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Bills

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**LEGISLATIVE ASSEMBLY  
OF ONTARIO**

**THIRD SESSION  
THIRTY-FIRST PARLIAMENT**

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**BILLS**

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

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**SESSION**

**MARCH 6th to JUNE 22nd, 1979  
AND  
OCTOBER 10th to DECEMBER 20th, 1979**



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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to establish a Code of Procedure for  
Provincial Offences**

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THE HON. R. MCMURTRY  
Attorney General and Solicitor General

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#### EXPLANATORY NOTE

The Bill provides a complete code of procedure for the prosecution of provincial offences in place of the provisions of the *Criminal Code* (Canada) adopted by the present Summary Convictions Act.

The principal changes include,

1. provision of procedures for the prosecution of provincial offences in a provincial code of procedure without reference to the *Criminal Code* (Canada)
2. provision of procedures for minor offences more appropriate to their nature and more expedient for the defendant than those for more serious criminal offences
3. provision for more alternatives in the payment and collection of fines
4. restriction on resorting to imprisonment both in sentencing and for default in payment of fines.

## An Act to establish a Code of Procedure for Provincial Offences

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

### INTERPRETATION

1.—(1) In this Act,

Interpre-  
tation

- (a) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) "court" means a provincial offences court;
- (c) "judge" means a provincial judge;
- (d) "justice" means a provincial judge or a justice of the peace;
- (e) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) "prescribed" means prescribed by the rules of the court;
- (g) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who institutes proceedings to which this Act applies and includes counsel or agent acting on behalf of either of them;
- (h) "provincial offences officer" means a police officer or a person designated under subsection 2;
- (i) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation  
of pro-  
vincial  
offences  
officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Purpose of  
Act

R.S.C. 1970,  
c. C-34

2. The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, heretofore adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and offences of a more criminal nature.

## PART I

### COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate  
of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance  
and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

(a) an offence notice indicating the set fine for the offence;  
or

(b) a summons,

in the form prescribed under section 14 and shall serve the offence notice or summons on the person charged.

Certificate  
of service

(3) The provincial offences officer shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service.

Certificate  
as  
evidence

(4) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it shall be received in evidence and is proof of personal service in the absence of evidence to the contrary.

Payment  
of penalty

(5) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine.



4. A certificate of offence shall be filed forthwith in the office of the court named therein. Filing of certificate of offence

5.—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice. Dispute with trial

(2) Where an offence notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

6.—(1) Where an offence notice is served on a defendant and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may sign the not guilty plea on the offence notice and deliver the offence notice to the office of the court specified in the notice together with any written explanation or submission he wishes to make. Dispute without appearance

(2) Where an offence notice is delivered under subsection 1, a justice may, in the absence of the defendant, and after considering the explanation and submissions of the defendant, direct a trial or, where no reasonable ground of defence is disclosed in the explanation or submission, convict the defendant and impose the set fine or such lesser fine as is permitted by law. Disposition

(3) Where the justice directs a trial under subsection 2, the court shall hold the trial and may, in the absence of the defendant and after considering the explanation and submissions of the defendant, acquit the defendant or convict the defendant and impose such fine as is lawful and considered just. Trial

7. Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the office of the court specified in the notice during regular office hours and may appear before a justice for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law. Plea of guilty with representations

8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence Payment out of court

notice and amount of the set fine to the office of the court specified in the notice.

**Conviction** (2) Acceptance by the court office of payment under subsection 1 constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence.

**Failure to respond to offence notice** 9. Where the defendant does not, within fifteen days after he is served with an offence notice, deliver the offence notice to the office of the court specified in the notice or does not attend under section 7, he shall be deemed to not wish to dispute the charge and a justice may enter a conviction in his absence and without a hearing and impose the set fine for the offence.

**Signature on plea** 10. A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person.

**Failure to respond to summons** 11. Where, in a proceeding commenced by a certificate of offence, the defendant is served with a summons under section 3 and fails to appear in response to the summons, the court may acquit or convict the defendant in his absence under section 53 and impose a penalty under this Part.

**Reopening on failure of notice** 12. Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied upon affidavit evidence of such facts, shall strike out the conviction, if any, and direct a hearing.

**Penalty** 13. Where a proceeding is taken by means of a certificate of offence under this Part in respect of an offence that is punishable by a fine of more than \$300 or other penalty, the penalty therefor shall be a fine of not more than \$300.

**Regulations** 14.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;

- (b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate an offence;
- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression. Sufficiency of abbreviated wording

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause *a* of subsection 1, any word or expression may be used that gives the defendant reasonable notice of the offence. Idem

## PART II

### COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

**15.** In this Part, "parking infraction" means any unlawful parking, standing or stopping of a vehicle that constitutes an offence. Interpretation

**16.** Subject to the approval of the Lieutenant Governor in Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions that are offences under the by-laws of the municipality and, upon the approval of the by-law, this Part applies in respect of parking infractions under the by-laws occurring after the effective date of the by-law. Municipal by-laws

**17.—(1)** In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the occurrence of the offence. Certificate of parking infraction and notice

(2) A provincial offences officer who believes from his personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing, Issuance and notice

- (a) a certificate of parking infraction certifying that a parking infraction has been committed; and
- (b) a notice of parking infraction indicating the set fine for the infraction,

in the form prescribed under section 22.

Service of  
notice

(3) The parking infraction notice may be served on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place or by delivering it personally to the driver of the vehicle.

Dispute  
with  
trial

**18.**—(1) Where a parking infraction notice is served, the owner of the vehicle may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the office of the court specified in the notice.

Notice of  
trial

(2) Where a parking infraction notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial.

Payment  
out of  
court

**19.** Where the owner of the vehicle in respect of which a parking infraction notice is served does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the address shown on the notice.

Failure  
to respond  
to parking  
infraction  
notice

**20.**—(1) Where no notice is delivered under section 18 within fifteen days after the service of the parking infraction notice, the owner of the vehicle shall be deemed to not wish to dispute the charge and a justice may, upon being satisfied that the person being convicted is the owner and that payment has not been made under section 19 enter a conviction in his absence and without a hearing and impose the set fine for the infraction.

Notice of  
fine

(2) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection 1 of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default.

Reopening  
on failure  
of notice

**21.** Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied upon affidavit evidence of such facts, shall direct a hearing and strike out the conviction, if any.

Regula-  
tions

**22.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate a parking infraction;
- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression. Sufficiency of abbreviations

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause *a* of subsection 1, any word or expression may be used that gives the defendant reasonable notice of the infraction. Idem

### PART III

#### COMMENCEMENT OF PROCEEDING BY INFORMATION

**23.** In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information. Commencement of proceeding by information

**24.—(1)** Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information. Information

(2) An information may be laid anywhere in Ontario. Idem

**25.—(1)** A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and where he considers that a case for so doing is made out, Issuance of summons or warrant

- (a) issue a summons in the prescribed form; or

- (b) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant.

Summons or  
warrants  
in blank  
Counts

(2) A justice shall not sign a summons or warrant in blank.

**26.**—(1) Each charge in an information shall be set out in a separate count.

Allegation  
of  
offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Idem

(3) The statement referred to in subsection 2 may be,

(a) in popular language without technical averments or allegations of matters that are not essential to be proved;

(b) in the words of the enactment that describes the offence; or

(c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.

More than  
one count

(4) Any number of counts for any number of offences may be joined in the same information.

Particulars  
of count

(5) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to.

Sufficiency

(6) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that,

(a) it does not name the person affected by the offence or intended or attempted to be affected;

(b) it does not name the person who owns or has a special property or interest in property mentioned in the count;

- (c) it charges an intent in relation to another person without naming or describing the other person;
- (d) it does not set out any writing that is the subject of the charge;
- (e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;
- (f) it does not specify the means by which the alleged offence was committed;
- (g) it does not name or describe with precision any person, place or thing; or
- (h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

(7) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence. Reference to statutory provision

(8) A count is not objectionable for the reason only that, Idem

- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or
- (b) it is double or multifarious.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information. Need to negative exception, etc.

**27.—**(1) A summons issued under section 25 shall, Summons

- (a) be directed to the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service.

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service  
outside  
Ontario

(3) Notwithstanding subsection 2, where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service  
on  
corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

- (a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or
- (b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Proof of  
service

(5) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service.

Contents  
of  
warrant

**28.—**(1) A warrant issued under section 25 shall,

- (a) name or describe the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

Idem

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time.



## PART IV

## TRIAL AND SENTENCING

*Trial*

**29.** This Part applies to proceedings commenced under this Act. Application of Part

**30.**—(1) Subject to subsection 2, a proceeding in respect of an offence shall be taken in the provincial offences court in whose territorial jurisdiction the offence occurred. Proper court

(2) A proceeding in respect of an offence may be taken in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if, Idem

(a) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and

(b) the court and place of sitting referred to in clause *a* are named in the information or certificate.

(3) Where a proceeding is taken in a court other than one referred to in subsection 1 or 2, the court may order that the proceeding be transferred to the proper court. Transfer to proper court

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that, Change of venue

(a) it would be appropriate in the interests of justice to do so; or

(b) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

(5) The court may, in an order made upon an application by the prosecutor under subsection 3 or 4, prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue. Conditions

(6) An order under subsection 3 or 4 may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard. Time of order for change of venue

(7) The court to which proceedings are transferred under this section may receive and determine any motion pre- Preliminary motions

liminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of  
papers

(8) Where an order is made under subsection 3 or 4, the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Justice  
presiding  
at trial

**31.**—(1) The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When  
presiding  
justice  
unable to  
act before  
adjudica-  
tion

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When  
presiding  
justice  
unable to  
act after  
adjudica-  
tion

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

Consent to  
change  
presiding  
justice

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection 2 applies as if the justice were unable to act.

Retention  
of juris-  
diction

**32.** The court in which proceedings are taken or to which proceedings are transferred retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with.

Stay of  
proceeding

**33.**—(1) In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated.

Recommence-  
ment

(2) A proceeding stayed under subsection 1 may be recommenced by direction of the Attorney General or his

agent to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced,

- (a) later than one year after the stay; or
- (b) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the recommencement,

whichever is the earlier.

**34.**—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion to quash information or certificate

(2) A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that, Dividing counts

- (a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or
- (b) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

(3) Upon an application under subsection 2, where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided. Idem

**35.**—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate, Amendment of information or certificate

- (a) fails to state or states defectively anything that is requisite to charge the offence;
- (b) does not negative an exception that should be negatived; or
- (c) is in any way defective in substance or in form.

(2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial. Idem

**Variations  
between  
charge and  
evidence**

(3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

- (a) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or
- (b) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

**Considerations on  
amendment**

(4) The court shall, in considering whether or not an amendment should be made, consider,

- (a) the evidence taken on the trial, if any;
- (b) the circumstances of the case;
- (c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and
- (d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

**Costs on  
amendment**

(5) Where the information or certificate is amended, the court may make an order under section 57 for the payment of costs resulting from the necessity of amendment.

