur les dentistes.*** Titre abrégé







1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 49

**An Act respecting the regulation
of the Profession of Dentistry**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

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Projet de loi 49

**Loi concernant la réglementation
de la profession de dentiste**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

Imprimé avec l'autorisation
de l'Assemblée législative par
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EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dentistry by the Royal College of Dental Surgeons of Ontario which is continued. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 9 restricts the use of the titles "dentist" and "dental surgeon" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dentistry.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de dentiste par l'Ordre royal des chirurgiens dentistes de l'Ontario qui est maintenu. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 9 réserve aux membres l'usage des titres de «dentiste» et de «chirurgien dentiste». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de dentiste.

An Act respecting the regulation of the Profession of Dentistry

Loi concernant la réglementation de la profession de dentiste

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

"College" means the Royal College of Dental Surgeons of Ontario; ("Ordre")

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

"member" means a member of the College; ("membre")

«membre» Membre de l'Ordre. («member»)

"profession" means the profession of dentistry; ("profession")

«Ordre» L'Ordre royal des chirurgiens dentistes de l'Ontario. («College»)

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

«profession» La profession de dentiste. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

"College" means the Royal College of Dental Surgeons of Ontario; ("ordre")

«loi sur une profession de la santé» La présente loi. («health profession Act»)

"health profession Act" means this Act; ("loi sur une profession de la santé")

«ordre» L'Ordre royal des chirurgiens dentistes de l'Ontario. («College»)

"profession" means the profession of dentistry; ("profession")

«profession» La profession de dentiste. («profession»)

"regulations" means the regulations under this Act. ("règlements")

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of dentistry is the assessment of the physical condition of the oral-facial complex and the diagnosis, treatment and prevention of any disease, disorder or dysfunction of the oral-facial complex.

3 L'exercice de la dentisterie consiste dans l'évaluation de l'état physique du complexe oro-facial et dans le diagnostic, le traitement et la prévention des maladies, troubles ou dysfonctions du complexe oro-facial.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

Authorized
acts

4. In the course of engaging in the practice of dentistry, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Communicating a diagnosis identifying a disease or disorder of the oral-facial complex as the cause of a person's symptoms.
2. Performing a procedure on tissue of the oral-facial complex below the dermis, below the surface of a mucous membrane or in or below the surfaces of the teeth, including the scaling of teeth.
3. Harvesting tissue for the purpose of surgery on the oral-facial complex.
4. Setting a fracture of a bone of the oral-facial complex or setting a dislocation of a joint of the oral-facial complex.
5. Administering a substance by injection or inhalation.
6. Applying or ordering the application of a prescribed form of energy.
7. Prescribing or dispensing drugs.
8. Fitting or dispensing a dental prosthesis, or an orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.

4 Dans l'exercice de la dentisterie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Communiquer les diagnostics attribuant les symptômes que présentent des personnes à des maladies ou à des troubles du complexe oro-facial.
2. Pratiquer des interventions sur le tissu du complexe oro-facial sous le derme, sous la surface des muqueuses, ou dans les dents ou sous la surface des dents, y compris le détartrage des dents.
3. Prélever du tissu en vue de pratiquer des interventions chirurgicales au complexe oro-facial.
4. Consolider des fractures du complexe oro-facial ou réduire des luxations articulaires du complexe oro-facial.
5. Administrer des substances par voie d'injection ou d'inhalation.
6. Appliquer des formes d'énergie prescrites ou en ordonner l'application.
7. Prescrire ou préparer des médicaments.
8. Adapter ou préparer des prothèses dentaires, ou des appareils d'orthodontie ou de périodontie ou des dispositifs qui se portent dans la cavité buccale en vue de protéger les dents en cas de fonctionnement anormal de la denture.

Actes autorisés

College
continued

5. The College is continued under the name Royal College of Dental Surgeons of Ontario in English and Ordre royal des chirurgiens dentistes de l'Ontario in French.

5 L'Ordre est maintenu sous le nom d'Ordre royal des chirurgiens dentistes de l'Ontario en français et sous le nom de Royal College of Dental Surgeons of Ontario en anglais.

Maintien d'
l'Ordre

Council

- 6.—(1) The Council shall be composed of,
- (a) at least ten and no more than twelve persons who are members elected in the prescribed number and manner;
 - (b) at least nine and no more than eleven persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and

- 6 (1) Le conseil se compose :
- a) d'au moins dix et d'au plus douze personnes qui sont des membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) d'au moins neuf et d'au plus onze personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;

Conseil

(c) two persons selected in the prescribed manner from among members who are members of a faculty of dentistry of a university in Ontario.

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

7. The Council shall have a President and Vice-President who shall be elected every two years by the Council from among the Council's members.

8. The Council may give the Dental Review Committee appointed under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

9.—(1) No person other than a member shall use the titles "dentist" or "dental surgeon", a variation or abbreviation or an equivalent in another language.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dentist or dental surgeon or in a specialty of dentistry.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

10.—(1) The Registrar shall give a notice to each member if the Minister refers, to the Advisory Council as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

c) de deux personnes choisies de la manière prescrite parmi les membres qui font partie du corps professoral de la faculté de dentisterie d'une université ontarienne.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

7 Le conseil comprend un président et un vice-président qui, tous les deux ans, sont choisis parmi les membres du conseil et élus par ce dernier.

8 Le conseil peut imposer au comité d'étude de la dentisterie, constitué en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

9 (1) Nul autre qu'un membre ne doit employer les titres de «dentiste» ou de «chirurgien dentiste», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de dentiste ou de chirurgien dentiste, ou une spécialité de la dentisterie.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Qui peut voter aux élections

Président et vice-président

Imposition d'obligations au comité d'étude de la dentisterie

Titres réservés

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Regulations

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) respecting the qualifications, selection and terms of office of Council members who are selected; and
- (b) regulating the dispensing of drugs by members, requiring members to keep prescribed records and to provide to the Minister reports containing prescribed information respecting the dispensing of drugs.

12 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement :

- a) traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis;
- b) réglementer la préparation de médicaments par les membres et exiger d'eux qu'ils tiennent les registres prescrits et qu'ils fournissent au ministre des rapports renfermant les renseignements prescrits concernant la préparation de médicaments.

Règlement

Transitional

13. A person who, on the day before this Act comes into force, holds a licence issued under Part II of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the licence was subject.

13 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est titulaire d'un permis délivré en vertu de la partie II de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), qui constitue le chapitre 196 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction dont était assorti son permis.

Disposition transitoire

Transition before Act in force

14.—(1) The transitional Council is the Council of the Royal College of Dental Surgeons of Ontario as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

14 (1) Le conseil transitoire est le conseil de l'Ordre royal des chirurgiens dentistes de l'Ontario, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la

Pouvoirs du ministre

*Regulated Health Professions Act,
1991.*

*Loi de 1991 sur les professions de la
santé réglementées.*

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

15.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

15 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

16.—(1) This Act, except section 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

16 (1) La présente loi, à l'exclusion de l'article 14, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) Section 14 comes into force on the day this Act receives Royal Assent.

() L'article 14 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

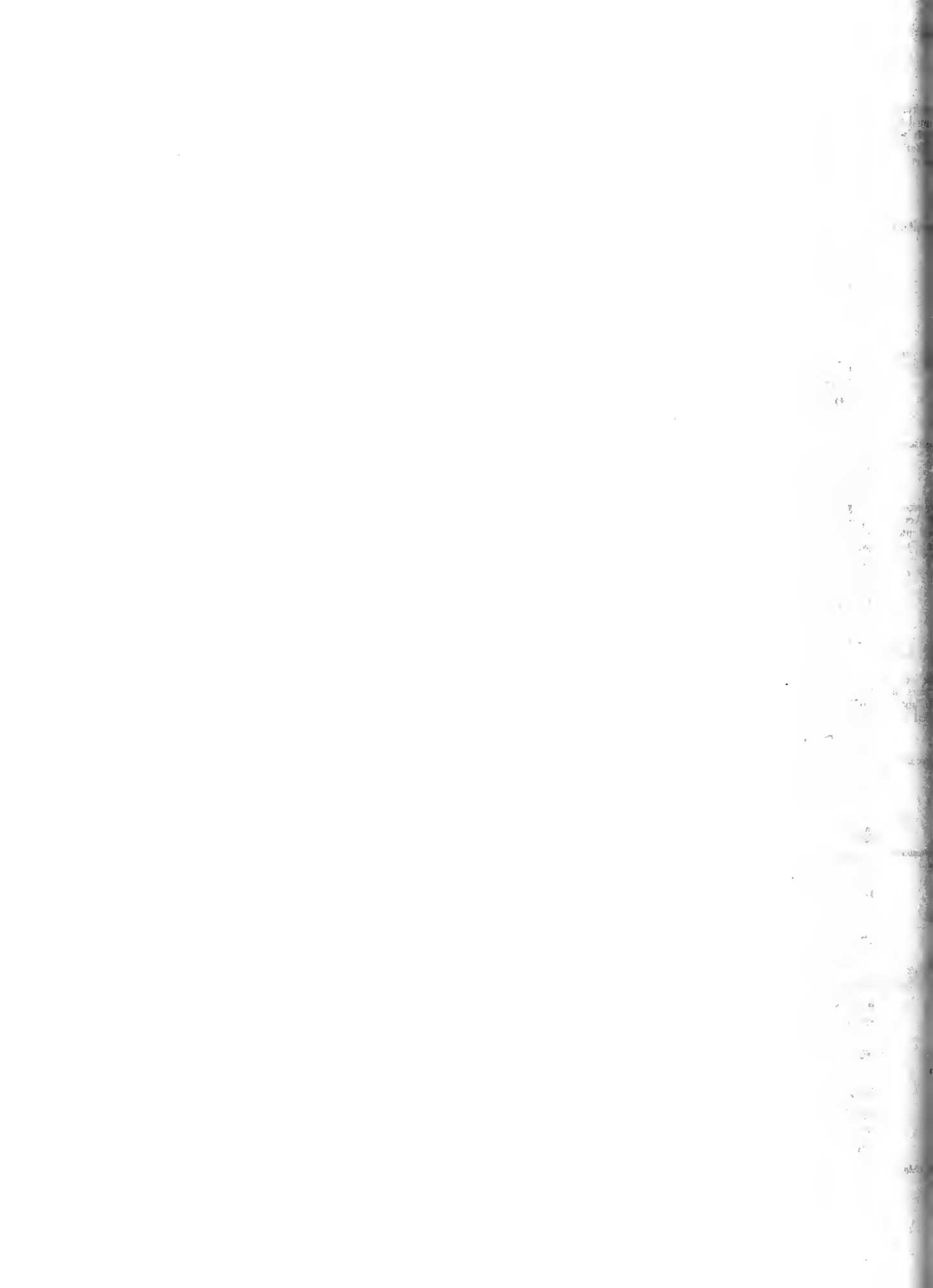
(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Idem

17. The short title of this Act is the *Dentistry Act, 1991.*

17 Le titre abrégé de la présente loi est *Loi de 1991 sur les dentistes.*

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 49

*(Chapter 24
Statutes of Ontario, 1991)*

An Act respecting the regulation of the Profession of Dentistry

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

Projet de loi 49

*(Chapitre 24
Lois de l'Ontario de 1991)*

Loi concernant la réglementation de la profession de dentiste

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991

An Act respecting the regulation of the Profession of Dentistry

Loi concernant la réglementation de la profession de dentiste

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the Royal College of Dental Surgeons of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of dentistry; (“profession”)

«Ordre» L'Ordre royal des chirurgiens dentistes de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de dentiste. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the Royal College of Dental Surgeons of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre royal des chirurgiens dentistes de l'Ontario. («College»)

“profession” means the profession of dentistry; (“profession”)

«profession» La profession de dentiste. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of dentistry is the assessment of the physical condition of the oral-facial complex and the diagnosis, treatment and prevention of any disease, disorder or dysfunction of the oral-facial complex.