**Amendment,  
question  
of law**

(6) The question whether an order to amend an information or certificate should be granted or refused is a question of law.

**Endorsement of  
order to  
amend**

(7) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended.

**Particulars**

**36.** The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant.

**Joinder  
of counts or  
defendants**

**37.—(1)** The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together.

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. Separate trials

**38.**—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings. Attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice. Remaining in attendance

**39.**—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and, Arrest of witness

(a) will not attend if a subpoena is served; or

(b) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established, Idem

(a) that the subpoena has been served; and

(b) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing  
before  
justice

(3) The police officer who arrests a person under a warrant issued under subsection 1 or 2 shall immediately take the person before a justice.

Release on  
recogniz-  
ance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing  
before  
judge

(5) Where the person is not released pursuant to an order under subsection 4, the justice who made the order shall cause the person to be brought before a judge within two days of the decision of the justice.

Detention

(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection 11.

Release on  
recogniz-  
ance

(7) Where the judge does not make an order under subsection 6, he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Maximum  
imprison-  
ment

(8) A person who is ordered to be detained in custody under subsection 6 or is not released in fact under subsection 7 shall not be detained in custody for a period longer than ten days.

Release  
when no  
longer  
required

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified.

Arrest on  
breach of  
recogniz-  
ance

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and,

- (a) where he is brought directly before the court, subsections 6 and 7 apply; and
- (b) where he is not brought directly before the court, subsections 3 to 7 apply.

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 42, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness. Commission evidence of witness in custody

**40.**—(1) Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied that his attendance is necessary to satisfy the ends of justice, the judge may order in writing that the person be brought before the court before which his attendance is required, from day to day, as may be necessary. Order for person in a prison to attend

(2) An order under subsection 1 is sufficient authority for the keeper of the prison to deliver up the prisoner and for a police officer or other person named in the order to convey the prisoner. Idem

(3) An order made under subsection 1 shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought. Idem

**41.** Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than thirty days, or to both. Penalty for failure to attend

**42.**—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause. Order for evidence by commission

(2) Evidence taken by a commissioner appointed under subsection 1 may be read in evidence in the proceeding if, Admission of commission evidence

- (a) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection 1;
- (b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and
- (c) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the

party had full opportunity to cross-examine the witness.

Attendance  
of accused

(3) An order under subsection 1 may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section.

Application  
of rules  
in civil  
cases

(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court.

Trial of  
issue as to  
capacity to  
conduct  
defence

**43.—**(1) Where at any time before a defendant is sentenced a court has reason to believe, based on,

(a) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner; or

(b) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court shall direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem.  
finding of  
incapacity

(2) The trial of the issue shall be presided over by a judge and where he finds that the accused is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended.

Application  
for  
rehearing  
as to  
capacity

(3) At any time within one year after an order is made under subsection 2, either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for  
examination

(4) For the purposes of the trial of an issue under subsection 1 or a hearing or rehearing under subsection 2 or 3, the court or judge may order the defendant to attend at such



place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

(5) Where the defendant fails or refuses to comply with an order under subsection 4 without reasonable excuse or where the person conducting the examination satisfies the judge that it is necessary to do so, a judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility. Idem

(6) Where an order is made under subsection 2 and one year has elapsed and no further order is made under subsection 3, no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance. Limitation on suspension of proceeding

**44.**—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein. Taking of plea

(2) Where the defendant pleads guilty, the court may accept the plea and convict him. Conviction on plea of guilty

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty. Refusal to plead

(4) Where the defendant pleads not guilty of the offence charged but guilty of an offence that has not been charged, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty. Plea of guilty to another offence

**45.**—(1) Where the defendant pleads not guilty, the court shall hold the trial. Trial on plea of not guilty

(2) The defendant is entitled to make his full answer and defence. Right to defend

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses. Right to examine witnesses

(4) The court may accept and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence. Agreed facts

- Defendant not compellable R.S.O. 1970, c. 151
- (5) Notwithstanding section 8 of *The Evidence Act*, the defendant is not a compellable witness for the prosecution.
- Evidence taken on another charge
- 46.**—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties.
- Certificate as evidence
- (2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case.
- Burden of proving exception, etc.
- (3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information.
- Exhibits
- 47.**—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation.
- Release of exhibits
- (2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party filing it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal.
- Adjournments
- 48.**—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.
- Early resumption
- (2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor.
- Appearance by defendant
- 49.**—(1) A defendant may appear and act personally or by counsel or agent.
- Appearance by corporation
- (2) A defendant that is a corporation shall appear and act by counsel or agent.

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent. Exclusion of agents

**50.** Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form. Compelling attendance of defendant

**51.**—(1) The court may cause the defendant to be removed and to be kept out of court, Excluding defendant from hearing

(a) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or

(b) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so, Excluding public from hearing

(a) for the maintenance of order in the courtroom;

(b) to protect the reputation of a minor; or

(c) to remove an influence that might affect the testimony of a witness.

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. Prohibition of publication of evidence

**52.**—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to some other time upon such terms as it considers proper. Failure of prosecutor to appear

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection 1, the court may dismiss the charge. Idem

Costs

(3) Where a hearing is adjourned under subsection 1 or a charge is dismissed under subsection 2, the court may make an order under section 57 for the payment of costs.

Dismissal  
bar to  
further  
proceeding

(4) Where a charge is dismissed under subsection 1 or 2, no further information shall be laid or certificate issued in the same matter, except with the consent of the Attorney General or his agent.

Ex parte  
conviction

**53.**—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court,

- (a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;
- (b) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or
- (c) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause *a* or *b*.

Where  
convicted  
ex parte

(2) Where, the court proceeds under clause *a* of subsection 1, no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent.

### *Sentencing*

Pre-sentence  
report

**54.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection 1, the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor.

**55.**—(1) Where a defendant is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Submissions  
as to  
sentence

(2) The omission to comply with subsection 1 does not affect the validity of the proceeding.

Omission  
to comply

(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.

Inquiries  
by court

(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by,

Proof of  
previous  
conviction

(a) the person who made the adjudication; or

(b) the clerk of the court in which the adjudication was made,

is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

**56.**—(1) No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum.

Provision  
for  
minimum  
penalty

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may suspend the sentence.

Relief  
against  
minimum  
fine

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than \$2,000 in lieu of imprisonment.

Idem, re  
imprison-  
ment

**57.**—(1) Subject to subsection 2, the court may order the defendant or the prosecutor to pay to the other costs in an amount of not more than the fees and expenses reasonably incurred by or on behalf of witnesses, but, where the proceed-

Costs  
payable by  
defendant  
and private  
prosecutor:

ing is commenced by means of a certificate, such amount shall not exceed \$100.

Crown (2) An order for costs shall not be made against a prosecutor acting on behalf of the Crown.

Costs collectable as a fine (3) Costs ordered to be paid under this section shall be deemed to be a fine for the purpose of enforcing payment.

General penalty **58.**—(1) Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Amendment of subs. 1 (2) Subsection 1 is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the third and fourth lines.

Effective date of amendment (3) Subsection 2 does not come into force until the 1st day of July, 1980.

Minute of conviction **59.** Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request.

Time when imprisonment starts **60.**—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem (2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing.

Sentences consecutive **61.** Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment.

Authority of warrant **62.**—(1) A warrant of committal is sufficient authority,

- (a) for the conveyance of the prisoner in the custody of a police officer or other person named in the warrant for the purpose of committal under the warrant; and
- (b) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

(2) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced. Prisoner subject to rules of institution

**63.**—(1) A fine becomes due and payable fifteen days after its imposition. When fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine. Extension of time for payment of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer. Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise. Granting of extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection 6. Notice where convicted in absentia

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections 3 and 4. Further application for extension

**64.**—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed Civil enforcement of fines

form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

**Limitation** (2) A certificate shall not be filed under subsection 1 after two years after the default in respect of which it is issued.

**Certificate of discharge** (3) Where a certificate has been filed under subsection 1 and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged.

**Default** **65.**—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

**Order on default** (2) Where a justice is satisfied that payment of a fine is in default, the justice,

(a) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued; and

(b) may direct the clerk of the court to proceed with civil enforcement under section 64.

**Imprisonment for non-payment of fine** (3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

(a) an order or direction under subsection 2 has not resulted in payment within a time that is reasonable in the circumstances;

(b) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and

(c) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

**Provision on conviction for imprisonment in default** (4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection 3 would defeat the ends of justice, the court may,



- (a) order that no warrant of committal be issued under subsection 3; or
- (b) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

(5) Imprisonment under a warrant issued under subsection 3 or 4 shall be for three days, plus one day for each \$25 or part thereof that is in default, subject to a maximum period of, Term of imprisonment

- (a) ninety days; or
- (b) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

(6) Any payment made after a warrant is issued under subsection 3 or 4 shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the total fine and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof. Effect of payments

**66.** Where an Act provides that a fine may be suspended subject to the performance of a condition, Suspension of fine on conditions

- (a) the period of suspension shall be fixed by the court and shall be for not more than one year;
- (b) the court shall provide in its order of suspension the method of proving the performance of the condition;
- (c) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and
- (d) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant.

**67.—(1)** Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, Probation order

having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

- (a) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;
- (b) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or
- (c) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory  
conditions  
of order

(2) A probation order shall be deemed to contain the conditions that,

- (a) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;
- (b) the defendant report to the court as and when required; and
- (c) the defendant notify the court of any change in his address.

Conditions  
imposed  
by court

(3) In addition to the conditions set out in subsection 2, the court may prescribe the following conditions in a probation order,

- (a) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;
- (b) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment that the defendant perform a community service as set out in the order;

(c) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or

(d) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than three years from the date when the order takes effect. Form of order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 70 to be given to the defendant. Notice of order

(6) The Lieutenant Governor in Council may make regulations respecting community service orders, including their terms and conditions. Regulations for community service orders

**68.**—(1) A probation order comes into force, When order comes into force

(a) on the date on which the order is made; or

(b) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

(2) Subject to section 70, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment renders it impossible for the defendant to comply for the time being with the order. Continuation in force

Variation of  
probation  
order

**69.** The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

- (a) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;
- (b) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 3 of section 67 that is prescribed in the order; or
- (c) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed.

Breach of  
probation  
order

**70.** Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,

- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or

both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or

- (e) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause *d*, revoke the probation order and impose the sentence that was suspended upon the making of the probation order.

## PART V

### GENERAL PROVISIONS

**71.**—(1) Proceedings shall not be commenced after the expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed. Limitation

(2) A limitation period may be extended by a justice with the consent of the defendant. Extension

**72.**—(1) Every person is a party to an offence who, Parties to offence

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence. Common purpose

**73.**—(1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured. Counselling

- Idem** (2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.
- Computation of age** **74.**—(1) In determining the age of a person for the purposes of a proceeding under this Act or for the purposes of an offence, the person shall be deemed to be of the age that corresponds to the number of anniversaries of his birthday that are fully completed.
- Idem** (2) In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance.
- Common law defences** **75.** Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act.
- Ignorance of the law** **76.** Ignorance of the law by a person who commits an offence is not an excuse for committing the offence.
- Counsel or agent** **77.** A defendant may act by his counsel or agent.
- Recording of evidence** **78.**—(1) Proceedings in which evidence is taken shall be recorded.
- Evidence under oath** (2) Evidence under this Act shall be taken under oath, except as otherwise provided by law.
- Form of certificate of ownership** **79.** The Lieutenant Governor in Council may make regulations prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 2 of section 150 of *The Highway Traffic Act* for the purpose of proceedings under this Act.
- R.S.O. 1970, c. 202**
- Interpreters** **80.**—(1) A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.
- Idem** (2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available.

**81.** Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired. Extension of time

**82.** Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. Penalty for false statements

**83.**—(1) Except as otherwise provided by this Act or the rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered personally or by mail. Delivery

(2) Where a notice or document that is required or authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is given or delivered to the person. Idem

**84.** No civil remedy for an act or omission is suspended or affected for the reason that the act or omission is an offence. Civil remedies preserved

**85.** Any action authorized or required by this Act is not invalid for the reason only that the action was taken on a non-judicial day. Process on holidays

**86.**—(1) The validity of any proceeding is not affected by, Irregularities in form

- (a) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or
- (b) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

(2) Where it appears to the court that the defendant has been misled by any irregularity, defect or variance mentioned in subsection 1, the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 57 for the payment of costs. Adjournment to meet irregularities

## PART VI

## APPEALS AND REVIEW

Interpre-  
tation**87.** In this Part,

- (a) "county court" means a county or district court having jurisdiction in an appeal under section 88;
- (b) "county judge" means a judge of a county or district court having jurisdiction in an appeal under section 88;
- (c) "rules" means the rules made under section 117;
- (d) "sentence" includes any order or disposition consequent upon a conviction and an order as to costs.

## APPEALS UNDER PART III

Appeal to  
county or  
district  
court

**88.**—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the Attorney General by way of intervention may appeal to the county or district court of the county or district in which the adjudication was made and the appeal may be from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence.

Notice of  
appeal

(2) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules.

Custody  
pending  
appeal

**89.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge of the county court may order his release upon any of the conditions set out in subsection 2 of section 128.

Recognizance  
of appellant

**90.**—(1) An appellant other than the Attorney General shall, forthwith after filing the notice of appeal in accordance with the rules, appear before a justice and the justice may, after giving the appellant and respondent a reasonable opportunity to be heard, order that the appellant enter into a recognizance to appear on the appeal, personally or by counsel, and the recognizance may be in such amount with or without sureties as the justice directs.

Review

(2) Where a justice makes an order under subsection 1, either the appellant or respondent may, before or at any time during the hearing of the appeal, apply to the county court for a review of the order and the county court shall,



- (a) dismiss the application; or
- (b) allow the application, vacate the order made by the justice and make the order that in the opinion of the county court ought to have been made.

**91.**—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a county judge to fix a date for the hearing of the appeal. Fixing of date where appellant in custody

(2) Upon receiving an application under subsection 1, Idem the county judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal.

**92.** A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction. Payment of fine not waiver

**93.** Where a notice of appeal has been filed, the clerk of the county court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the county court to be kept with the records of the county court. Transmittal of material

**94.**—(1) The county court may, where it considers it to be in the interests of justice, Powers of county court

- (a) order the production of any writing, exhibit or other thing relevant to the appeal;
- (b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,
  - (i) to attend and be examined before the court, or
  - (ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;

- (c) admit, as evidence, an examination that is taken under subclause ii of clause *b*;
- (d) receive the evidence, if tendered, of any witness;
- (e) order that any question arising on the appeal that,
- (i) involves prolonged examination of writings or accounts, or scientific investigation, and
  - (ii) cannot in the opinion of the court conveniently be inquired into before the court,
- be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and
- (f) act upon the report of a commissioner who is appointed under clause *e* in so far as the court thinks fit to do so.

**Right of appellant**

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses and, in an inquiry under clause *e* of subsection 1, are entitled to be present during the inquiry and to adduce evidence and to be heard.

**Rights of appellant to appear**

**95.**—(1) Subject to subsection 2, an appellant who is in custody is entitled, if he desires, to be present at the hearing of the appeal.

**Exceptions**

(2) An appellant who is in custody and who is represented by counsel is not entitled to be present, on any proceedings that are preliminary or incidental to an appeal, unless the rules provide that he is entitled to be present or the county court or a judge thereof gives him leave to be present.

**Sentencing in absence**

(3) The power of a county court to impose sentence may be exercised notwithstanding that the appellant is not present.

**Written argument**

**96.** An appellant may present his case on appeal and his argument in writing instead of orally, and the county court shall consider any case or argument so presented.

**Powers on appeal against conviction**

**97.**—(1) On the hearing of an appeal against a conviction or against a finding that the appellant is unable, because of mental disorder, to conduct his defence, the county court by order,

(a) may allow the appeal where it is of the opinion that,

- (i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,
- (ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or
- (iii) on any ground, there was a miscarriage of justice;

(b) may dismiss the appeal where,

- (i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,
- (ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause *a*, or
- (iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause ii of clause *a* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred; or

(c) may set aside the conviction and find the appellant unable, because of mental disorder, to conduct his defence and order a new trial subject to section 43.

(2) Where a county court allows an appeal under clause *a* <sup>Idem</sup> of subsection 1, it shall quash the conviction and,

- (a) direct a finding of acquittal to be entered; or
- (b) order a new trial.

(3) Where a county court dismisses an appeal under sub- <sup>Idem</sup> clause i of clause *b* of subsection 1, it may substitute the finding that in its opinion should have been found and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

**Enforcement** (4) A conviction made by the county court may be enforced,  
 (a) in the same manner as if it had been made by the trial court; or  
 (b) by process of the county court.

**Transmission of documents** (5) Where a conviction that has been made or affirmed by a county court is to be enforced by the trial court, the clerk of the county court shall send to the clerk of the trial court the conviction and all writings relating thereto.

**Powers on appeal against acquittal** **98.** Where an appeal is from an acquittal, the county court may by order,

- (a) dismiss the appeal; or
- (b) allow the appeal, set aside the finding and,
  - (i) order a new trial, or
  - (ii) enter a finding of guilt with respect to the offence of which, in its opinion, the appellant should have been found guilty, and pass a sentence that is warranted in law.

**Powers on appeal as to capacity to conduct defence** **99.** Where a county court allows an appeal from a finding that the defendant is unable, because of mental disorder, to conduct his defence, it shall order a new trial.

**Appeal against sentence** **100.—(1)** Where an appeal is taken against sentence, the county court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

- (a) dismiss the appeal; or
- (b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,

and, in making any order under clause *b*, the court may take into account any time spent in custody by the defendant as a result of the offence.

**Variance of sentence** (2) A judgment of a county court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court.

**One sentence on more than one count** **101.** Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence.

**102.**—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant.

Appeal based on defect in information or process

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect.

Idem

**103.** Where a county court exercises any of the powers conferred by sections 94 to 102, it may make any order, in addition, that justice requires.

Additional orders

**104.**—(1) Where a county court orders a new trial, it shall be held before a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance.

New trial

(2) Where a county court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 2 of section 128 and the order may be enforced in the same manner as if it had been made by a justice under that subsection.

Order for release

**105.**—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the county court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the county court, the county court may order that the appeal shall be heard by way of a new trial in the county court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

Trial de novo

(2) The county court may, for the purpose of hearing and determining an appeal under subsection 1, permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

Evidence

(a) the appellant and respondent consent;

(b) the county court is satisfied that the attendance of the witness cannot reasonably be obtained; or

- (c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the county court.

Dismissal or  
abandonment

**106.** The county court may, upon proof that notice of an appeal has been given and that,

- (a) the appellant has failed to comply with any order made under section 89 or 90 or with the conditions of any recognizance entered into under either of those sections; or
- (b) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed.

Costs

**107.**—(1) Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the county court may make any order with respect to costs that it considers just and reasonable.

Payment

(2) Where the county court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

Enforce-  
ment

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall be deemed to be a fine for the purpose of enforcing its payment.

Appeal to  
Court of  
Appeal

**108.** A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal, upon any question of law alone or as to sentence in accordance with the rules made under section 117.

Custody  
pending  
appeal

**109.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge of the county court may order his release upon any of the conditions set out in subsection 2 of section 128.

**110.** Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the county court appealed from of the application and, upon receipt of the notification, the clerk of the county court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal.

Transfer  
of  
record

**111.** Sections 92, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103 and 104, clause *b* of section 106 and section 107 apply, with necessary modifications, to appeals to the Court of Appeal under section 108.

Application  
of ss. 92,  
94-104,  
106 (b), 107

#### APPEALS UNDER PARTS I AND II

**112.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made.

Appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division) within fifteen days after the making of the decision appealed from, in accordance with the rules.

Application  
for appeal

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal.

Notice of  
hearing

(4) An appeal by a defendant shall not be heard if the defendant has not paid any fine imposed by the decision appealed from and due, except by leave of a judge.

Payment  
of fine  
before  
appeal

**113.**—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Conduct  
of appeal

(2) An appeal may be conducted by means of a review or by means of a new trial in the provincial court (criminal division) as directed by the court.

Review or  
new trial

(3) In determining a review or whether to direct a new trial, the court may,

Evidence

- (a) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;
- (b) receive the evidence of any witness whether or not the witness gave evidence at the trial;
- (c) require the justice presiding at the trial to report in writing on any matter specified in the request; or
- (d) receive and act upon statements of agreed facts or admissions.

Consequences  
as factor  
on review

(4) In conducting a review, the court shall have regard to all the consequences of conviction in addition to the penalty imposed by the sentence.

Dismissal  
on abandon-  
ment

**114.** Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed.

Powers of  
court on  
appeal

**115.** Upon an appeal, the court may affirm, reverse or modify the decision appealed from.

Appeal to  
Court of  
Appeal

**116.** An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, upon any question of law alone in accordance with the rules made under section 117.

#### RULES FOR APPEALS

Rules of  
court for  
appeals

**117.** The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals.

#### REVIEW

Application  
for relief  
in nature of  
mandamus,  
prohibition,  
*certiorari*

**118.—(1)** Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*.

Notice of  
application

(2) Notice of an application under this section shall be served on,

- (a) the person whose act or omission gives rise to the application;



- (b) any person who is a party to a proceeding that gives rise to the application; and
- (c) the Attorney General.