3 L'exercice de la dentisterie consiste dans l'évaluation de l'état physique du complexe oro-facial et dans le diagnostic, le traitement et la prévention des maladies, troubles ou dysfonctions du complexe oro-facial.

Definitions

Définitions

Health Professions Procedural Code

Terms in Code

Code des professions de la santé

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

Authorized
acts

4. In the course of engaging in the practice of dentistry, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Communicating a diagnosis identifying a disease or disorder of the oral-facial complex as the cause of a person's symptoms.
2. Performing a procedure on tissue of the oral-facial complex below the dermis, below the surface of a mucous membrane or in or below the surfaces of the teeth, including the scaling of teeth.
3. Harvesting tissue for the purpose of surgery on the oral-facial complex.
4. Setting a fracture of a bone of the oral-facial complex or setting a dislocation of a joint of the oral-facial complex.
5. Administering a substance by injection or inhalation.
6. Applying or ordering the application of a prescribed form of energy.
7. Prescribing or dispensing drugs.
8. Fitting or dispensing a dental prosthesis, or an orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.

College
continued

5. The College is continued under the name Royal College of Dental Surgeons of Ontario in English and Ordre royal des chirurgiens dentistes de l'Ontario in French.

Council

- 6.—(1) The Council shall be composed of,
- (a) at least ten and no more than twelve persons who are members elected in the prescribed number and manner;
 - (b) at least nine and no more than eleven persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
 - (c) two persons selected in the prescribed manner from among members who are

Actes auto-
rés

4 Dans l'exercice de la dentisterie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Communiquer les diagnostics attribuant les symptômes que présentent des personnes à des maladies ou à des troubles du complexe oro-facial.
2. Pratiquer des interventions sur le tissu du complexe oro-facial sous le derme, sous la surface des muqueuses, ou dans les dents ou sous la surface des dents, y compris le détartrage des dents.
3. Prélever du tissu en vue de pratiquer des interventions chirurgicales au complexe oro-facial.
4. Consolider des fractures du complexe oro-facial ou réduire des luxations articulaires du complexe oro-facial.
5. Administrer des substances par voie d'injection ou d'inhalation.
6. Appliquer des formes d'énergie prescrites ou en ordonner l'application.
7. Prescrire ou préparer des médicaments.
8. Adapter ou préparer des prothèses dentaires, ou des appareils d'orthodontie ou de périodontie ou des dispositifs qui se portent dans la cavité buccale en vue de protéger les dents en cas de fonctionnement anormal de la denture.

Maintien de
l'Ordre

5 L'Ordre est maintenu sous le nom d'Ordre royal des chirurgiens dentistes de l'Ontario en français et sous le nom de Royal College of Dental Surgeons of Ontario en anglais.

Conseil

- 6 (1) Le conseil se compose :
- a) d'au moins dix et d'au plus douze personnes qui sont des membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) d'au moins neuf et d'au plus onze personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
 - c) de deux personnes choisies de la manière prescrite parmi les membres

members of a faculty of dentistry of a university in Ontario.

qui font partie du corps professoral de la faculté de dentisterie d'une université ontarienne.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-president

7. The Council shall have a President and Vice-President who shall be elected every two years by the Council from among the Council's members.

7 Le conseil comprend un président et un vice-président qui, tous les deux ans, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Imposition of duties on the Dental Review Committee

8. The Council may give the Dental Review Committee appointed under the *Health Insurance Act* duties that are not inconsistent with the Committee's duties under that Act.

8 Le conseil peut imposer au comité d'étude de la dentisterie, constitué en vertu de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*»), des obligations qui ne sont pas incompatibles avec les obligations du comité prévues par cette loi.

Imposition d'obligations au comité d'étude de la dentisterie

Restricted titles

9.—(1) No person other than a member shall use the titles "dentist" or "dental surgeon", a variation or abbreviation or an equivalent in another language.

9 (1) Nul autre qu'un membre ne doit employer les titres de «dentiste» ou de «chirurgien dentiste», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titres réservés

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dentist or dental surgeon or in a specialty of dentistry.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de dentiste ou de chirurgien dentiste, ou une spécialité de la dentisterie.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

10.—(1) The Registrar shall give a notice to each member if the Minister refers, to the Advisory Council as defined in the *Regulated Health Professions Act, 1991*, a suggested,

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements referred to

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

12 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement :

Règlements

- (a) respecting the qualifications, selection and terms of office of Council members who are selected;
- (b) regulating the dispensing of drugs by members, requiring members to keep prescribed records and to provide to the Minister reports containing prescribed information respecting the dispensing of drugs.

- a) traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis;
- b) réglementer la préparation de médicaments par les membres et exiger d'eux qu'ils tiennent les registres prescrits et qu'ils fournissent au ministre des rapports renfermant les renseignements prescrits concernant la préparation de médicaments.

Transitional

13. A person who, on the day before this Act comes into force, holds a licence issued under Part II of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the licence was subject.

13 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est titulaire d'un permis délivré en vertu de la partie II de la loi intitulée *Health Disciplines Act* («*Loi sur les sciences de la santé*»), qui constitue le chapitre 196 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction dont était assorti son permis.

Disposition transitoire

Transition before Act in force

14.—(1) The transitional Council is the Council of the Royal College of Dental Surgeons of Ontario as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

14 (1) Le conseil transitoire est le conseil de l'Ordre royal des chirurgiens dentistes de l'Ontario, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du ministre

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister,

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

comply with the requirement and submit a report.

précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

transition
ter Act
comes into
force

15.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

15 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition
après l'entrée
en vigueur de
la Loiterms of
members of
transitional
Council

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des
membres du
conseil transi-
toire

vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

commence-
ment

16.—(1) This Act, except section 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

16 (1) La présente loi, à l'exclusion de l'article 14, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

idem

(2) Section 14 comes into force on the day this Act receives Royal Assent.

(2) L'article 14 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

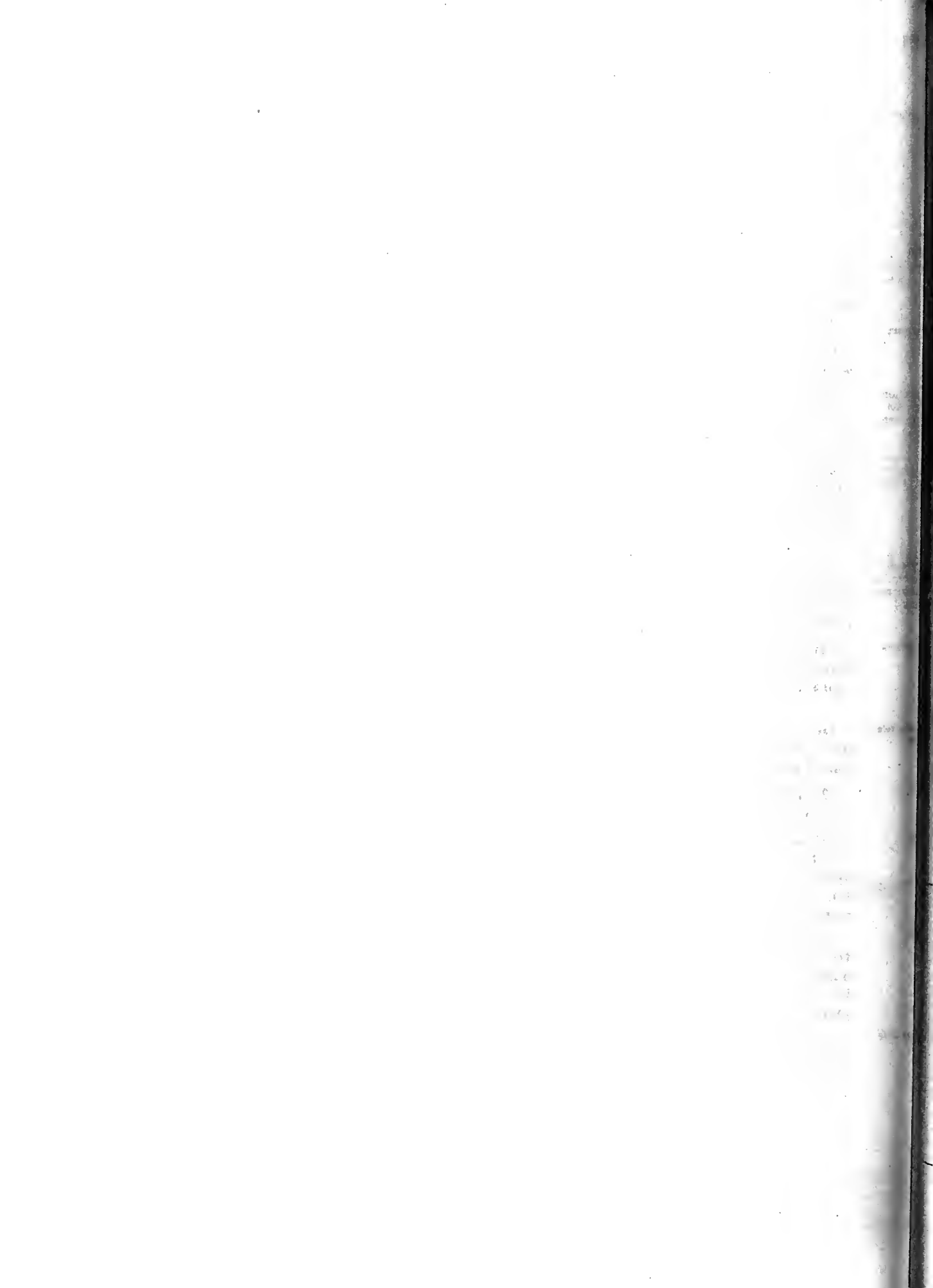
Idem

short title

17. The short title of this Act is the *Dentistry Act, 1991*.

17 Le titre abrégé de la présente loi est *Loi de 1991 sur les dentistes*.

Titre abrégé



1st SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 50

**An Act respecting the regulation
of the Profession of Denturism**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 50

**Loi concernant la réglementation
de la profession de denturologue**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of denturism by the College of Denturists of Ontario. The Governing Board of Denture Therapists is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 15 restricts the use of the titles "denturist" and "denture therapist". The remainder of the Bill relates to the internal working of the College and the regulation of the profession of denturism.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de denturologue par l'Ordre des denturologues de l'Ontario. Le Conseil d'administration des denturologues est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 15 restreint l'usage du titre de «denturologue». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de denturologue.

An Act respecting the regulation of the Profession of Denturism

Loi concernant la réglementation de la profession de denturologue

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Denturists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of denturism; (“profession”)

«Ordre» L'Ordre des denturologues de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de denturologue. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Denturists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des denturologues de l'Ontario. («College»)

“profession” means the profession of denturism; (“profession”)

«profession» La profession de denturologue. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of denturism is the assessment of arches missing some or all teeth and the design, construction, repair, alteration, ordering and fitting of removable dentures.

3 L'exercice de la denturologie consiste dans l'évaluation des arcades édentées et dans la conception, la confection, la réparation, la modification, le fait de commander et l'adaptation de prothèses amovibles.

4. In the course of engaging in the practice of denturism, a member is authorized,

4 Dans l'exercice de la denturologie, un membre est autorisé, sous réserve des condi-

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions in Code

Définitions du Code

Scope of practice

Champ d'application

Authorized act

Actes autorisés

subject to the terms, conditions and limitations imposed on his or her certificate of registration, to fit and dispense removable dentures.

tions et restrictions dont est assorti son certificat d'inscription, à adapter et à préparer des prothèses amovibles.