(3) An appeal lies to the Court of Appeal from an order made under this section. Appeal

**119.**—(1) A notice under section 118 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed. Notice re  
*certiorari*

(2) Where a notice referred to in subsection 1 is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application. Filing  
material

(3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise. Where  
appeal  
available

(4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper. Substantial  
wrong

(5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it. Order for  
immunity  
from civil  
liability

**120.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*. Application  
for *habeas*  
*corpus*

(2) Notice of an application under subsection 1 for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the hearing of the application the presence before the High Court Procedure on  
application  
for relief  
in nature of  
*habeas corpus*

of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

Application  
of  
R.S.O. 1970,  
c. 197

(3) Subject to subsections 1 and 2, *The Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section.

1971, c. 48 and  
R.S.O. 1970,  
c. 228, ss. 69, 70  
do not apply

(4) *The Judicial Review Procedure Act, 1971* and sections 69 and 70 of *The Judicature Act* do not apply to matters in respect of which an application may be made under section 118 for relief in the nature of *certiorari*.

## PART VII

### ARREST, BAIL AND SEARCH WARRANTS

#### *Arrest*

Officer  
in charge

**121.** In this Part, "officer in charge" means the member of the police force who is in charge of the lock-up or other place to which a person is taken after his arrest.

Execution  
of warrant

**122.**—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario.

Idem

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario.

Citizen's  
arrest

**123.** Any person, other than a police officer, may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and shall forthwith deliver the person arrested to a police officer.

Use of  
force

**124.** Every police officer and person acting in aid of a police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what the police officer is required or authorized by law to do.

Immunity  
from civil  
liability

**125.** Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

(a) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;

- (b) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or
- (c) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made.

**126.**—(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so. Production of process

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest. Notice of reason for arrest

### *Bail*

**127.**—(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons under section 3 or obtaining his undertaking to appear in the prescribed form unless he has reasonable and probable grounds to believe that, Release after arrest by officer

(a) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,

- (i) establish the identity of the person,
- (ii) secure or preserve evidence of or relating to the offence, or
- (iii) prevent the continuation or repetition of the offence or the commission of another offence; or

(b) the person arrested is ordinarily resident outside Ontario.

(2) Where a defendant is not released from custody under subsection 1, the police officer shall deliver him to the officer in charge who shall, where in his opinion the conditions set out in clauses *a* and *b* of subsection 1 do not or no longer exist, release the defendant, Release by officer in charge

- (a) upon serving him with a summons under section 3;
- (b) upon his giving an undertaking to appear in the prescribed form; or

- (c) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

Cash bail  
by non-  
resident

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario, the officer in charge may, in addition to anything required under subsection 2, require the defendant to deposit cash in an amount not to exceed,

- (a) where the offence is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300; or

- (b) where the offence is commenced by information under Part III, \$500.

Person in  
custody to  
be brought  
before  
justice

**128.**—(1) Where a defendant is not released from custody under section 127, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection 2 is justified for the same purpose.

Order for  
conditional  
release

(2) Subject to subsection 1, the justice may order the release of the defendant,

- (a) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;

- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court but without deposit of money or other valuable security; or

- (c) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,

(i) where the offence is one commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, \$300, or

(ii) where the offence is one commenced by information under Part III, \$1,000.

(3) The justice shall not make an order under clause *b* or *c* <sup>Idem</sup> of subsection 2 unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

(4) Where the prosecutor shows cause why the detention <sup>Order for detention</sup> of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

(5) The justice shall include in the record a statement of <sup>Reasons</sup> his reasons for his decision under subsection 1, 2 or 4.

(6) In a proceeding under subsection 1, the justice may <sup>Evidence at hearing</sup> receive and base his decision upon information he considers credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

(7) A proceeding under subsection 1 shall not be adjourned <sup>Adjournments</sup> for more than three days without the consent of the defendant.

**129.**—(1) Where a defendant is not released from custody <sup>Expediting trial of person in custody</sup> under section 127 or 128, he shall be brought before the court for trial forthwith and, in any event, within eight days.

(2) The justice presiding upon any appearance of the <sup>Further orders</sup> defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 128 and make such further or other order under section 128 as to him seems appropriate in the circumstances.

**130.** A defendant or the prosecutor may appeal from an <sup>Appeal</sup> order or refusal to make an order under section 128 or 129 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 117.

**131.**—(1) A person who is released upon deposit of a <sup>Appointment of agent for appearance</sup> sum of money under subsection 3 of section 127 or clause *c* of subsection 2 of section 128 may appoint the clerk of the

court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the moneys so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee.

Returns  
to court

(2) An officer in charge or justice who takes a recognizance, money or security under section 127 or 128 shall make a return thereof to the court where the defendant is required to appear.

Returns  
to  
sureties

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance.

Recognizance  
binds for  
all  
appearances

**132.**—(1) Where a person is bound by recognizance to appear before a court, the recognizance binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the sittings of the court is adjourned.

Recognizance  
binds  
independ-  
ently of  
other  
charges

(2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability  
joint and  
several

(3) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture.

Application  
by surety  
to be  
relieved

**133.**—(1) A surety to a recognizance may, by application in writing to the court, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate  
of  
arrest

(2) When a police officer arrests the defendant under a warrant issued under subsection 1, he shall certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of  
recognizance

(3) The receipt of the certificate by the court under subsection 2 vacates the recognizance and discharges the sureties.

Delivery of  
defendant  
by surety

**134.** A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant.

**135.**—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out, Certificate of default

- (a) the nature of the default;
- (b) the reason for the default, if it is known;
- (c) whether the ends of justice have been defeated or delayed by reason of the default; and
- (d) the names and addresses of the principal and sureties.

(2) A certificate that has been endorsed on a recognizance under subsection 1 is evidence of the default to which it relates. Certificate as evidence

(3) The clerk of the court shall transmit the endorsed recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance. Application for forfeiture

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited. Notice of hearing

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper. Order as to forfeiture

(6) Where an order for forfeiture is made under subsection 5, Collection on forfeiture

- (a) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and
- (b) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court.

*Search Warrants*Search  
warrant

**136.**—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place,

- (a) anything upon or in respect of which an offence has been or is suspected to have been committed; or
- (b) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

Expiration

(2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

When to be  
executed

(3) Every search warrant shall be executed between sunrise and sunset, unless the justice by the warrant authorizes its execution at night.

Detention  
of things  
seized

**137.**—(1) Where any thing is seized and brought before a justice, he shall by order,

- (a) detain it or direct it to be detained in the care of a person named in the order; or
- (b) direct it to be returned,

and the justice may make any other provision in the order as, in the opinion of the justice, is appropriate for its preservation.

Time  
limit for  
detention

(2) Nothing shall be detained under an order made under subsection 1 for a period of more than three months after the time of seizure unless, before the expiration of that period,

- (a) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or



(b) proceedings are instituted in which the thing detained may be required.

(3) Upon the application of the defendant or person having an interest in a thing detained under subsection 1, a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

Application  
for  
examination  
and  
copying

(4) Upon the application of a person having an interest in a thing detained under subsection 1, and upon notice to the defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

Application  
for release

(5) Where an order or refusal to make an order under subsection 3 or 4 is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate.

Appeal  
where  
order by  
justice of  
the peace

**138.**—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document,

Examination  
or seizure  
order by  
documents  
where  
privilege  
claimed

- (a) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and
- (b) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.

(2) Where a document has been seized and placed in custody under subsection 1, the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document.

Application  
to determine  
privilege

(3) An application under subsection 2 shall be made not later than thirty days after the date on which the document was placed in custody.

Limitation

Attorney  
General  
a party

(4) The person who seized the document and the Attorney General are parties to an application under subsection 2 and entitled to notice thereof.

Private  
hearing and  
scrutiny by  
judge

(5) An application under subsection 2 shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(6) The judge may, by order,

- (a) declare that the solicitor-client privilege exists or does not exist in respect of the document;
- (b) direct that the document be delivered up to the appropriate person.

Release of  
document  
where no  
application  
under  
subs. 2

(7) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection 2 within the time limit prescribed by subsection 3, the judge shall order that the document be delivered to the applicant.

## PART VIII

### ORDERS ON APPLICATION UNDER STATUTES

Orders  
under  
statutes

**139.** Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding which shall be commenced in the same manner as in the case of an information charging an offence, and for the purpose,

- (a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and
- (b) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order.

## PART IX

### COMMENCEMENT AND TRANSITION

Application

**140.**—(1) This Act, except Parts I and II, applies to offences in respect of which proceedings are commenced after this Act comes into force.

(2) Part I and Part II apply to offences occurring after that <sup>Idem</sup> Part comes into force.

**141.**—(1) Subject to subsection 2, the following are <sup>Repeals</sup> repealed:

1. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970.
2. *The Summary Convictions Amendment Act, 1971*, being chapter 10.
3. Section 5 of *The Probation Act*, being chapter 364 of the Revised Statutes of Ontario, 1970.

(2) The enactments repealed by subsection 1 continue in <sup>Transition</sup> force in respect of offences to which this Act does not apply.

**142.**—(1) A reference in any Act, regulation or by-law to <sup>Reference to</sup> *The Summary Convictions Act* shall be deemed to be a <sup>R. S. O. 1970,</sup> reference to this Act. <sup>c. 450</sup>

(2) A reference in any Act, regulation or by-law to <sup>References</sup> proceeding by summary conviction shall be deemed to refer <sup>to</sup> to the procedures under this Act. <sup>summary conviction</sup>

**143.** This Act comes into force on a day to be named by <sup>Commence-</sup> proclamation of the Lieutenant Governor. <sup>ment</sup>

**144.** The short title of this Act is *The Provincial Offences* <sup>Short title</sup> *Act, 1979.*

An Act to establish a Code of  
Procedure for Provincial Offences

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*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General and Solicitor General

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*(Government Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to establish a Code of Procedure for  
Provincial Offences**

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THE HON. R. MCMURTRY  
Attorney General and Solicitor General

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*(Reprinted as amended by the Administration of Justice Committee)*

#### EXPLANATORY NOTE

The Bill provides a complete code of procedure for the prosecution of provincial offences in place of the provisions of the *Criminal Code* (Canada) adopted by the present Summary Convictions Act.

The principal changes include,

1. provision of procedures for the prosecution of provincial offences in a provincial code of procedure without reference to the *Criminal Code* (Canada)
2. provision of procedures for minor offences more appropriate to their nature and more expedient for the defendant than those for more serious criminal offences
3. provision for more alternatives in the payment and collection of fines
4. restriction on resorting to imprisonment both in sentencing and for default in payment of fines.