Governing Board continued as College

5. The Governing Board of Denture Therapists is continued under the name College of Denturists of Ontario in English and Ordre des denturologues de l'Ontario in French.

5 Le Conseil d'administration des denturologues est maintenu sous le nom d'Ordre des denturologues de l'Ontario en français et sous le nom de College of Denturists of Ontario en anglais.

Maintien du Conseil d'administration des denturologues en tant qu'Ordre

Council

6.—(1) The Council shall be composed of,

6 (1) Le conseil se compose :

Conseil

(a) at least eight and no more than ten persons who are members elected in the prescribed number and manner; and

a) d'au moins huit et d'au plus dix personnes qui sont des membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) four or five persons appointed by the Lieutenant Governor in Council who are not,

b) quatre ou cinq personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected bi-annually by the Council from among the Council's members.

7 Le conseil comprend un président et un vice-président qui, tous les deux ans, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Executive Committee

8.—(1) The Executive Committee shall be composed of,

8 (1) Le bureau se compose des personnes suivantes :

Bureau

(a) the President and Vice-President of the Council;

a) le président et le vice-président du conseil;

(b) two members of the Council who are members of the College; and

b) deux membres du conseil qui sont membres de l'Ordre;

(c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

(2) Le président du conseil assume la présidence du bureau.

Président

Registration Committee

9. The Registration Committee shall be composed of,

9 Le comité d'inscription se compose des personnes suivantes :

Comité d'inscription

(a) two members of the Council who are members of the College; and

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Complaints Committee

10. The Complaints Committee shall be composed of,

10 Le comité des plaintes se compose des personnes suivantes :

Comité des plaintes

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

(c) one member.

11. The Discipline Committee shall be composed of,

(a) three members of the Council who are members of the College;

(b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and

(c) two members.

12. The Fitness to Practise Committee shall be composed of,

(a) two members of the Council who are members of the College;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

(c) one member.

13. The Quality Assurance Committee shall be composed of,

(a) two members of the Council who are members of the College;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

(c) two members.

14. The Council shall appoint the members of the committees mentioned in sections 8 to 13.

15.—(1) No person other than a member shall use the title "denturist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

(2) No person shall use the title "denture therapist" or a variation or abbreviation of it.

(3) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a denturist or in a specialty of denturism.

(4) Despite subsection (2), a member may use the title "denture therapist" or a variation or abbreviation of it for three years after this Act comes into force.

(5) In this section, "abbreviation" includes an abbreviation of a variation.

16.—(1) The Registrar shall give a notice to each member if the Minister refers to the

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

c) un membre.

11 Le comité de discipline se compose des personnes suivantes :

a) trois membres du conseil qui sont membres de l'Ordre;

b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;

c) deux membres.

12 Le comité d'aptitude professionnelle se compose des personnes suivantes :

a) deux membres du conseil qui sont membres de l'Ordre;

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

c) un membre.

13 Le comité d'assurance de la qualité se compose des personnes suivantes :

a) deux membres du conseil qui sont membres de l'Ordre;

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

c) deux membres.

14 Le conseil nomme les membres des comités visés aux articles 8 à 13.

15 (1) Nul autre qu'un membre ne doit employer le titre de «denturologue», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

(2) Nul ne doit employer le titre de «denture therapist», ou une variante ou une abréviation de celui-ci.

(3) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de denturologue, ou une spécialité de la denturologie.

(4) Malgré le paragraphe (2), un membre peut employer le titre de «denture therapist», ou une variante ou une abréviation de celui-ci pendant trois ans après l'entrée en vigueur de la présente loi.

(5) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

16 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au

Comité de discipline

Comité d'aptitude professionnelle

Comité d'assurance de la qualité

Nomination des membres

Titre réservé

Idem

Déclaration de compétence

Exception

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, as suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

17. Every person who contravenes subsection 15 (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

17 Quiconque contrevient au paragraphe 15 (1), (2) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

18. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

18 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement, traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Règlement

Transition

19. A person who, on the day before this Act comes into force, is licensed as a denture therapist under the *Denture Therapists Act*, being chapter 115 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the licence was subject.

19 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est titulaire d'un permis l'autorisant à exercer la profession de denturologue aux termes de la loi intitulée *Denture Therapists Act* («*Loi sur les denturologues*»), qui constitue le chapitre 115 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction dont était assorti son permis.

Dispositif transitoire

Transition before Act in force

20.—(1) The transitional Council is the Governing Board of Denture Therapists as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

20 (1) Le conseil transitoire est le Conseil d'administration des denturologues de l'Ontario, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'ent en vigueur la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs d conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs

Idem

Powers of Minister

Transitional Council to comply with Minister's request

Regulations

Idem

Expenses

Transition after Act in force

Terms of members of transitional Council

Vacancies

Composition of committees

Commencement

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

21.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(4) Sections 8 to 13 do not apply to committees of the transitional Council.

22.—(1) This Act, except section 20, comes into force on a day to be named by proclamation of the Lieutenant Governor.

aux demandes et délivrer les certificats d'inscription.

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

21 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

(4) Les articles 8 à 13 ne s'appliquent pas aux comités du conseil transitoire.

22 (1) La présente loi, à l'exclusion de l'article 20, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Pouvoirs du ministre

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Règlements

Idem

Frais

Transition après l'entrée en vigueur de la Loi

Mandat des membres du conseil transitoire

Vacances

Composition des comités

Entrée en vigueur

Idem	(2) Section 20 comes into force on the day this Act receives Royal Assent.	(2) L'article 20 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.	(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.	Idem
Short title	23. The short title of this Act is the <i>Denturism Act, 1991</i> .	23 Le titre abrégé de la présente loi est <i>Loi de 1991 sur les denturologues</i> .	Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 50

**An Act respecting the regulation
of the Profession of Denturism**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

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Projet de loi 50

**Loi concernant la réglementation
de la profession de denturologiste**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

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EXPLANATORY NOTE

The Bill provides for the regulation of the profession of denturism by the College of Denturists of Ontario. The Governing Board of Denture Therapists is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 8 restricts the use of the titles "denturist" and "denture therapist". The remainder of the Bill relates to the internal working of the College and the regulation of the profession of denturism.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de denturologue par l'Ordre des denturologues de l'Ontario. Le Conseil d'administration des denturologues est maintenu mais porte dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé au paragraphe 2 (1), faire partie du projet de loi. L'article énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 8 restreint l'usage du titre «denturologue». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession denturologue.

An Act respecting the regulation of the Profession of Denturism

Loi concernant la réglementation de la profession de denturologiste

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

"College" means the College of Denturists of Ontario; ("Ordre")

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

"member" means a member of the College; ("membre")

«membre» Membre de l'Ordre. («member»)

"profession" means the profession of denturism; ("profession")

«Ordre» L'Ordre des denturologistes de l'Ontario. («College»)

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

«profession» La profession de denturologiste. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

"College" means the College of Denturists of Ontario; ("ordre")

«loi sur une profession de la santé» La présente loi. («health profession Act»)

"health profession Act" means this Act; ("loi sur une profession de la santé")

«ordre» L'Ordre des denturologistes de l'Ontario. («College»)

"profession" means the profession of denturism; ("profession")

«profession» La profession de denturologiste. («profession»)

"regulations" means the regulations under this Act. ("règlements")

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of denturism is the assessment of arches missing some or all teeth and the design, construction, repair, alteration, ordering and fitting of removable dentures.

3 L'exercice de la denturologie consiste dans l'évaluation des arcades édentées et dans la conception, la confection, la réparation, la modification, le fait de commander et l'adaptation de prothèses amovibles.

Authorized act	<p>4. In the course of engaging in the practice of denturism, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to fit and dispense removable dentures.</p>	<p>4 Dans l'exercice de la denturologie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à adapter et à préparer des prothèses amovibles.</p>	Actes autorisés
Governing Board continued as College	<p>5. The Governing Board of Denture Therapists is continued under the name College of Denturists of Ontario in English and Ordre des <u>denturologistes</u> de l'Ontario in French.</p>	<p>5 Le Conseil d'administration des denturologues est maintenu sous le nom d'Ordre des <u>denturologistes</u> de l'Ontario en français et sous le nom de College of Denturists of Ontario en anglais.</p>	Maintien du Conseil d'administration des denturologues en l'Ordre
Council	<p>6.—(1) The Council shall be composed of,</p> <p>(a) <u>at least seven and no more than eight</u> persons who are members elected in the prescribed number and manner; and</p> <p>(b) <u>at least five and no more than seven</u> persons appointed by the Lieutenant Governor in Council who are not,</p> <p>(i) members,</p> <p>(ii) members of a College as defined in the <i>Regulated Health Professions Act, 1991</i>, or</p> <p>(iii) members of a Council as defined in the <i>Regulated Health Professions Act, 1991</i>.</p>	<p>6 (1) Le conseil se compose :</p> <p>a) <u>d'au moins sept et d'au plus huit</u> personnes qui sont des membres et qui sont élues de la manière prescrite et selon le nombre prescrit;</p> <p>b) <u>d'au moins cinq et d'au plus sept</u> personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :</p> <p>(i) membres,</p> <p>(ii) membres d'un ordre, tel que le définit la <i>Loi de 1991 sur les professions de la santé réglementées</i>,</p> <p>(iii) membres d'un conseil, tel que le définit la <i>Loi de 1991 sur les professions de la santé réglementées</i>.</p>	Conseil
Who can vote in elections	<p>(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.</p>	<p>(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.</p>	Qui peut voter aux élections
President and Vice-President	<p>7. The Council shall have a President and Vice-President who shall be elected bi-annually by the Council from among the Council's members.</p>	<p>7 Le conseil comprend un président et un vice-président qui, tous les deux ans, sont choisis parmi les membres du conseil et élus par ce dernier.</p>	Président e vice-préside
Restricted titles	<p>8.—(1) No person other than a member shall use the title "denturist", a variation or abbreviation or an equivalent in another language.</p>	<p>8 (1) Nul autre qu'un membre ne doit employer le titre de «<u>denturologiste</u>», une variante ou une abréviation, ou un équivalent dans une autre langue.</p>	Titre réservé
Idem	<p>(2) No person shall use the title "denture therapist" or a variation or abbreviation of it.</p>	<p>(2) Nul ne doit employer le titre de «denture therapist», ou une variante ou une abréviation de celui-ci.</p>	Idem
Representations of qualification, etc.	<p>(3) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a denturist or in a specialty of denturism.</p>	<p>(3) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de <u>denturologiste</u>, ou une spécialité de la denturologie.</p>	Déclaration de compétence
Exception	<p>(4) Despite subsection (2), a member may use the title "denture therapist" or a variation or abbreviation of it for three years after this Act comes into force.</p>	<p>(4) Malgré le paragraphe (2), un membre peut employer le titre de «denture therapist», ou une variante ou une abréviation de celui-ci pendant trois ans après l'entrée en vigueur de la présente loi.</p>	Exception
Definition	<p>(5) In this section, "abbreviation" includes an abbreviation of a variation.</p>	<p>(5) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.</p>	Définition

notice if
suggestions
referred to
Advisory
Council

9.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

require-
ments re
notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

offence

10. Every person who contravenes subsection 8 (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

transition

11. A person who, on the day before this Act comes into force, is licensed as a denture therapist under the *Denture Therapists Act*, being chapter 115 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the licence was subject.

transition
before Act
force

12.—(1) The transitional Council is the Governing Board of Denture Therapists as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

powers of
transitional
Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

powers of
Minister

(4) The Minister may,

9 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Avis en cas
de présenta-
tion d'une
proposition
au Conseil
consultatif

Exigences
relatives à
l'avis

10 Quiconque contrevient au paragraphe 8 (1), (2) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

11 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est titulaire d'un permis l'autorisant à exercer la profession de denturologue aux termes de la loi intitulée *Denture Therapists Act* («*Loi sur les denturologues*»), qui constitue le chapitre 115 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction dont était assorti son permis.

Disposition
transitoire

12 (1) Le conseil transitoire est le Conseil d'administration des denturologues de l'Ontario, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition
avant l'entrée
en vigueur de
la Loi

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil transi-
toire

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

(4) Le ministre peut :

Pouvoirs du
ministre

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

13.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

13 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Commencement

14.—(1) This Act, except section 12, comes into force on a day to be named by proclamation of the Lieutenant Governor.

14 (1) La présente loi, à l'exclusion de l'article 12, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 12 comes into force on the day this Act receives Royal Assent.

(2) L'article 12 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'en-

Idem

into force until three years after this Act comes into force.

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

15. The short title of this Act is the *Denturism Act, 1991*.

tre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

15 Le titre abrégé de la présente loi est *Loi de 1991 sur les denturologistes*.

Idem

Titre abrégé

dem

short title

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 50

*(Chapter 25
Statutes of Ontario, 1991)*

**An Act respecting the regulation
of the Profession of Denturism**

The Hon. F. Lankin
Minister of Health

1st Reading	April 2nd, 1991
2nd Reading	May 29th, 1991
3rd Reading	November 21st, 1991
Royal Assent	November 25th, 1991

Projet de loi 50

*(Chapitre 25
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation
de la profession de denturologiste**

L'honorable F. Lankin
Ministre de la Santé

1 ^{re} lecture	2 avril 1991
2 ^e lecture	29 mai 1991
3 ^e lecture	21 novembre 1991
sanction royale	25 novembre 1991

1911

1912

1913

1914

An Act respecting the regulation of the Profession of Denturism

Loi concernant la réglementation de la profession de denturologiste

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Denturists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of denturism; (“profession”)

«Ordre» L'Ordre des denturologistes de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de denturologiste. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Denturists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des denturologistes de l'Ontario. («College»)

“profession” means the profession of denturism; (“profession”)

«profession» La profession de denturologiste. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of denturism is the assessment of arches missing some or all teeth and the design, construction, repair, alteration, ordering and fitting of removable dentures.

3 L'exercice de la denturologie consiste dans l'évaluation des arcades édentées et dans la conception, la confection, la réparation, la modification, le fait de commander et l'adaptation de prothèses amovibles.

Definitions

Définitions

Health Professions Procedural Code

Terms in Code

Code des professions de la santé

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

Authorized
act

4. In the course of engaging in the practice of denturism, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to fit and dispense removable dentures.

4 Dans l'exercice de la denturologie, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à adapter et à préparer des prothèses amovibles.

Actes autori-
sésGoverning
Board
continued as
College

5. The Governing Board of Denture Therapists is continued under the name College of Denturists of Ontario in English and Ordre des denturologistes de l'Ontario in French.

5 Le Conseil d'administration des denturologues est maintenu sous le nom d'Ordre des denturologistes de l'Ontario en français et sous le nom de College of Denturists of Ontario en anglais.

Maintien du
Conseil d'ad-
ministration
des denturo-
logues en la
qu'Ordre

Council

6.—(1) The Council shall be composed of,

6 (1) Le conseil se compose :

Conseil

(a) at least seven and no more than eight persons who are members elected in the prescribed number and manner; and

a) d'au moins sept et d'au plus huit personnes qui sont des membres et qui sont élus de la manière prescrite et selon le nombre prescrit;

(b) at least five and no more than seven persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins cinq et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can
vote in elec-
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut
voter aux
électionsPresident
and Vice-
President

7. The Council shall have a President and Vice-President who shall be elected bi-annually by the Council from among the Council's members.

7 Le conseil comprend un président et un vice-président qui, tous les deux ans, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et
vice-présidentRestricted
titles

8.—(1) No person other than a member shall use the title "denturist", a variation or abbreviation or an equivalent in another language.

8 (1) Nul autre qu'un membre ne doit employer le titre de «denturologiste», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Idem

(2) No person shall use the title "denture therapist" or a variation or abbreviation of it.

(2) Nul ne doit employer le titre de «denture therapist», ou une variante ou une abréviation de celui-ci.

Idem

Representa-
tions of
qualification,
etc.

(3) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a denturist or in a specialty of denturism.

(3) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de denturologiste, ou une spécialité de la denturologie.

Déclaration
de compé-
tence

Exception

(4) Despite subsection (2), a member may use the title "denture therapist" or a variation or abbreviation of it for three years after this Act comes into force.

(4) Malgré le paragraphe (2), un membre peut employer le titre de «denture therapist», ou une variante ou une abréviation de celui-ci pendant trois ans après l'entrée en vigueur de la présente loi.

Exception

Definition

(5) In this section, "abbreviation" includes an abbreviation of a variation.

(5) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

notice if suggestions referred to advisory council

9.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

requirements referred to notice

offence

10. Every person who contravenes subsection 8 (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

transition

11. A person who, on the day before this Act comes into force, is licensed as a denture therapist under the *Denture Therapists Act*, being chapter 115 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the licence was subject.

transition before Act in force

12.—(1) The transitional Council is the Governing Board of Denture Therapists as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

members of transitional council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

members of minister

(4) The Minister may,

9 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

10 Quiconque contrevient au paragraphe 8 (1), (2) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Disposition transitoire

11 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est titulaire d'un permis l'autorisant à exercer la profession de denturologue aux termes de la loi intitulée *Denture Therapists Act* («*Loi sur les denturologues*»), qui constitue le chapitre 115 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction dont était assorti son permis.

Transition avant l'entrée en vigueur de la Loi

12 (1) Le conseil transitoire est le Conseil d'administration des denturologues de l'Ontario, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Pouvoirs du conseil transitoire

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Idem

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Pouvoirs du ministre

(4) Le ministre peut :

	(a) review the transitional Council's activities and require the transitional Council to provide reports and information;	a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;	
	(b) require the transitional Council to make, amend or revoke a regulation under this Act;	b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;	
	(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the <i>Regulated Health Professions Act, 1991</i> .	c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la <i>Loi de 1991 sur les professions de la santé réglementées</i> .	
Transitional Council to comply with Minister's request	(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.	(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.	Obligation conseil transitoire de satisfaire à l'exigence ministre
Regulations	(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.	(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.	Règlement
Idem	(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.	(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.	Idem
Expenses	(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).	(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).	Frais
Transition after Act in force	13. —(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.	13 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.	Transition après l'entrée en vigueur la Loi
Terms of members of transitional Council	(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.	(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.	Mandat de membres du conseil transitoire
Vacancies	(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.	(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.	Vacances
Commencement	14. —(1) This Act, except section 12, comes into force on a day to be named by proclamation of the Lieutenant Governor.	14 (1) La présente loi, à l'exclusion de l'article 12, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Idem	(2) Section 12 comes into force on the day this Act receives Royal Assent.	(2) L'article 12 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come	(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'en-	Idem

into force until three years after this Act comes into force.

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

15. The short title of this Act is the *Denturism Act, 1991*.

tre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

15 Le titre abrégé de la présente loi est *Loi de 1991 sur les denturologistes*.

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 51

**An Act respecting the regulation
of the Profession of Dietetics**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 51

**Loi concernant la réglementation
de la profession de diététiste**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dietetics by the College of Dietitians of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 14 restricts the use of the title "dietitian" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dietetics.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de diététiste par l'Ordre des diététistes de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 14 réserve aux membres l'usage du titre de «diététiste». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de diététiste.

An Act respecting the regulation of the Profession of Dietetics

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,

“College” means the College of Dietitians of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of dietetics; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Dietitians of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of dietetics; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of dietetics is the assessment of nutrition and nutritional conditions and the treatment and prevention of nutrition related disorders by nutritional means.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des diététistes de l'Ontario. («College»)

«profession» La profession de diététiste. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des diététistes de l'Ontario. («College»)

«profession» La profession de diététiste. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la profession de diététiste consiste dans l'évaluation de la nutrition et des affections d'ordre nutritionnel et dans le traitement et la prévention des troubles relatifs à la nutrition par des moyens nutritionnels.

Définitions

Définitions

health professions procedural code terms in code

Code des professions de la santé

Termes figurant dans le Code

Definitions Code

Définitions du Code

scope of practice

Champ d'application

College
established

4. The College is established under the name College of Dietitians of Ontario in English and Ordre des diététistes de l'Ontario in French.

4 L'Ordre est créé sous le nom d'Ordre des diététistes de l'Ontario en français et sous le nom de College of Dietitians of Ontario en anglais.

Création de
l'Ordre

Council

5.—(1) The Council shall be composed of,

5 (1) Le conseil se compose :

Conseil

(a) at least eight and no more than twelve persons who are members elected in the prescribed number and manner; and

a) d'au moins huit et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins quatre et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can
vote in elec-
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut
voter aux
électionsPresident
and Vice-
President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et
vice-présidentExecutive
Committee

7.—(1) The Executive Committee shall be composed of,

7 (1) Le bureau se compose des personnes suivantes :

Bureau

(a) the President and Vice-President of the Council;

a) le président et le vice-président du conseil;

(b) two members of the Council who are members of the College; and

b) deux membres du conseil qui sont membres de l'Ordre;

(c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

(2) Le président du conseil assume la présidence du bureau.

Président

Registration
Committee

8. The Registration Committee shall be composed of,

8 Le comité d'inscription se compose des personnes suivantes :

Comité d'ins-
cription

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

(c) one member.

c) un membre.

Complaints
Committee

9. The Complaints Committee shall be composed of,

9 Le comité des plaintes se compose des personnes suivantes :

Comité des
plaintes

(a) two members of the Council who are members of the College;

a) deux membres du conseil qui sont membres de l'Ordre;

(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and

b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;

(c) one member.

10. The Discipline Committee shall be composed of,

- (a) three members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

11. The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

12. The Quality Assurance Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

13. The Council shall appoint the members of the committees mentioned in sections 7 to 12.

14.—(1) No person other than a member shall use the title "dietitian", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dietitian or in a specialty of dietetics.

(3) In this section, "abbreviation" includes an abbreviation of a variation.

15.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of

c) un membre.

10 Le comité de discipline se compose des personnes suivantes :

- a) trois membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) deux membres.

11 Le comité d'aptitude professionnelle se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

12 Le comité d'assurance de la qualité se compose des personnes suivantes :

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

13 Le conseil nomme les membres des comités visés aux articles 7 à 12.

14 (1) Nul autre qu'un membre ne doit employer le titre de «diététiste», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de diététiste, ou une spécialité de la profession de diététiste.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

15 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la

Comité de discipline

Comité d'aptitude professionnelle

Comité d'assurance de la qualité

Nomination des membres

Titre réservé

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Discipline committee

Fitness to practise committee

Quality assurance committee

Appointment members

Restricted titles

Representations of qualification

Definition

Notice if suggestions referred to advisory council

Requirements relative to notice

the College receives the Minister's notice of the suggestion.

Offence

16. Every person who contravenes subsection 14 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

Regulations

17. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

Transition before Act in force

18.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

Powers of Minister

(4) The Minister may,

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the

réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Infraction

16 Quiconque contrevient au paragraphe 14 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Règlements

17 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement, traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

18 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition avant l'entrée en vigueur la Loi

Pouvoirs du conseil transitoire

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Idem

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Pouvoirs du ministre

(4) Le ministre peut :

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Obligation conseil transitoire de satisfaire à l'exigence du ministre

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Règlement

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans

Lieutenant Governor in Council may make, amend or revoke the regulation.

les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

19.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

19 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

(3) Sections 7 to 12 do not apply to committees of the transitional Council.

(3) Les articles 7 à 12 ne s'appliquent pas aux comités du conseil transitoire.