BILL 74

1979

## An Act to establish a Code of Procedure for Provincial Offences

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

### INTERPRETATION

1.—(1) In this Act,

Interpre-  
tation

- (a) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) "court" means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);
- (c) "judge" means a provincial judge;
- (d) "justice" means a provincial judge or a justice of the peace;
- (e) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) "police officer" means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;
- (g) "prescribed" means prescribed by the rules of the provincial offences courts;
- (h) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an in-

formation and includes counsel or agent acting on behalf of either of them;

- (i) "provincial offences officer" means a police officer or a person designated under subsection 2;
- (j) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation  
of pro-  
vincial  
offences  
officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Purpose of  
Act

R.S.C. 1970.  
c. C-34

2.—(1) The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, including the provisions adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and criminal offences.

Interpre-  
tation

(2) Where, as an aid to the interpretation of provisions of this Act, recourse is had to the judicial interpretation of and practices under corresponding provisions of the *Criminal Code* (Canada), any variation in wording without change in substance shall not, in itself, be construed to intend a change of meaning.

## PART I

### COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate  
of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance  
and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

(a) an offence notice indicating the set fine for the offence;  
or

(b) a summons,

in the form prescribed under section 13.



(3) The offence notice or summons shall be served personally upon the person charged within thirty days after the alleged offence occurred. Service

(4) Upon the service of an offence notice or summons, the person charged shall be requested to sign the certificate of offence, but the failure or refusal to sign as requested does not invalidate the certificate of offence or the service of the offence notice or summons. Signature

(5) Where service is made by the provincial offences officer who issued the certificate of offence, he shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service. Certificate of service

(6) Where service is made by a person other than the provincial offences officer who issued the certificate of offence, he shall complete an affidavit of service in the prescribed form. Affidavit of service

(7) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it or an affidavit of service under subsection 6 shall be received in evidence and is proof of personal service in the absence of evidence to the contrary. Certificate as evidence

(8) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine, or receive the offence notice for delivery to the court. Officer not to act as agent

4. A certificate of offence shall be filed in the office of the court named therein as soon as is practicable after service of the offence notice or summons. Filing of certificate of offence

5.—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice. Dispute with trial

(2) Where an offence notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

6.—(1) Where an offence notice is served on a defendant and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may sign the not guilty plea on the offence notice and deliver the offence Dispute without appearance

notice to the office of the court specified in the notice together with any written explanation or submission he wishes to make.

## Disposition

(2) Where an offence notice is delivered under subsection 1, a justice may, in the absence of the defendant, and after considering the explanation and submissions of the defendant, direct a hearing or, where no reasonable ground of defence is disclosed in the explanation or submission, convict the defendant and impose the set fine.

## Hearing

(3) Where the justice directs a hearing under subsection 2, the court shall hold the hearing and may, in the absence of the defendant and after considering the explanation and submissions of the defendant, acquit the defendant or convict the defendant and impose the set fine or such lesser fine as is permitted by law.

## Plea of guilty with representations

7.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the time and place specified in the notice and may appear before a justice sitting in court for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law.

## Submissions under oath

(2) The justice may require submissions under subsection 1 to be made under oath, orally or by affidavit.

## Payment out of court

8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence notice and amount of the set fine to the office of the court specified in the notice.

## Conviction

(2) Acceptance by the court office of payment under subsection 1 constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence.

## Failure to respond to offence notice

9. Where at least fifteen days have elapsed after the defendant was served with the offence notice and the offence notice has not been delivered in accordance with section 6 or 8 and a plea of guilty has not been accepted under section 7, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of offence and,

- (a) where the certificate of offence is complete and regular on its face, he shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence; or
- (b) where the certificate of offence is not complete and regular on its face, he shall quash the proceeding.

10. A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person. Signature on plea

11.—(1) Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under section 5 or proceed under section 7. Reopening on failure of notice

(2) Where a conviction is struck out under subsection 1, the justice shall give the defendant a certificate of the fact in the prescribed form. Certificate of striking out conviction

12.—(1) Where the penalty prescribed for an offence includes a fine of more than \$300 or imprisonment and proceedings are taken under this Part, the provision for fine or imprisonment does not apply and in lieu thereof the offence is punishable by a fine of not more than the maximum fine prescribed for the offence or \$300, whichever is the lesser. Penalty

(2) Where a person is convicted of an offence in a proceeding initiated by an offence notice, Other consequences of conviction

- (a) a provision in or under any other Act that provides for an action or result following upon a conviction of an offence does not apply to the conviction, except,

- (i) for the purpose of carrying out the sentence imposed,

R.S.O. 1970,  
c. 202

- (ii) for the purpose of recording and proving the conviction,
- (iii) for the purposes of the demerit point system under *The Highway Traffic Act*, and
- (iv) for the purposes of section 27 of *The Highway Traffic Act*; and

(b) any thing seized in connection with the offence after the service of the offence notice is not liable to forfeiture.

Regulations

13.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate an offence;
- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency of abbreviated wording

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26.

## PART II

### COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

Interpretation

14. In this Part, "parking infraction" means any unlawful parking, standing or stopping of a vehicle that constitutes an offence.

Date applicable to infractions under municipal by-laws

15.—(1) Subject to subsection 2, this Part does not apply in respect of parking infractions under by-laws of municipalities until a date two years after this Part comes into force.

(2) Subject to the approval of the Lieutenant Governor in <sup>Idem</sup> Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions under by-laws in the municipality on a date earlier than the date determined under subsection 1.

**16.**—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the alleged offence occurred. <sup>Certificate of parking infraction and notice</sup>

(2) A provincial offences officer who believes from his personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing, <sup>Issuance and notice</sup>

(a) a certificate of parking infraction certifying that a parking infraction has been committed; and

(b) a parking infraction notice indicating the set fine for the infraction,

in the form prescribed under section 21.

(3) The issuing provincial offences officer may serve the parking infraction notice on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place at the time of the alleged infraction, or delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction. <sup>Service of notice on owner</sup>

**17.**—(1) Where a parking infraction notice is served, the defendant may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the place specified in the notice. <sup>Dispute with trial</sup>

(2) Where a parking infraction notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. <sup>Notice of trial</sup>

**18.** Where the defendant does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the place shown on the notice. <sup>Payment out of court</sup>

**19.**—(1) Where at least fifteen days have elapsed after the defendant was served with the parking infraction notice and the parking infraction notice has not been delivered in <sup>Failure to respond to parking infraction notice</sup>

accordance with subsection 1 of section 17, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of parking infraction and where the justice is satisfied,

- (a) that the certificate of parking infraction is complete and regular on its face;
- (b) where the defendant is liable as owner, that he is the owner; and
- (c) that payment has not been made under section 18,

the justice shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence.

Quashing  
proceeding

(2) Where the justice is not able to enter a conviction under subsection 1, he shall quash the proceeding.

Notice of  
fine

(3) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection 1 of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default.

Reopening  
on failure  
of notice

**20.** Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under subsection 2 of section 17 or accept a plea of guilty under section 18.

Regula-  
tions

**21.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause a of any word or expression to designate a parking infraction;

- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression. Sufficiency of abbreviations

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26. Idem

### PART III

#### COMMENCEMENT OF PROCEEDING BY INFORMATION

**22.**—(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information. Commencement of proceeding by informant.

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection 1 in respect of the same offence except with the consent of the Attorney General or his agent. Exception

**23.** Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before laying an information, serve the person with a summons in the prescribed form. Summons before information laid

**24.**—(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information. Information

(2) An information may be laid anywhere in Ontario. Idem

**25.**—(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and, Procedure on laying of information

(a) where he considers that a case for so doing is made out,

- (i) confirm the summons served under section 23, if any,
  - (ii) issue a summons in the prescribed form, or
  - (iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or
- (b) where he considers that a case for issuing process is not made out,
- (i) so endorse the information, and
  - (ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or warrants in blank

(2) A justice shall not sign a summons or warrant in blank.

Counts

**26.**—(1) Each offence charged in an information shall be set out in a separate count.

Allegation of offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference to statutory provision

(3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

Idem

(4) The statement referred to in subsection 2 may be,

- (a) in popular language without technical averments or allegations of matters that are not essential to be proved;
- (b) in the words of the enactment that describes the offence; or
- (c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.



(5) Any number of counts for any number of offences may be joined in the same information. More than one count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to. Particulars of count

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that, Sufficiency

- (a) it does not name the person affected by the offence or intended or attempted to be affected;
- (b) it does not name the person who owns or has a special property or interest in property mentioned in the count;
- (c) it charges an intent in relation to another person without naming or describing the other person;
- (d) it does not set out any writing that is the subject of the charge;
- (e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;
- (f) it does not specify the means by which the alleged offence was committed;
- (g) it does not name or describe with precision any person, place or thing; or
- (h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

(8) A count is not objectionable for the reason only that, Idem

- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(b) it is double or multifarious.

Need to  
negative  
exception.  
etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information.

Summons

**27.**—(1) A summons issued under section 23 or 25 shall,

- (a) be directed to the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service  
outside  
Ontario

(3) Notwithstanding subsection 2, where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service  
on  
corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

- (a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or
- (b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Substi-  
tutlional  
service

(5) A justice, upon application and upon being satisfied that service can not be made effectively on a corporation

in accordance with subsection 4, may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation.

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. Proof of service

**28.—**(1) A warrant issued under section 25 shall, Contents of warrant

- (a) name or describe the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. Idem

## PART IV

### TRIAL AND SENTENCING

#### *Trial*

**29.** This Part applies to proceedings commenced under this Act. Application of Part

**30.—**(1) Subject to subsection 2, a proceeding in respect of an offence shall be heard and determined in the provincial offences court in whose territorial jurisdiction the offence occurred. Proper court

(2) A proceeding in respect of an offence may be heard and determined in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if, Idem

- (a) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and
- (b) the court and place of sitting referred to in clause a are named in the summons or offence notice.

(3) Where a proceeding is taken in a court other than one referred to in subsection 1 or 2, the court shall order that the proceeding be transferred to the proper court and may where the defendant appears award costs under section 61. Transfer to proper court

Change of  
venue

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that,

(a) it would be appropriate in the interests of justice to do so; or

(b) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

Conditions

(5) The court may, in an order made upon an application by the prosecutor under subsection 3 or 4, prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue.

Time of  
order for  
change of  
venue

(6) An order under subsection 3 or 4 may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard.

Preliminary  
motions

(7) The court to which proceedings are transferred under this section may receive and determine any motion preliminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of  
papers

(8) Where an order is made under subsection 3 or 4, the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Justice  
presiding  
at trial

**31.**—(1) The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When  
presiding  
justice  
unable to  
act before  
adjudica-  
tion

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When  
presiding  
justice  
unable to  
act after  
adjudica-  
tion

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences

courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection 2 applies as if the justice were unable to act.

Consent to  
change  
presiding  
justice

**32.** The court retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with.

Retention  
of juris-  
diction

**33.—**(1) In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction in court to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated.