Composition des comités

20.—(1) This Act, except section 18, comes into force on a day to be named by proclamation of the Lieutenant Governor.

20 (1) La présente loi, à l'exclusion de l'article 18, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) Section 18 comes into force on the day this Act receives Royal Assent.

(2) L'article 18 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

21. The short title of this Act is the *Dietetics Act, 1991*.

21 Le titre abrégé de la présente loi est *Loi de 1991 sur les diététistes*.

Titre abrégé

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1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 51

An Act respecting the regulation of the Profession of Dietetics

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

Projet de loi 51

Loi concernant la réglementation de la profession de diététiste

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of dietetics by the College of Dietitians of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 7 restricts the use of the title "dietitian" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of dietetics.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de diététiste par l'Ordre des diététistes de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 7 réserve aux membres l'usage du titre «diététiste». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de diététiste.

An Act respecting the regulation of the Profession of Dietetics

Loi concernant la réglementation de la profession de diététiste

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,

“College” means the College of Dietitians of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of dietetics; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Dietitians of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of dietetics; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of dietetics is the assessment of nutrition and nutritional conditions and the treatment and prevention of nutrition related disorders by nutritional means.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des diététistes de l'Ontario. («College»)

«profession» La profession de diététiste. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des diététistes de l'Ontario. («College»)

«profession» La profession de diététiste. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la profession de diététiste consiste dans l'évaluation de la nutrition et des affections d'ordre nutritionnel et dans le traitement et la prévention des troubles relatifs à la nutrition par des moyens nutritionnels.

Définitions

Définitions

Code des professions de la santé

Code des professions de la santé

Termes figurant dans le Code

Termes figurant dans le Code

Définitions du Code

Définitions du Code

Champ d'application

Champ d'application

College established

4. The College is established under the name College of Dietitians of Ontario in English and Ordre des diététistes de l'Ontario in French.

4 L'Ordre est créé sous le nom d'Ordre des diététistes de l'Ontario en français et sous le nom de College of Dietitians of Ontario en anglais.

Création de l'Ordre

Council

5.—(1) The Council shall be composed of,

5 (1) Le conseil se compose :

Conseil

(a) at least six and no more than nine persons who are members elected in the prescribed number and manner; and

a) d'au moins six et d'au plus neuf personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins cinq et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Restricted titles

7.—(1) No person other than a member shall use the title "dietitian", a variation or abbreviation or an equivalent in another language.

7 (1) Nul autre qu'un membre ne doit employer le titre de «diététiste», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dietitian or in a specialty of dietetics.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de diététiste, ou une spécialité de la profession de diététiste.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

8.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

8 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

(a) amendment to this Act;

a) de modification de la présente loi;

(b) amendment to a regulation made by the Council; or

b) de modification d'un règlement pris par le conseil;

(c) regulation to be made by the Council.

c) de règlement qui soit pris par le conseil.

Requirements notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

ffence

9. Every person who contravenes subsection 7 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

9 Quiconque contrevient au paragraphe 7 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

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force

10.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

10 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition
avant l'entrée
en vigueur de
la Loiowers of
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(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil transi-
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(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

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(4) The Minister may,

(4) Le ministre peut :

Pouvoirs du
ministre

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

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(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du
conseil transi-
toire de satis-
faire à
l'exigence du
ministre

gulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

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(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Transition after Act in force

11.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

11 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Commencement

12.—(1) This Act, except section 10, comes into force on a day to be named by proclamation of the Lieutenant Governor.

12 (1) La présente loi, à l'exclusion de l'article 10, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Idem

(2) Section 10 comes into force on the day this Act receives Royal Assent.

(2) L'article 10 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Short title

13. The short title of this Act is the *Dietetics Act, 1991*.

13 Le titre abrégé de la présente loi est *Loi de 1991 sur les diététistes*.

Frais

Transition après l'entrée en vigueur de la Loi

Mandat des membres du conseil transitoire

Entrée en vigueur

Idem

Idem

Idem

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 51

*(Chapter 26
Statutes of Ontario, 1991)*

An Act respecting the regulation of the Profession of Dietetics

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

Projet de loi 51

*(Chapitre 26
Lois de l'Ontario de 1991)*

Loi concernant la réglementation de la profession de diététiste

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991

An Act respecting the regulation of the Profession of Dietetics

Loi concernant la réglementation de la profession de diététiste

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

"College" means the College of Dietitians of Ontario; ("Ordre")

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

"member" means a member of the College; ("membre")

«membre» Membre de l'Ordre. («member»)

"profession" means the profession of dietetics; ("profession")

«Ordre» L'Ordre des diététistes de l'Ontario. («College»)

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

«profession» La profession de diététiste. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

"College" means the College of Dietitians of Ontario; ("ordre")

«loi sur une profession de la santé» La présente loi. («health profession Act»)

"health profession Act" means this Act; ("loi sur une profession de la santé")

«ordre» L'Ordre des diététistes de l'Ontario. («College»)

"profession" means the profession of dietetics; ("profession")

«profession» La profession de diététiste. («profession»)

"regulations" means the regulations under this Act. ("règlements")

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of dietetics is the assessment of nutrition and nutritional conditions and the treatment and prevention of nutrition related disorders by nutritional means.

3 L'exercice de la profession de diététiste consiste dans l'évaluation de la nutrition et des affections d'ordre nutritionnel et dans le traitement et la prévention des troubles relatifs à la nutrition par des moyens nutritionnels.

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

College established

4. The College is established under the name College of Dietitians of Ontario in English and Ordre des diététistes de l'Ontario in French.

4 L'Ordre est créé sous le nom d'Ordre des diététistes de l'Ontario en français et sous le nom de College of Dietitians of Ontario en anglais.

Création de l'Ordre

Council

5.—(1) The Council shall be composed of,

5 (1) Le conseil se compose :

Conseil

(a) at least six and no more than nine persons who are members elected in the prescribed number and manner; and

a) d'au moins six et d'au plus neuf personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins cinq et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-présider

Restricted titles

7.—(1) No person other than a member shall use the title "dietitian", a variation or abbreviation or an equivalent in another language.

7 (1) Nul autre qu'un membre ne doit employer le titre de «diététiste», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a dietitian or in a specialty of dietetics.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de diététiste, ou une spécialité de la profession de diététiste.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

8.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

8 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

(a) amendment to this Act;

a) de modification de la présente loi;

(b) amendment to a regulation made by the Council; or

b) de modification d'un règlement pris par le conseil;

(c) regulation to be made by the Council.

c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

ffence

9. Every person who contravenes subsection 7 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

9 Quiconque contrevient au paragraphe 7 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

transition
before Act
force

10.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

10 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition
avant l'entrée
en vigueur de
la Loiowers of
transitional
council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du
conseil transi-
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(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registraire, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

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minister

(4) The Minister may,

(4) Le ministre peut :

Pouvoirs du
ministre

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

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council to
comply with
minister's
request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du
conseil transi-
toire de satis-
faire à
l'exigence du
ministre

gulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

m

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses	(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).	(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).	Frais
Transition after Act in force	11. —(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.	11 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.	Transition après l'entrée en vigueur de la Loi
Terms of members of transitional Council	(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.	(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.	Mandat des membres du conseil transitoire
Commencement	12. —(1) This Act, except section 10, comes into force on a day to be named by proclamation of the Lieutenant Governor.	12 (1) La présente loi, à l'exclusion de l'article 10, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Idem	(2) Section 10 comes into force on the day this Act receives Royal Assent.	(2) L'article 10 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.	(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.	Idem
Idem	(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.	(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.	Idem
Short title	13. The short title of this Act is the <i>Dietetics Act, 1991</i> .	13 Le titre abrégé de la présente loi est <i>Loi de 1991 sur les diététistes</i> .	Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 52

**An Act respecting the regulation
of the Profession of Massage Therapy**

The Hon. E. Gigantes
Minister of Health

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 52

**Loi concernant la réglementation
de la profession de massothérapeute**

L'honorable E. Gigantes
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of massage therapy by the College of Massage Therapists of Ontario. The Board of Directors of Masseurs is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 14 restricts the use of the title "massage therapist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of massage therapy.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession massothérapeute par l'Ordre des massothérapeutes de l'Ontario. Le Conseil d'administration des masseurs est maintenu mais prend dorénavant le nom de l'Ordre. Le Code des professions de santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, par le paragraphe 2 (1), faire partie du projet de loi. L'article 14 réserve aux membres l'usage du titre de «massothérapeute». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de massothérapeute.

An Act respecting the regulation of the Profession of Massage Therapy

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,

“College” means the College of Massage Therapists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of massage therapy; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Massage Therapists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of massage therapy; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of massage therapy is the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop, maintain, rehabilitate or augment physical function, or relieve pain.

Loi concernant la réglementation de la profession de massothérapie

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des massothérapeutes de l'Ontario. («College»)

«profession» La profession de massothérapeute. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des massothérapeutes de l'Ontario. («College»)

«profession» La profession de massothérapeute. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la massothérapie consiste dans l'évaluation des tissus mous et des articulations du corps, et dans le traitement et la prévention des dysfonctions physiques et des douleurs des tissus mous et des articulations au moyen de manipulations pour développer, maintenir, restaurer ou accroître la fonction physique, ou pour soulager la douleur.

Définitions

Définitions

Code des professions de la santé

Code des professions de la santé

Termes figurant dans le Code

Définitions du Code

Définitions du Code

Champ d'application

Champ d'application

Board
continued as
College

4. The Board of Directors of Masseurs is continued under the name College of Massage Therapists of Ontario in English and Ordre des massothérapeutes de l'Ontario in French.

4 Le Conseil d'administration des masseurs est maintenu sous le nom d'Ordre des massothérapeutes de l'Ontario en français et sous le nom de College of Massage Therapists of Ontario en anglais.

Maintien d
Conseil d'a
ministratio
en tant
qu'Ordre

Council

- 5.—(1)** The Council shall be composed of,
- (a) at least seven and no more than eight persons who are members elected in the prescribed number and manner; and
 - (b) four persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

- 5** (1) Le conseil se compose :
- a) d'au moins sept et d'au plus huit personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) de quatre personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Conseil

Who can
vote in elec-
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut
voter aux
élections

President
and Vice-
President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président e
vice-préside

Executive
Committee

- 7.—(1)** The Executive Committee shall be composed of,
- (a) the President and Vice-President of the Council;
 - (b) two members of the Council who are members of the College; and
 - (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

- 7** (1) Le bureau se compose des personnes suivantes :
- a) le président et le vice-président du conseil;
 - b) deux membres du conseil qui sont membres de l'Ordre;
 - c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Bureau

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

(2) Le président du conseil assume la présidence du bureau.

Président

Registration
Committee

- 8.** The Registration Committee shall be composed of,
- (a) two members of the Council who are members of the College; and
 - (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

- 8** Le comité d'inscription se compose des personnes suivantes :
- a) deux membres du conseil qui sont membres de l'Ordre;
 - b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Comité d'in
scription

Complaints
Committee

- 9.** The Complaints Committee shall be composed of,
- (a) two members of the Council who are members of the College;
 - (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
 - (c) one member.

- 9** Le comité des plaintes se compose des personnes suivantes :
- a) deux membres du conseil qui sont membres de l'Ordre;
 - b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
 - c) un membre.