Stay of  
proceeding

(2) A proceeding stayed under subsection 1 may be recommenced by direction of the Attorney General, the Deputy Attorney General or a Crown attorney to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced,

Recommence-  
ment

(a) later than one year after the stay; or

(b) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the recommencement,

whichever is the earlier.

**34.—**(1) A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that,

Dividing  
counts

(a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or

(b) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

**Idem** (2) Upon an application under subsection 2, where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

**Amendment of information or certificate** **35.**—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate,

- (a) fails to state or states defectively anything that is requisite to charge the offence;
- (b) does not negative an exception that should be negatived; or
- (c) is in any way defective in substance or in form.

**Idem** (2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial.

**Variations between charge and evidence** (3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

- (a) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or
- (b) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

**Considerations on amendment** (4) The court shall, in considering whether or not an amendment should be made, consider,

- (a) the evidence taken on the trial, if any;
- (b) the circumstances of the case;
- (c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and
- (d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

(5) The question whether an order to amend an information or certificate should be granted or refused is a question of law. Amendment,  
question  
of law

(6) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended. Endorse-  
ment of  
order to  
amend

**36.** The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. Particulars

**37.**—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion  
to quash  
information  
or certificate

(2) The court shall not quash an information or certificate unless an amendment or particulars under sections 34, 35 and 36 would fail to satisfy the ends of justice. Grounds  
for quashing

**38.** Where the information or certificate is amended or particulars are ordered and an adjournment is necessary as a result thereof, the court may make an order under section 61 for costs resulting from the adjournment. Costs on  
amendment  
or particulars

**39.**—(1) The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together. Joinder  
of counts or  
defendants

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. Separate  
trials

**40.**—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of  
subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

Attend-  
ance

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings.

Remaining  
in  
attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice.

Arrest of  
witness

**41.**—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and,

(a) will not attend if a subpoena is served; or

(b) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

Idem

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established,

(a) that the subpoena has been served; and

(b) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing  
before  
justice

(3) The police officer who arrests a person under a warrant issued under subsection 1 or 2 shall immediately take the person before a justice.

Release on  
recogniz-  
ance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing  
before  
judge

(5) Where a proceeding under subsection 4 is before a justice of the peace and the person is not released, the justice of the peace shall cause the person to be brought before a judge within two days of his decision.



(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection 11.

Detention

(7) Where the judge does not make an order under subsection 6, he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Release on recognizance

(8) A person who is ordered to be detained in custody under subsection 6 or is not released in fact under subsection 7 shall not be detained in custody for a period longer than ten days.

Maximum imprisonment

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified.

Release when no longer required

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and,

Arrest on breach of recognizance

(a) where he is brought directly before the court, subsections 6 and 7 apply; and

(b) where he is not brought directly before the court, subsections 3 to 7 apply.

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 44, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness.

Commissioner evidence of witness in custody

**42.—(1)** Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied, upon evidence under oath orally or by affidavit, that his attendance is necessary to satisfy the ends of justice, the judge may issue an order in the prescribed form that the person be brought before the court before which his attendance is required, from day to day, as may be necessary.

Order for person in a prison to attend

Idem

(2) An order under subsection 1 shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall,

- (a) deliver the prisoner to the police officer or other person who is named in the order to receive him; or
- (b) bring the prisoner before the court upon payment of his reasonable charges in respect thereof.

Idem

(3) An order made under subsection 1 shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought.

Penalty for failure to attend

**43.**—(1) Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than thirty days, or to both.

Proof of failure to attend

(2) In a proceeding under subsection 1, a certificate of the clerk or a justice of the court before which the defendant is alleged to have failed to attend stating that the defendant failed to attend is admissible in evidence as *prima facie* proof of the fact without proof of the signature or office of the person appearing to have signed the certificate.

Order for evidence by commissioner

**44.**—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause.

Admission of commissioner evidence

(2) Evidence taken by a commissioner appointed under subsection 1 may be read in evidence in the proceeding if,

- (a) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection 1;
- (b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and
- (c) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the party had full opportunity to cross-examine the witness.

(3) An order under subsection 1 may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section. Attendance of accused

(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court. Application of rules in civil cases

**45.**—(1) Where at any time before a defendant is sentenced a court has reason to believe, based on, Trial of issue as to capacity to conduct defence

(a) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner; or

(b) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court may,

(c) where the justice presiding is a judge, by order suspend the proceedings and direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence; or

(d) where the justice presiding is a justice of the peace, refer the matter to a judge who may make an order referred to in clause c.

(2) For the purposes of subsection 1, the court may order the defendant to attend to be examined under subsection 5. Examination

(3) The trial of the issue shall be presided over by a judge and, Finding

(a) where he finds that the defendant is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended;

(b) where he finds that the defendant is able to conduct his defence, he shall order that the suspended proceeding be continued.

Application  
for  
rehearing  
as to  
capacity

(4) At any time within one year after an order is made under subsection 3, either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for  
examination

(5) For the purposes of subsection 1 or a hearing or rehearing under subsection 3 or 4, the court or judge may order the defendant to attend at such place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem

(6) Where the defendant fails or refuses to comply with an order under subsection 5 without reasonable excuse or where the person conducting the examination satisfies a judge that it is necessary to do so, the judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and in any event for not longer than seven days and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility.

Limitation  
on  
suspension  
of  
proceeding

(7) Where an order is made under subsection 3 and one year has elapsed and no further order is made under subsection 4, no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance.

Taking of  
plea

**46.**—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein.

Conviction  
on plea of  
guilty

(2) Where the defendant pleads guilty, the court may accept the plea and convict him.

Refusal  
to plead

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty.

(4) Where the defendant pleads not guilty of the offence charged but guilty of any other offence, whether or not it is an included offence, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty.

Plea of guilty to another offence

**47.**—(1) Subject to section 6, where the defendant pleads not guilty, the court shall hold the trial.

Trial on plea of not guilty

(2) The defendant is entitled to make his full answer and defence.

Right to defend

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses.

Right to examine witnesses

(4) The court may receive and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence.

Agreed facts

(5) Notwithstanding section 8 of *The Evidence Act*, the defendant is not a compellable witness for the prosecution.

Defendant not compellable  
R.S.O. 1970,  
c. 151

**48.**—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties.

Evidence taken on another charge

(2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case.

Certificate as evidence

(3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information.

Burden of proving exception, etc.

**49.**—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation.

Exhibits

## Release of exhibits

(2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party tendering it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal.

## Adjournments

**50.**—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.

## Early resumption

(2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor.

## Appearance by defendant

**51.**—(1) A defendant may appear and act personally or by counsel or agent.

## Appearance by corporation

(2) A defendant that is a corporation shall appear and act by counsel or agent.

## Exclusion of agents

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent.

## Compelling attendance of defendant

**52.** Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form.

## Excluding defendant from hearing

**53.**—(1) The court may cause the defendant to be removed and to be kept out of court,

- (a) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or
- (b) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so, Excluding public from hearing

- (a) for the maintenance of order in the courtroom;
- (b) to protect the reputation of a minor; or
- (c) to remove an influence that might affect the testimony of a witness.

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. Prohibition of publication of evidence

**54.**—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to another time upon such terms as it considers proper. Failure of prosecutor to appear

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection 1, the court may dismiss the charge. Idem

(3) Where a hearing is adjourned under subsection 1 or a charge is dismissed under subsection 2, the court may make an order under section 61 for the payment of costs. Costs

(4) Where a charge is dismissed under subsection 1 or 2, the court may, if requested by the defendant, draw up an order of dismissal stating the grounds therefor and shall give the defendant a certified copy of the order of dismissal which is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. Written order of dismissal

**55.**—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved by the prosecutor, having been given a reasonable opportunity to do so, that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court, Ex parte conviction

- (a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;

- (b) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or
- (c) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause *a* or *b*.

Where  
convicted  
*ex parte*

(2) Where, the court proceeds under clause *a* of subsection 1, no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent.

Included  
offences

**56.** Where the commission of the offence charged includes the commission of another offence, the defendant may be convicted of an offence so included that is proved, notwithstanding that the whole offence charged is not proved.

### Sentencing

Pre-sentence  
report

**57.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection 1, the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor.

Submissions  
as to  
sentence

**58.**—(1) Where a defendant who appears is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Omission  
to comply

(2) The omission to comply with subsection 1 does not affect the validity of the proceeding.

Inquiries  
by court

(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.



(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by,

Proof of  
previous  
conviction

(a) the person who made the adjudication; or

(b) the clerk of the court in which the adjudication was made,

is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

**59.** In determining the sentence to be imposed on a person convicted of an offence, the justice may take into account any time spent in custody by the person as a result of the offence.

Time spent  
in custody  
considered

**60.—(1)** No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum.

Provision  
for  
minimum  
penalty

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may impose a fine that is less than the minimum or suspend the sentence.

Relief  
against  
minimum  
fine

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than \$2,000 in lieu of imprisonment.

Idem, re  
imprison-  
ment

**61.—(1)** Upon conviction, the defendant is liable to pay to the court an amount by way of costs that is fixed by the regulations.

Fixed  
costs on  
conviction

(2) The court may, in its discretion, order costs towards fees and expenses reasonably incurred by or on behalf of witnesses in amounts not exceeding the maximum fixed by the regulations, to be paid,

Costs  
respecting  
witnesses

(a) to the court or prosecutor by the defendant; or

(b) to the defendant by the person who laid the information or issued the certificate, as the case may be,

but where the proceeding is commenced by means of a certificate, the total of such costs shall not exceed \$100.

Costs collectable as a fine

(3) Costs payable under this section shall be deemed to be a fine for the purpose of enforcing payment.

General penalty

**62.**—(1) Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Amendment of subs. 1

(2) Subsection 1 is amended by striking out "or to imprisonment for a term of not more than six months, or to both" in the third and fourth lines.

Effective date of amendment

(3) Subsection 2 does not come into force until the 1st day of January, 1981.

Minute of conviction

**63.** Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request.

Time when imprisonment starts

**64.**—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem

(2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing.

Sentences consecutive

**65.** Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment.

Authority of warrant

**66.**—(1) A warrant of committal is sufficient authority,

(a) for the conveyance of the prisoner in custody for the purpose of committal under the warrant; and

(b) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

(2) A person to whom a warrant of committal is directed shall convey the prisoner to the correctional institution named in the warrant.

Conveyance of prisoner

(3) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced.

Prisoner subject to rules of institution

**67.**—(1) A fine becomes due and payable fifteen days after its imposition.

When fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine.

Extension of time for payment of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer.

Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise.

Granting of extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection 6.

Notice where convicted in absentia

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections 3 and 4.