Comité des
plaintes

Discipline Committee	<p>10. The Discipline Committee shall be composed of,</p> <p>(a) three members of the Council who are members of the College;</p> <p>(b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and</p> <p>(c) three members.</p>	<p>10 Le comité de discipline se compose des personnes suivantes :</p> <p>a) trois membres du conseil qui sont membres de l'Ordre;</p> <p>b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;</p> <p>c) trois membres.</p>	Comité de discipline
Fitness to Practise Committee	<p>11. The Fitness to Practise Committee shall be composed of,</p> <p>(a) two members of the Council who are members of the College; and</p> <p>(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.</p>	<p>11 Le comité d'aptitude professionnelle se compose des personnes suivantes :</p> <p>a) deux membres du conseil qui sont membres de l'Ordre;</p> <p>b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.</p>	Comité d'aptitude professionnelle
Quality Assurance Committee	<p>12. The Quality Assurance Committee shall be composed of,</p> <p>(a) two members of the Council who are members of the College;</p> <p>(b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and</p> <p>(c) two members.</p>	<p>12 Le comité d'assurance de la qualité se compose des personnes suivantes :</p> <p>a) deux membres du conseil qui sont membres de l'Ordre;</p> <p>b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;</p> <p>c) deux membres.</p>	Comité d'assurance de la qualité
Appointment of members	<p>13. The Council shall appoint the members of the committees mentioned in sections 7 to 12.</p>	<p>13 Le conseil nomme les membres des comités visés aux articles 7 à 12.</p>	Nomination des membres
Restricted titles	<p>14.—(1) No person other than a member shall use the title "massage therapist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.</p>	<p>14 (1) Nul autre qu'un membre ne doit employer le titre de «massothérapeute», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.</p>	Titre réservé
Representations of qualification, etc.	<p>(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a massage therapist or in a specialty of massage therapy.</p>	<p>(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de massothérapeute, ou une spécialité de la massothérapie.</p>	Déclaration de compétence
Definition	<p>(3) In this section, "abbreviation" includes an abbreviation of a variation.</p>	<p>(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.</p>	Définition
Notice if suggestions referred to advisory council	<p>15.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the <i>Regulated Health Professions Act, 1991</i>, a suggested,</p> <p>(a) amendment to this Act;</p> <p>(b) amendment to a regulation made by the Council; or</p> <p>(c) regulation to be made by the Council.</p>	<p>15 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la <i>Loi de 1991 sur les professions de la santé réglementées</i>, une proposition, selon le cas :</p> <p>a) de modification de la présente loi;</p> <p>b) de modification d'un règlement pris par le conseil;</p> <p>c) de règlement qui soit pris par le conseil.</p>	Avis en cas de présentation d'une proposition au Conseil consultatif
Requirements re notice	<p>(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of</p>	<p>(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.</p>	Exigences relatives à l'avis

the College receives the Minister's notice of the suggestion.

Offence

16. Every person who contravenes subsection 14 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

16 Quiconque contrevient au paragraphe 14 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

17. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

17 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement, traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Règlements

Transitional

18. A person who, on the day before this Act comes into force, is registered as a masseur under the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

18 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de masseur aux termes de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), qui constitue le chapitre 127 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

Disposition transitoire

Transition before Act in force

19.—(1) The transitional Council is the Board of Directors of Masseurs as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

19 (1) Le conseil transitoire est le Conseil d'administration des masseurs, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi est revêtue de la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the

- (4) Le ministre peut :
- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la

Pouvoirs du ministre

Regulated Health Professions Act, 1991.

Loi de 1991 sur les professions de la santé réglementées.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

20.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

20 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

(4) Sections 7 to 12 do not apply to committees of the transitional Council.

(4) Les articles 7 à 12 ne s'appliquent pas aux comités du conseil transitoire.

Composition des comités

21.—(1) This Act, except section 19, comes into force on a day to be named by proclamation of the Lieutenant Governor.

21 (1) La présente loi, à l'exclusion de l'article 19, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) Section 19 comes into force on the day this Act receives Royal Assent.

(2) L'article 19 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

22. The short title of this Act is the *Massage Therapy Act, 1991.*

22 Le titre abrégé de la présente loi est *Loi de 1991 sur les massothérapeutes.*

Titre abrégé

Transitional Council to comply with Minister's request

Regulations

idem

Expenses

Transition after Act comes into force

Terms of members of transitional Council

Vacancies

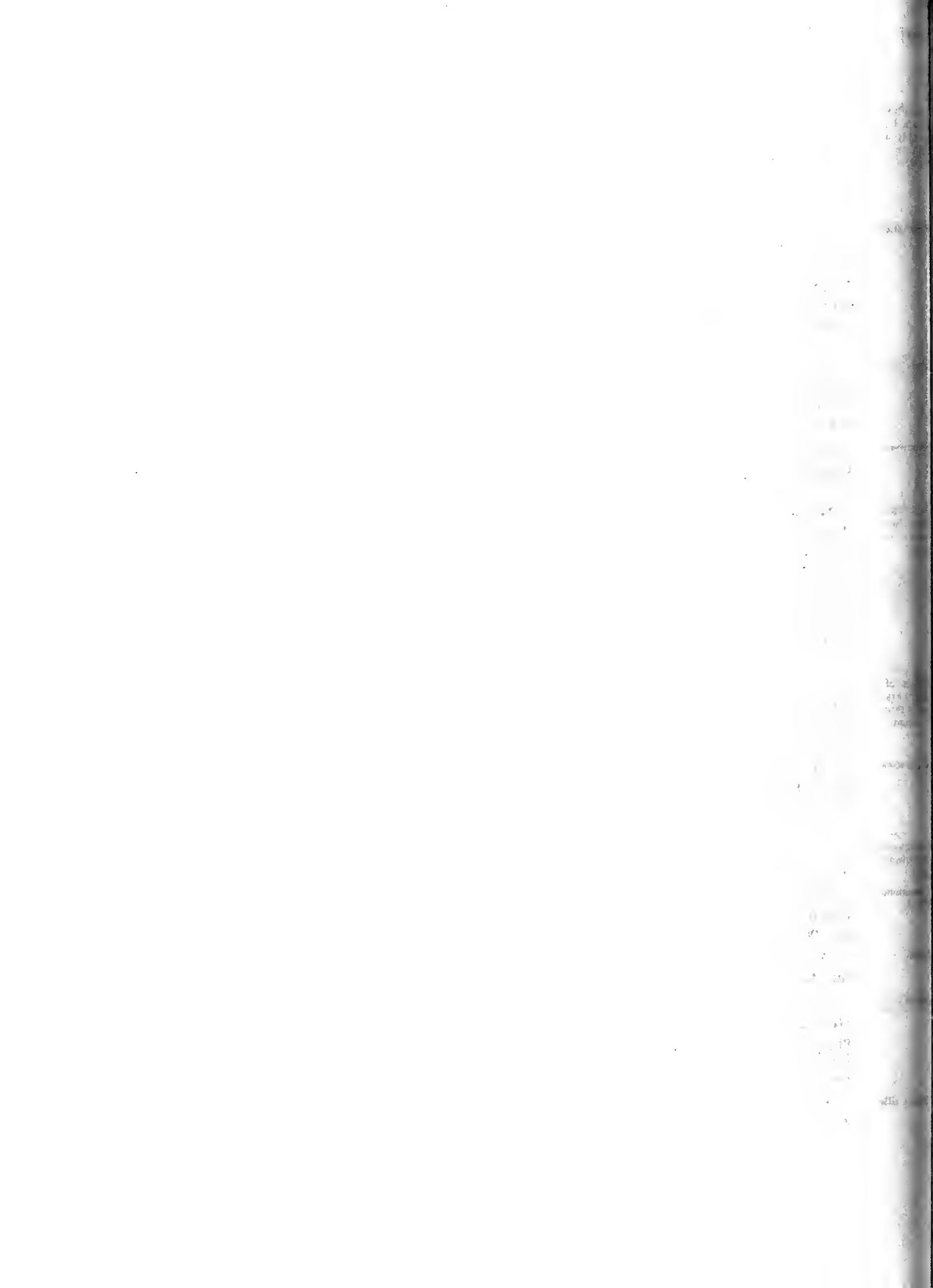
Composition of committees

Commencement

idem

idem

Short title



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 52

**An Act respecting the regulation
of the Profession of Massage Therapy**

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

Projet de loi 52

**Loi concernant la réglementation
de la profession de massothérapeute**

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of massage therapy by the College of Massage Therapists of Ontario. The Board of Directors of Masseurs is continued as the College. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 7 restricts the use of the title "massage therapist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of massage therapy.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de massothérapeute par l'Ordre des massothérapeutes de l'Ontario. Le Conseil d'administration des masseurs est maintenu mais portera dorénavant le nom de l'Ordre. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 7 réserve aux membres l'usage du titre de «massothérapeute». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de massothérapeute.

An Act respecting the regulation of the Profession of Massage Therapy

Loi concernant la réglementation de la profession de massothérapeute

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Massage Therapists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of massage therapy; (“profession”)

«Ordre» L'Ordre des massothérapeutes de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de massothérapeute. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Massage Therapists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des massothérapeutes de l'Ontario. («College»)

“profession” means the profession of massage therapy; (“profession”)

«profession» La profession de massothérapeute. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of massage therapy is the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop,

3 L'exercice de la massothérapie consiste dans l'évaluation des tissus mous et des articulations du corps, et dans le traitement et la prévention des dysfonctions physiques et des douleurs des tissus mous et des articulations au moyen de manipulations pour développer,

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of practice

Champ d'application

maintain, rehabilitate or augment physical function, or relieve pain.

maintenir, restaurer ou accroître la fonction physique, ou pour soulager la douleur.

Board continued as College

4. The Board of Directors of Masseurs is continued under the name College of Massage Therapists of Ontario in English and Ordre des massothérapeutes de l'Ontario in French.

4 Le Conseil d'administration des masseurs est maintenu sous le nom d'Ordre des massothérapeutes de l'Ontario en français et sous le nom de College of Massage Therapists of Ontario en anglais.

Maintien du Conseil d'administration en tant qu'Ordre

Council

5.—(1) The Council shall be composed of,

5 (1) Le conseil se compose :

Conseil

(a) at least six and no more than seven persons who are members elected in the prescribed number and manner; and

a) d'au moins six et d'au plus sept personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) five persons appointed by the Lieutenant Governor in Council who are not,

b) de cinq personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

Restricted titles

7.—(1) No person other than a member shall use the title "massage therapist", a variation or abbreviation or an equivalent in another language.

7 (1) Nul autre qu'un membre ne doit employer le titre de «massothérapeute», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a massage therapist or in a specialty of massage therapy.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de massothérapeute, ou une spécialité de la massothérapie.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

8.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

8 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

(a) amendment to this Act;

a) de modification de la présente loi;

(b) amendment to a regulation made by the Council; or

b) de modification d'un règlement pris par le conseil;

(c) regulation to be made by the Council.

c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et

Exigences relatives à l'avis

Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

9. Every person who contravenes subsection 7 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

10. A person who, on the day before this Act comes into force, is registered as a masseur under the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

11.—(1) The transitional Council is the Board of Directors of Masseurs as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(4) The Minister may,

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

(5) If the Minister requires the transitional Council to do anything under subsection (4),

est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

9 Quiconque contrevient au paragraphe 7 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

10 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de masseur aux termes de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), qui constitue le chapitre 127 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

11 (1) Le conseil transitoire est le Conseil d'administration des masseurs, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

(4) Le ministre peut :

a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;

b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure

Infraction

Disposition transitoire

Transition avant l'entrée en vigueur de la Loi

Pouvoirs du conseil transitoire

Idem

Pouvoirs du ministre

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act comes into force

12.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

12 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

Vacances

Commencement

13.—(1) This Act, except section 11, comes into force on a day to be named by proclamation of the Lieutenant Governor.

13 (1) La présente loi, à l'exclusion de l'article 11, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 11 comes into force on the day this Act receives Royal Assent.