Further application for extension

**68.** The Lieutenant Governor in Council may make regulations establishing a program to permit the payment of fines by means of credits for work performed, and, for the purpose and without restricting the generality of the foregoing may,

Regulation for work credits for fines

- (a) prescribe classes of work and the conditions under which they are to be performed;
- (b) prescribe a system of credits;
- (c) provide for any matter necessary for the effective administration of the program,

and any regulation may limit its application to any part or parts of Ontario.

Civil  
enforcement  
of fines

**69.**—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Limitation

(2) A certificate shall not be filed under subsection 1 after two years after the default in respect of which it is issued.

Certificate of  
discharge

(3) Where a certificate has been filed under subsection 1 and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged and, where a writ of execution has been filed with the sheriff, the clerk shall file a certificate of payment with the sheriff, upon which the writ is cancelled.

Default

**70.**—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

Order on  
default

(2) Where a justice is satisfied that payment of a fine is in default, the justice,

- (a) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued until the fine is paid; and
- (b) may direct the clerk of the court to proceed with civil enforcement under section 69.

Imprison-  
ment for  
non-payment  
of fine

(3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

- (a) an order or direction under clause a of subsection 2 has not resulted in payment within a time that is reasonable in the circumstances;

- (b) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and
- (c) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

(4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection 3 would defeat the ends of justice, the court may, Provision on conviction for imprisonment in default

- (a) order that no warrant of committal be issued under subsection 3; or
- (b) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

(5) Imprisonment under a warrant issued under subsection 3 or 4 shall be for three days, plus one day for each \$25 or part thereof that is in default, subject to a maximum period of, Term of imprisonment

- (a) ninety days; or
- (b) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

(6) Any payment made after a warrant is issued under subsection 3 or 4 shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the total fine and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof. Effect of payments

**71.** Where an Act provides that a fine may be suspended subject to the performance of a condition, Suspension of fine on conditions

- (a) the period of suspension shall be fixed by the court and shall be for not more than one year;
- (b) the court shall provide in its order of suspension the method of proving the performance of the condition;

- (c) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and
- (d) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant.

Probation  
order

**72.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

- (a) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;
- (b) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or
- (c) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory  
conditions  
of order

(2) A probation order shall be deemed to contain the conditions that,

- (a) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;
- (b) the defendant appear before the court as and when required; and
- (c) the defendant notify the court of any change in his address.

Conditions  
imposed  
by court

(3) In addition to the conditions set out in subsection 2, the court may prescribe the following conditions in a probation order,

- (a) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;
- (b) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment that the defendant perform a community service as set out in the order;
- (c) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or
- (d) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than two years from the date when the order takes effect.

Form of order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 75 to be given to the defendant.

Notice of order

(6) The Lieutenant Governor in Council may make regulations governing restitution, compensation and community service orders, including their terms and conditions.

Regulations for community service orders

**73.**—(1) A probation order comes into force,

When order comes into force

- (a) on the date on which the order is made; or
- (b) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

(2) Subject to section 75, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment

Continuation in force

renders it impossible for the defendant to comply for the time being with the order.

Variation of  
probation  
order

**74.** The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

- (a) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;
- (b) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 3 of section 72 that is prescribed in the order; or
- (c) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed.

Breach of  
probation  
order

**75.** Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,



- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or
- (e) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause *d*, revoke the probation order and impose the sentence the passing of which was suspended upon the making of the probation order.

## PART V

### GENERAL PROVISIONS

**76.**—(1) Proceedings shall not be commenced after the expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed. Limitation

(2) A limitation period may be extended by a justice with the consent of the defendant. Extension

**77.**—(1) Every person is a party to an offence who, Parties to offence

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence. Common purpose

**78.**—(1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured. Counselling

- Idem** (2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.
- Computation of age** **79.** In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance.
- Common law defences** **80.** Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act.
- Ignorance of the law** **81.** Ignorance of the law by a person who commits an offence is not an excuse for committing the offence.
- Counsel or agent** **82.** A defendant may act by his counsel or agent.
- Recording of evidence** **83.**—(1) Proceedings in which evidence is taken shall be recorded.
- Evidence under oath** (2) Evidence under this Act shall be taken under oath, except as otherwise provided by law.
- Interpreters** **84.**—(1) A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.
- Idem** (2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available.
- Extension of time** **85.** Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing or recommencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired.
- Penalty for false statements** **86.** Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

**87.**—(1) Except as otherwise provided by this Act or the rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered, whether personally or by mail. Delivery

(2) Where a notice or document that is required or authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is delivered to the person. Idem

**88.** No civil remedy for an act or omission is suspended or affected for the reason that the act or omission is an offence. Civil remedies preserved

**89.** Any action authorized or required by this Act is not invalid for the reason only that the action was taken on a non-judicial day. Process on holidays

**90.**—(1) The validity of any proceeding is not affected by, Irregularities in form

- (a) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or
- (b) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

(2) Where it appears to the court that the defendant has been misled by any irregularity, defect or variance mentioned in subsection 1, the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 61 for the payment of costs. Adjournment to meet irregularities

**91.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 2 of section 150 of *The Highway Traffic Act* for the purpose of proceedings under this Act;

- (c) providing for the extension of times prescribed by or under this Act or the rules in the event of a disruption in postal services;
- (d) requiring the payment of fees upon the filing of anything required or permitted to be filed under this Act or the rules and fixing the amounts thereof, and providing for the waiver of the payment of a fee by a justice, or by a judge under Part VI, in such circumstances and under such conditions as are set out in the regulations;
- (e) fixing costs payable upon conviction and referred to in subsection 1 of section 61;
- (f) fixing the items in respect of which costs may be awarded under subsection 2 of section 61 and prescribing the maximum amounts that may be awarded in respect of each item.

## PART VI

### APPEALS AND REVIEW

Interpre-  
tation

**92.**—(1) In this Part,

- (a) “counsel” when used in respect of proceedings in a provincial court (criminal division) includes an agent;
- (b) “court” means the court to which an appeal is or may be taken under this Part;
- (c) “judge” means a judge of the court to which an appeal is or may be taken under this Part;
- (d) “rules” means the rules made under section 123;
- (e) “sentence” includes any order or disposition consequent upon a conviction and an order as to costs.

References  
to Court  
of Appeal  
R.S.O. 1970,  
c. 228

(2) In this Part, a reference to the Court of Appeal means the Court of Appeal notwithstanding subsection 2 of section 17 of *The Judicature Act*.

### APPEALS UNDER PART III

Appeal

**93.**—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the

Attorney General by way of intervention may appeal from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence.



(2) An appeal under subsection 1 shall be,

Appeal court

(a) where the appeal is from the decision of a justice of the peace, to the provincial court (criminal division) of the county or district in which the adjudication was made; or

(b) where the appeal is from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

(3) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules.

Notice of appeal

94. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134.

Custody pending appeal



95.—(1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from.

Payment of fine before appeal

(2) A judge may waive compliance with subsection 1 and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs.

Exception with recognizance

96. The filing of a notice of appeal does not stay the conviction unless a judge so orders.

Stay

97.—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a judge to fix a date for the hearing of the appeal.

Fixing of date where appellant in custody

(2) Upon receiving an application under subsection 1, the judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal.

Idem

98. A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction.

Payment of fine not waiver

Transmittal  
of material

**99.** Where a notice of appeal has been filed, the clerk of the appeal court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the appeal court to be kept with the records of the appeal court.

Powers  
of court

**100.**—(1) The court may, where it considers it to be in the interests of justice,

- (a) order the production of any writing, exhibit or other thing relevant to the appeal;
- (b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,
  - (i) to attend and be examined before the court, or
  - (ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;
- (c) admit, as evidence, an examination that is taken under subclause ii of clause *b*;
- (d) receive the evidence, if tendered, of any witness;
- (e) order that any question arising on the appeal that,
  - (i) involves prolonged examination of writings or accounts, or scientific investigation, and
  - (ii) cannot in the opinion of the court conveniently be inquired into before the court,
 be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and
- (f) act upon the report of a commissioner who is appointed under clause *e* in so far as the court thinks fit to do so.

Right of  
appellant

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses

and, in an inquiry under clause *e* of subsection 1, are entitled to be present during the inquiry and to adduce evidence and to be heard.

**101.**—(1) An appellant may appear and act personally or by counsel. Right to counsel

(2) An appellant who is in custody as a result of the decision appealed from is entitled to be present at the hearing of the appeal. Attendance while in custody

(3) The power of a court to impose sentence may be exercised notwithstanding that the appellant is not present. Sentencing in absence

**102.** An appellant may present his case on appeal and his argument in writing instead of orally, and the court shall consider any case or argument so presented. Written argument

**103.**—(1) On the hearing of an appeal against a conviction or against a finding as to the ability, because of mental disorder, to conduct a defence, the court by order, Powers on appeal against conviction

(a) may allow the appeal where it is of the opinion that,

- (i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,
- (ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or
- (iii) on any ground, there was a miscarriage of justice; or

(b) may dismiss the appeal where,

- (i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,
- (ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause *a*, or

- (iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause ii of clause *a* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred.

Idem

(2) Where the court allows an appeal under clause *a* of subsection 1, it shall,

(a) where the appeal is from a conviction,

(i) direct a finding of acquittal to be entered, or

(ii) order a new trial; or

(b) where the appeal is from a finding as to the ability, because of mental disorder, to conduct a defence, order a new trial, subject to section 45.

Idem

(3) Where the court dismisses an appeal under clause *b* of subsection 1, it may substitute the decision that in its opinion should have been made and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

Powers on appeal against acquittal

**104.** Where an appeal is from an acquittal, the court may by order,

(a) dismiss the appeal; or

(b) allow the appeal, set aside the finding and,

(i) order a new trial, or

(ii) enter a finding of guilt with respect to the offence of which, in its opinion, the appellant should have been found guilty, and pass a sentence that is warranted in law.

Appeal against sentence

**105.—**(1) Where an appeal is taken against sentence, the court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

(a) dismiss the appeal; or

(b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,



and, in making any order under clause *b*, the court may take into account any time spent in custody by the defendant as a result of the offence.

(2) A judgment of a court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court. Variance of sentence

**106.** Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence. One sentence on more than one count

**107.**—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant. Appeal based on defect in information or process

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect. Idem

**108.** Where a court exercises any of the powers conferred by sections 100 to 107, it may make any order, in addition, that justice requires. Additional orders

**109.**—(1) Where a court orders a new trial, it shall be held in a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance unless the appeal court directs that the new trial be held before the justice who tried the defendant in the first instance. New trial

(2) Where a court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 2 of section 134 and the order may be enforced in the same manner as if it had been made by a justice under that subsection. Order for release

**110.**—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the court, the court may order that the appeal Trial de novo

shall be heard by way of a new trial in the court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

## Evidence

(2) The court may, for the purpose of hearing and determining an appeal under subsection 1, permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

- (a) the appellant and respondent consent;
- (b) the court is satisfied that the attendance of the witness cannot reasonably be obtained; or
- (c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the court.