(2) L'article 11 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Idem

Short title

14. The short title of this Act is the *Massage Therapy Act, 1991*.

14 Le titre abrégé de la présente loi est *Loi de 1991 sur les massothérapeutes*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 52

*(Chapter 27
Statutes of Ontario, 1991)*

Projet de loi 52

*(Chapitre 27
Lois de l'Ontario de 1991)*

**An Act respecting the regulation
of the Profession of Massage Therapy**

**Loi concernant la réglementation
de la profession de massothérapeute**

The Hon. F. Lankin
Minister of Health

L'honorable F. Lankin
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991

An Act respecting the regulation of the Profession of Massage Therapy

Loi concernant la réglementation de la profession de massothérapeute

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Massage Therapists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of massage therapy; (“profession”)

«Ordre» L'Ordre des massothérapeutes de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de massothérapeute. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Massage Therapists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des massothérapeutes de l'Ontario. («College»)

“profession” means the profession of massage therapy; (“profession”)

«profession» La profession de massothérapeute. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of massage therapy is the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop,

3 L'exercice de la massothérapie consiste dans l'évaluation des tissus mous et des articulations du corps, et dans le traitement et la prévention des dysfonctions physiques et des douleurs des tissus mous et des articulations au moyen de manipulations pour développer,

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions in Code

Définitions du Code

Scope of practice

Champ d'application

maintain, rehabilitate or augment physical function, or relieve pain.

Board continued as College

4. The Board of Directors of Masseurs is continued under the name College of Massage Therapists of Ontario in English and Ordre des massothérapeutes de l'Ontario in French.

Council

5.—(1) The Council shall be composed of,

- (a) at least six and no more than seven persons who are members elected in the prescribed number and manner; and
- (b) five persons appointed by the Lieutenant Governor in Council who are not,

- (i) members,
- (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
- (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Restricted titles

7.—(1) No person other than a member shall use the title "massage therapist", a variation or abbreviation or an equivalent in another language.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a massage therapist or in a specialty of massage therapy.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

Notice if suggestions referred to Advisory Council

8.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be

maintenir, restaurer ou accroître la fonction physique, ou pour soulager la douleur.

4 Le Conseil d'administration des masseurs est maintenu sous le nom d'Ordre des massothérapeutes de l'Ontario en français et sous le nom de College of Massage Therapists of Ontario en anglais.

Maintien d'un Conseil d'administration en tant qu'Ordre

Conseil

5 (1) Le conseil se compose :

- a) d'au moins six et d'au plus sept personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) de cinq personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

- (i) membres,
- (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
- (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et vice-président

7 (1) Nul autre qu'un membre ne doit employer le titre de «massothérapeute», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de massothérapeute, ou une spécialité de la massothérapie.

Déclaration de compétence

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

8 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la

Exigences relatives à l'avis

given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

9. Every person who contravenes subsection 7 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

10. A person who, on the day before this Act comes into force, is registered as a masseur under the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

11.—(1) The transitional Council is the Board of Directors of Masseurs as it exists from time to time between the day this Act receives Royal Assent and the day it comes into force.

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(4) The Minister may,

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister,

réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

9 Quiconque contrevient au paragraphe 7 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

10 Quiconque, le jour précédant l'entrée en vigueur de la présente loi, est inscrit à titre de masseur aux termes de la loi intitulée *Drugless Practitioners Act* («*Loi sur les praticiens ne prescrivant pas de médicaments*»), qui constitue le chapitre 127 des Lois refondues de l'Ontario de 1980, est réputé titulaire d'un certificat d'inscription délivré en vertu de la présente loi, sous réserve de toute condition ou restriction à laquelle était assujettie son inscription.

11 (1) Le conseil transitoire est le Conseil d'administration des masseurs, tel qu'il existe entre le jour où la présente loi reçoit la sanction royale et le jour de son entrée en vigueur.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

(4) Le ministre peut :

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière

Infraction

Disposition transitoire

Transition avant l'entrée en vigueur de la Loi

Pouvoirs du conseil transitoire

Idem

Pouvoirs du ministre

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

comply with the requirement and submit a report.

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

Transition after Act comes into force

12.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council.

Commencement

13.—(1) This Act, except section 11, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 11 comes into force on the day this Act receives Royal Assent.

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

Short title

14. The short title of this Act is the *Massage Therapy Act, 1991*.

précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

12 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

(2) Le mandat des membres du conseil transitoire se poursuit tant que le conseil transitoire est réputé le conseil de l'Ordre.

(3) Le lieutenant-gouverneur en conseil peut nommer des personnes pour pourvoir aux sièges vacants au sein du conseil transitoire.

13 (1) La présente loi, à l'exclusion de l'article 11, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) L'article 11 entre en vigueur le jour où la présente loi reçoit la sanction royale.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

14 Le titre abrégé de la présente loi est *Loi de 1991 sur les massothérapeutes*.

Règlements

Idem

Frais

Transition après l'entrée en vigueur de la Loi

Mandat des membres du conseil transitoire

Vacances

Entrée en vigueur

Idem

Idem

Idem

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 53

Projet de loi 53

**An Act respecting the regulation
of the Profession of Medical
Laboratory Technology**

**Loi concernant la réglementation
de la profession de technicien
de laboratoire médical**

The Hon. E. Gigantes
Minister of Health

L'honorable E. Gigantes
Ministre de la Santé

1st Reading April 2nd, 1991
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 2 avril 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of medical laboratory technology by the College of Laboratory Technologists of Ontario, which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 14 restricts the use of the title "medical laboratory technologist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of medical laboratory technology.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de technicien de laboratoire médical par l'Ordre des techniciens de laboratoire médical de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 14 réserve aux membres l'usage du titre de «technicien de laboratoire médical». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de technicien de laboratoire médical.

**An Act respecting the regulation
of the Profession of Medical
Laboratory Technology**

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,

“College” means the College of Medical Laboratory Technologists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of medical laboratory technology; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Medical Laboratory Technologists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of medical laboratory technology; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of medical laboratory technology is the performance of laboratory investigations, and the evaluation of their

Définitions

Code des professions
procédural
de la santé
Termes figurant dans le CodeDéfinitions
du Code

Champ d'application

**Loi concernant la réglementation
de la profession de technicien
de laboratoire médical**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des techniciens de laboratoire médical de l'Ontario. («College»)

«profession» La profession de technicien de laboratoire médical. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des techniciens de laboratoire médical de l'Ontario. («College»)

«profession» La profession de technicien de laboratoire médical. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la profession de technicien de laboratoire médical consiste dans l'exécution d'examen de laboratoire sur des échantillons prélevés sur le corps humain, et dans

Définitions

Code des professions de la santé

Termes figurant dans le Code

Définitions du Code

Champ d'application

technical sufficiency, on specimens taken from the human body.

College established

4. The College is established under the name College of Medical Laboratory Technologists of Ontario in English and Ordre des techniciens de laboratoire médical de l'Ontario in French.

Council

- 5.—(1) The Council shall be composed of,
- (a) at least nine and no more than twelve persons who are members elected in the prescribed number and manner;
 - (b) at least five and no more than seven persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
 - (c) one or two persons selected in the prescribed manner from among members who are full time faculty members of an educational institution in Ontario that is authorized to grant diplomas in medical laboratory technology.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Executive Committee

- 7.—(1) The Executive Committee shall be composed of,
- (a) the President and Vice-President of the Council;
 - (b) two members of the Council who are members of the College; and
 - (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

Registration Committee

8. The Registration Committee shall be composed of,
- (a) two members of the Council who are members of the College; and
 - (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

l'évaluation de la validité technique de ces examens.

4 L'Ordre est créé sous le nom d'Ordre des techniciens de laboratoire médical de l'Ontario en français et sous le nom de College of Medical Laboratory Technologists of Ontario en anglais.

Création de l'Ordre

Conseil

- 5 (1) Le conseil se compose :
- a) d'au moins neuf et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
 - b) d'au moins cinq et d'au plus sept personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
 - c) d'une ou de deux personnes choisies de la manière prescrite parmi les membres qui font partie à temps plein du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes en technologie de laboratoire médical.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

Président et vice-président

6 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Bureau

- 7 (1) Le bureau se compose des personnes suivantes :
- a) le président et le vice-président du conseil;
 - b) deux membres du conseil qui sont membres de l'Ordre;
 - c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Président

(2) Le président du conseil assume la présidence du bureau.

Comité d'inscription

- 8 Le comité d'inscription se compose des personnes suivantes :
- a) deux membres du conseil qui sont membres de l'Ordre;
 - b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

Complaints
Committee

9. The Complaints Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) one member.

Discipline
Committee

10. The Discipline Committee shall be composed of,

- (a) four members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

Fitness to
practise
Committee

11. The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

Quality
Assurance
Committee

12. The Quality Assurance Committee shall be composed of,

- (a) three members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

Appointment
of members

13. The Council shall appoint the members of the committees mentioned in sections 7 to 12.

Restricted
titles

14.—(1) No person other than a member shall use the title "medical laboratory technologist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

Representations
of
qualification,
etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a medical laboratory technologist or in a specialty of medical laboratory technology.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

Notice if
suggestions
referred to
Advisory
Council

15.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

9 Le comité des plaintes se compose des personnes suivantes :

Comité des
plaintes

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) un membre.

10 Le comité de discipline se compose des personnes suivantes :

Comité de
discipline

- a) quatre membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) deux membres.

11 Le comité d'aptitude professionnelle se compose des personnes suivantes :

Comité d'ap-
titude profes-
sionnelle

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

12 Le comité d'assurance de la qualité se compose des personnes suivantes :

Comité d'as-
surance de la
qualité

- a) trois membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

13 Le conseil nomme les membres des comités visés aux articles 7 à 12.

Nomination
des membres

14 (1) Nul autre qu'un membre ne doit employer le titre de «technicien de laboratoire médical», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Titre réservé

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de technicien de laboratoire médical, ou une spécialité de la technologie de laboratoire médical.

Déclaration
de compé-
tence

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

15 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas
de présenta-
tion d'une
proposition
au Conseil
consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

16. Every person who contravenes subsection 14 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

16 Quiconque contrevient au paragraphe 14 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

17. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations.

17 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement :

Règlements

- (a) respecting the qualifications, number, selection and terms of office of Council members who are selected; and
- (b) respecting the delegation to members of controlled acts set out in subsection 26 (2) of the *Regulated Health Professions Act, 1991*.

- a) traiter des compétences, du nombre, du choix et du mandat des membres du conseil qui sont choisis;
- b) traiter de la délégation aux membres de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la *Loi de 1991 sur les professions de la santé réglementées*.

Transition before Act in force

18.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

18 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Idem

Powers of Minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;

Pouvoirs du ministre

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

19.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1) or until one year has elapsed, whichever comes first.

19 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 5 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 5 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

(3) Sections 7 to 12 do not apply to committees of the transitional Council.

(3) Les articles 7 à 12 ne s'appliquent pas aux comités du conseil transitoire.

Composition des comités

20.—(1) This Act, except section 18, comes into force on a day to be named by proclamation of the Lieutenant Governor.

20 (1) La présente loi, à l'exclusion de l'article 18, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) Section 18 comes into force on the day this Act receives Royal Assent.

(2) L'article 18 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

21. The short title of this Act is the *Medical Laboratory Technology Act, 1991*.

21 Le titre abrégé de la présente loi est *Loi de 1991 sur les techniciens de laboratoire médical*.

Titre abrégé



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 53

An Act respecting the regulation of the Profession of Medical Laboratory Technology

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading
Royal Assent

*(Reprinted as amended by the Social Development
Committee)*

Projet de loi 53

Loi concernant la réglementation de la profession de technologiste de laboratoire médical

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des
affaires sociales)*

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of medical laboratory technology by the College of Laboratory Technologists of Ontario, which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the authorized acts that members of the College are authorized to perform. Section 9 restricts the use of the title "medical laboratory technologist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of medical laboratory technology.

NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession de technologiste de laboratoire médical par l'Ordre des technologistes de laboratoire médical de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent effectuer. L'article 9 réserve aux membres l'usage du titre de «technologiste de laboratoire médical». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession de technologiste de laboratoire médical.

**An Act respecting the regulation
of the Profession of Medical
Laboratory Technology**

**Loi concernant la réglementation
de la profession de technologiste
de laboratoire médical**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. In this Act,

1 Les définitions qui suivent s'appliquent à la présente loi.

“College” means the College of Medical Laboratory Technologists of Ontario; (“Ordre”)

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

“member” means a member of the College; (“membre”)

«membre» Membre de l'Ordre. («member»)

“profession” means the profession of medical laboratory technology; (“profession”)

«Ordre» L'Ordre des technologistes de laboratoire médical de l'Ontario. («College»)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

«profession» La profession de technologiste de laboratoire médical. («profession»)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

“College” means the College of Medical Laboratory Technologists of Ontario; (“ordre”)

«loi sur une profession de la santé» La présente loi. («health profession Act»)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

«ordre» L'Ordre des technologistes de laboratoire médical de l'Ontario. («College»)

“profession” means the profession of medical laboratory technology; (“profession”)

«profession» La profession de technologiste de laboratoire médical. («profession»)

“regulations” means the regulations under this Act. (“règlements”)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3. The practice of medical laboratory technology is the performance of laboratory investigations on the human body or on spec-

3 L'exercice de la technologie de laboratoire médical consiste dans l'exécution d'exams de laboratoire sur le corps humain ou

Definitions

Définitions

Health Professions Procedural Code

Code des professions de la santé

Terms in Code

Termes figurant dans le Code

Definitions Code

Définitions du Code

Scope of Act

Champ d'application

imens taken from the human body and the evaluation of the technical sufficiency of the investigations and their results.

Authorized acts

4. In the course of engaging in the practice of medical laboratory technology, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to take blood samples from veins or by skin pricking.

Additional requirements for authorized acts

5.—(1) A member shall not perform a procedure under the authority of section 4 unless the procedure is ordered by a member of the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario.

Grounds for misconduct

(2) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (1).

College established

6. The College is established under the name College of Medical Laboratory Technologists of Ontario in English and Ordre des technologistes de laboratoire médical de l'Ontario in French.

Council

7.—(1) The Council shall be composed of,

- (a) at least seven and no more than eleven persons who are members elected in the prescribed number and manner;
- (b) at least seven and no more than ten persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,
 - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
 - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) one person selected in the prescribed manner from among members who are full time faculty members of an educational institution in Ontario that is authorized to grant diplomas in medical laboratory technology.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

8. The Council shall have a President and Vice-President who shall be elected annually

sur des prélèvements effectués sur le corps humain et dans l'évaluation de la validité technique de ces examens et de leurs résultats.

Actes autorisés

4 Dans l'exercice de la profession de technologiste de laboratoire médical, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à effectuer des prélèvements de sang par voie veineuse ou en piquant la peau.

5 (1) Le membre ne doit pas accomplir d'actes autorisés en vertu de l'article 4, à moins que ne l'ordonne un membre de l'Ordre des médecins et chirurgiens de l'Ontario ou de l'Ordre royal des chirurgiens dentistes de l'Ontario.

Exigences supplémentaires relatives aux actes autorisés

(2) Un sous-comité du comité de discipline conclut qu'un membre a commis une faute professionnelle non seulement d'après les motifs énoncés au paragraphe 51 (1) du Code des professions de la santé, mais également si le membre contrevient au paragraphe (1).

Motifs permettant de conclure à une faute professionnelle

6 L'Ordre est créé sous le nom d'Ordre des technologistes de laboratoire médical de l'Ontario en français et sous le nom de College of Medical Laboratory Technologists of Ontario en anglais.

Création de l'Ordre

7 (1) Le conseil se compose :

Conseil

- a) d'au moins sept et d'au plus onze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins sept et d'au plus dix personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
 - (i) membres,
 - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
 - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;
- c) d'une personne choisie de la manière prescrite parmi les membres qui font partie à temps plein du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes en technologie de laboratoire médical.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis

Président et vice-président

by the Council from among the Council's members.

Restricted titles

9.—(1) No person other than a member shall use the title "medical laboratory technologist", a variation or abbreviation or an equivalent in another language.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a medical laboratory technologist or in a specialty of medical laboratory technology.

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

Notice if suggestions referred to Advisory Council

10.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

Offence

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

Regulations

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations respecting the qualifications, selection and terms of office of Council members who are selected.

Transition before Act in force

13.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may

parmi les membres du conseil et élus par ce dernier.

9 (1) Nul autre qu'un membre ne doit employer le titre de «technologiste de laboratoire médical», une variante ou une abréviation, ou un équivalent dans une autre langue.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de technologiste de laboratoire médical, ou une spécialité de la technologie de laboratoire médical.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

12 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement, traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis.

13 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut

Titre réservé

Déclaration de compétence

Définition

Avis en cas de présentation d'une proposition au Conseil consultatif

Exigences relatives à l'avis

Infraction

Règlements

Transition avant l'entrée en vigueur de la Loi

Pouvoirs du conseil transitoire

Idem

appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Powers of Minister

- (4) The Minister may,
 - (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
 - a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du ministre

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

14.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

14 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Commencement

15.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

15 (1) La présente loi, à l'exclusion de l'article 13, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 13 comes into force on the day this Act receives Royal Assent.

(2) L'article 13 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.

Short title

16. The short title of this Act is the *Medical Laboratory Technology Act, 1991*.

16 Le titre abrégé de la présente loi est *Loi de 1991 sur les technologistes de laboratoire médical*.



1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 53

*(Chapter 28
Statutes of Ontario, 1991)*

An Act respecting the regulation of the Profession of Medical Laboratory Technology

The Hon. F. Lankin
Minister of Health

1st Reading April 2nd, 1991
2nd Reading May 29th, 1991
3rd Reading November 21st, 1991
Royal Assent November 25th, 1991

Projet de loi 53

*(Chapitre 28
Lois de l'Ontario de 1991)*

Loi concernant la réglementation de la profession de technologiste de laboratoire médical

L'honorable F. Lankin
Ministre de la Santé

1^{re} lecture 2 avril 1991
2^e lecture 29 mai 1991
3^e lecture 21 novembre 1991
sanction royale 25 novembre 1991



**An Act respecting the regulation
of the Profession of Medical
Laboratory Technology**

**Loi concernant la réglementation
de la profession de technologiste
de laboratoire médical**

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

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Definitions

1. In this Act,

“College” means the College of Medical Laboratory Technologists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of medical laboratory technology; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Medical Laboratory Technologists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of medical laboratory technology; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of medical laboratory technology is the performance of laboratory investigations on the human body or on spec-

Health Professions Procedural Code

Terms in Code

Definitions in Code

Scope of practice

Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des technologistes de laboratoire médical de l'Ontario. («College»)

«profession» La profession de technologiste de laboratoire médical. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des technologistes de laboratoire médical de l'Ontario. («College»)

«profession» La profession de technologiste de laboratoire médical. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la technologie de laboratoire médical consiste dans l'exécution d'examen de laboratoire sur le corps humain ou

Code des professions de la santé

Termes figurant dans le Code

Définitions du Code

Champ d'application

imens taken from the human body and the evaluation of the technical sufficiency of the investigations and their results.

sur des prélèvements effectués sur le corps humain et dans l'évaluation de la validité technique de ces examens et de leurs résultats.

Authorized acts

4. In the course of engaging in the practice of medical laboratory technology, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to take blood samples from veins or by skin pricking.

4 Dans l'exercice de la profession de technologiste de laboratoire médical, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à effectuer des prélèvements de sang par voie veineuse ou en piquant la peau.

Actes autorisés

Additional requirements for authorized acts

5.—(1) A member shall not perform a procedure under the authority of section 4 unless the procedure is ordered by a member of the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario.

5 (1) Le membre ne doit pas accomplir d'actes autorisés en vertu de l'article 4, à moins que ne l'ordonne un membre de l'Ordre des médecins et chirurgiens de l'Ontario ou de l'Ordre royal des chirurgiens dentistes de l'Ontario.

Exigences supplémentaires relatives aux actes autorisés

Grounds for misconduct

(2) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (1).

(2) Un sous-comité du comité de discipline conclut qu'un membre a commis une faute professionnelle non seulement d'après les motifs énoncés au paragraphe 51 (1) du Code des professions de la santé, mais également si le membre contrevient au paragraphe (1).

Motifs permettant de conclure à une faute professionnelle

College established

6. The College is established under the name College of Medical Laboratory Technologists of Ontario in English and Ordre des technologistes de laboratoire médical de l'Ontario in French.

6 L'Ordre est créé sous le nom d'Ordre des technologistes de laboratoire médical de l'Ontario en français et sous le nom de College of Medical Laboratory Technologists of Ontario en anglais.

Création de l'Ordre

Council

7.—(1) The Council shall be composed of,

7 (1) Le conseil se compose :

Conseil

(a) at least seven and no more than eleven persons who are members elected in the prescribed number and manner;

a) d'au moins sept et d'au plus onze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;

(b) at least seven and no more than ten persons appointed by the Lieutenant Governor in Council who are not,

b) d'au moins sept et d'au plus dix personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :

(i) members,

(i) membres,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and

(iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*;

(c) one person selected in the prescribed manner from among members who are full time faculty members of an educational institution in Ontario that is authorized to grant diplomas in medical laboratory technology.

c) d'une personne choisie de la manière prescrite parmi les membres qui font partie à temps plein du corps professoral d'un établissement d'enseignement ontarien habilité à décerner des diplômes en technologie de laboratoire médical.

Who can vote in elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut voter aux élections

President and Vice-President

8. The Council shall have a President and Vice-President who shall be elected annually

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis

Président et vice-président

by the Council from among the Council's members.

parmi les membres du conseil et élus par ce dernier.

Restricted titles

9.—(1) No person other than a member shall use the title "medical laboratory technologist", a variation or abbreviation or an equivalent in another language.

9 (1) Nul autre qu'un membre ne doit employer le titre de «technologiste de laboratoire médical», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a medical laboratory technologist or in a specialty of medical laboratory technology.

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession de technologiste de laboratoire médical, ou une spécialité de la technologie de laboratoire médical.

Déclaration de compétence

Definition

(3) In this section, "abbreviation" includes an abbreviation of a variation.

(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.

Définition

Notice if suggestions referred to Advisory Council

10.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

10 (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d'une proposition au Conseil consultatif

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

- a) de modification de la présente loi;
- b) de modification d'un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

Requirements before notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.

(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.

Exigences relatives à l'avis

Offence

11. Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

11 Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.

Infraction

Regulations

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations respecting the qualifications, selection and terms of office of Council members who are selected.

12 Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, le conseil peut, par règlement, traiter des compétences, du choix et du mandat des membres du conseil qui sont choisis.

Règlements

Transition before Act in force

13.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

13 (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition avant l'entrée en vigueur de la Loi

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

dem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi

Idem

Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.

Powers of Minister

- (4) The Minister may,
- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
 - (b) require the transitional Council to make, amend or revoke a regulation under this Act;
 - (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

- (4) Le ministre peut :
- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
 - b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
 - c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

Pouvoirs du ministre

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

Transition after Act in force

14.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

14 (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

Commencement

15.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

15 (1) La présente loi, à l'exclusion de l'article 13, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Idem

(2) Section 13 comes into force on the day this Act receives Royal Assent.

(2) L'article 13 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi. Idem

Idem

(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi. Idem

Short title

16. The short title of this Act is the *Medical Laboratory Technology Act, 1991*.

16 Le titre abrégé de la présente loi est *Loi de 1991 sur les technologistes de laboratoire médical*. Titre abrégé