## Dismissal or abandonment

**111.** The court may, upon proof that notice of an appeal has been given and that,

- (a) the appellant has failed to comply with any order made under section 94 or 95 or with the conditions of any recognizance entered into under either of those sections; or
- (b) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed.

## Costs

**112.**—(1) Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the court may make any order with respect to costs that it considers just and reasonable.

## Payment

(2) Where the court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the trial court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

## Enforcement

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall

be deemed to be a fine for the purpose of enforcing its payment.

**113.** An order or judgment of the appeal court shall be implemented or enforced by the trial court and the clerk of the appeal court shall send to the clerk of the trial court the order and all writings relating thereto.

Implementa-  
tion of appeal  
court order

**114.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone or as to sentence in accordance with the rules made under section 123.

Appeal to  
Court of  
Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.

Grounds  
for leave

**115.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134.

Custody  
pending  
appeal

**116.** Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the court appealed from of the application and, upon receipt of the notification, the clerk of the court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal.

Transfer  
of  
record

**117.** Sections 98, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109, clause *b* of section 111 and section 112 apply, with necessary modifications, to appeals to the Court of Appeal under section 114.

Application  
of ss. 98,  
100-109,  
111 (b), 112

#### APPEALS UNDER PARTS I AND II

**118.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made.

Appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division)

Application  
for appeal

within fifteen days after the making of the decision appealed from, in accordance with the rules.

Notice of hearing

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal.

Conduct of appeal

**119.**—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Review

(2) An appeal shall be conducted by means of a review in the provincial court (criminal division) of the county or district in which the adjudication was made.

Evidence

(3) In determining a review, the court may,

- (a) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;
- (b) receive the evidence of any witness whether or not the witness gave evidence at the trial;
- (c) require the justice presiding at the trial to report in writing on any matter specified in the request; or
- (d) receive and act upon statements of agreed facts or admissions.

Dismissal on abandonment

**120.** Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed.

Powers of court on appeal

**121.**—(1) Upon an appeal, the court may affirm, reverse or vary the decision appealed from or where, in the opinion of the court, it is necessary to do so to satisfy the ends of justice, direct a new trial.

New trial

(2) Where the court directs a new trial, it shall be held in the provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance, but the appeal court may, with the consent of the parties to the appeal, direct that the new trial be held before the justice who tried the defendant in the first instance or before the judge who directs the new trial.

(3) Upon an appeal, the court may make an order under section 61 for the payment of costs incurred on the appeal, and subsection 3 thereof applies to the order in the same manner as to an order of a provincial offences court. Costs

**122.**—(1) An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

(3) Upon an appeal under this section, the Court of Appeal may make any order with respect to costs that it considers just and reasonable. Costs

#### RULES FOR APPEALS

**123.** The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the provincial courts (criminal division), the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals. Rules of court for appeals

#### REVIEW

**124.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*. Application for relief in nature of mandamus, prohibition, certiorari

(2) Notice of an application under this section shall be served on, Notice of application

(a) the person whose act or omission gives rise to the application;

(b) any person who is a party to a proceeding that gives rise to the application; and

(c) the Attorney General.

Appeal (3) An appeal lies to the Court of Appeal from an order made under this section.

Notice re *certiorari* **125.**—(1) A notice under section 124 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed.

Filing material (2) Where a notice referred to in subsection 1 is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application.

Where appeal available (3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise.

Substantial wrong (4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper.

Order for immunity from civil liability (5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it.

Application for *habeas corpus* **126.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*.

Procedure on application for relief in nature of *habeas corpus* (2) Notice of an application under subsection 1 for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the

hearing of the application the presence before the High Court of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

(3) Subject to subsections 1 and 2, *The Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section. Application of R.S.O. 1970, c. 197

(4) *The Judicial Review Procedure Act, 1971* and sections 69 and 70 of *The Judicature Act* do not apply to matters in respect of which an application may be made under section 124. 1971, c. 48 and R.S.O. 1970, c. 228, ss. 69, 70 do not apply

(5) A court to which an application or appeal is made under section 124 or this section may make any order with respect to costs that it considers just and reasonable. Costs

## PART VII

### ARREST, BAIL AND SEARCH WARRANTS

#### *Arrest*

**127.** In this Part, "officer in charge" means the police officer who is in charge of the lock-up or other place to which a person is taken after his arrest. Officer in charge

**128.**—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario. Execution of warrant

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario. Idem

**129.** Any person may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and, where the person who makes the arrest is not a police officer, shall forthwith deliver the person arrested to a police officer. Arrest without warrant

**130.**—(1) Every police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what he is required or authorized by law to do. Use of force

Use of force  
by citizen

(2) Every person upon whom a police officer calls for assistance is justified in using as much force as he believes on reasonable and probable grounds is necessary to render such assistance.

Immunity  
from civil  
liability

**131.** Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

- (a) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;
- (b) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or
- (c) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made.

Production  
of process

**132.**—(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice of  
reason for  
arrest

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest.

### *Bail*

Release  
after  
arrest  
by  
officer

**133.**—(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons or offence notice unless he has reasonable and probable grounds to believe that,

- (a) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,
  - (i) establish the identity of the person,
  - (ii) secure or preserve evidence of or relating to the offence, or



(iii) prevent the continuation or repetition of the offence or the commission of another offence;  
or

(b) the person arrested is ordinarily resident outside Ontario and will not respond to a summons or offence notice.

(2) Where a defendant is not released from custody under subsection 1, the police officer shall deliver him to the officer in charge who shall, where in his opinion the conditions set out in clauses *a* and *b* of subsection 1 do not or no longer exist, release the defendant, Release by officer in charge

(a) upon serving him with a summons or offence notice;

(b) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario and it is believed that he will not respond to a summons or offence notice, the officer in charge may, in addition to anything required under subsection 2, require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed, Cash bail by non-resident

(a) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300; or

(b) where the proceeding is commenced by information under Part III, \$500.

**134.**—(1) Where a defendant is not released from custody under section 133, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection 2 is justified for the same purpose. Person in custody to be brought before justice

(2) Subject to subsection 1, the justice may order the release of the defendant, Order for conditional release

- (a) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;
- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court or, with the consent of the prosecutor, upon his depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
- (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300, or
- (ii) where the proceeding is commenced by information under Part III, \$1,000; or
- (c) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
- (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, \$300, or
- (ii) where the proceeding is commenced by information under Part III, \$1,000.

Idem

(3) The justice shall not make an order under clause *b* or *c* of subsection 2 unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

Order for  
detention

(4) Where the prosecutor shows cause why the detention of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

Reasons

(5) The justice shall include in the record a statement of his reasons for his decision under subsection 1, 2 or 4.

Evidence  
at  
hearing

(6) In a proceeding under subsection 1, the justice may receive and base his decision upon information he considers

credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

(7) A proceeding under subsection 1 shall not be adjourned for more than three days without the consent of the defendant.

Adjournments

**135.**—(1) Where a defendant is not released from custody under section 133 or 134, he shall be brought before the court forthwith and, in any event, within eight days.

Expediting trial of person in custody

(2) The justice presiding upon any appearance of the defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 134 and make such further or other order under section 134 as to him seems appropriate in the circumstances.

Further orders

**136.** A defendant or the prosecutor may appeal from an order or refusal to make an order under section 134 or 135 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 123.

Appeal

**137.**—(1) A person who is released upon deposit under subsection 3 of section 133 or clause c of subsection 2 of section 134 may appoint the clerk of the court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the amount so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee.

Appointment of agent for appearance

(2) An officer in charge or justice who takes a recognizance, money or security under section 133 or 134 shall make a return thereof to the court where the defendant is required to appear.

Returns to court

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance and return the surplus, if any.

Returns to sureties

**138.**—(1) The recognizance of a person to appear in a proceeding binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the proceeding is adjourned.

Recognizance binds for all appearances

Recognizance binds independently of other charges

(2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability of principal

(3) The principal to a recognizance is bound for the amount of the recognizance due upon forfeiture.

Liability where sureties

(4) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture for non-appearance.

Application by surety to be relieved

**139.**—(1) A surety to a recognizance may, by application in writing to the court at which the defendant is required to appear, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate of arrest

(2) When a police officer arrests the defendant under a warrant issued under subsection 1, he shall bring the defendant before a justice under section 134 and certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of recognizance

(3) The receipt of the certificate by the court under subsection 2 vacates the recognizance and discharges the sureties.

Delivery of defendant by surety

**140.** A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant.

Certificate of default

**141.**—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out,

- (a) the nature of the default;
- (b) the reason for the default, if it is known;
- (c) whether the ends of justice have been defeated or delayed by reason of the default; and
- (d) the names and addresses of the principal and sureties.

Certificate as evidence

(2) A certificate that has been endorsed on a recognizance under subsection 1 is evidence of the default to which it relates.

(3) The clerk of the court shall transmit the endorsed recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance. Application  
for  
forfeiture

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and, where the application is for forfeiture for non-appearance, each surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited. Notice of  
hearing

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper. Order as to  
forfeiture

(6) Where an order for forfeiture is made under subsection 5, Collection  
on  
forfeiture

- (a) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and
- (b) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court.

### *Search Warrants*

**142.**—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place, Search  
warrant

- (a) anything upon or in respect of which an offence has been or is suspected to have been committed; or
- (b) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named

therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

**Expiration** (2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

**When to be executed** (3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes.

**Detention of things seized** **143.**—(1) Where any thing is seized and brought before a justice, he shall by order,

(a) detain it or direct it to be detained in the care of a person named in the order; or

(b) direct it to be returned,

and the justice may in the order authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

**Time limit for detention** (2) Nothing shall be detained under an order made under subsection 1 for a period of more than three months after the time of seizure unless, before the expiration of that period,

(a) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or

(b) proceedings are instituted in which the thing detained may be required.

**Application for examination and copying** (3) Upon the application of the defendant, prosecutor or person having an interest in a thing detained under subsection 1, a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

**Application for release** (4) Upon the application of a person having an interest in a thing detained under subsection 1, and upon notice to the

defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

(5) Where an order or refusal to make an order under subsection 3 or 4 is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate.

Appeal  
where  
order by  
justice of  
the peace

**144.**—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document,

Examination  
or seizure  
of documents  
where  
privilege  
claimed

- (a) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and
- (b) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.

(2) No person shall examine or seize a document that is in the possession of a lawyer without giving him a reasonable opportunity to claim the privilege under subsection 1.

Opportunity  
to claim  
privilege

(3) A judge may, upon the *ex parte* application of the lawyer, by order authorize the lawyer to examine or make a copy of the document in the presence of its custodian or the judge, and the order shall contain such provisions as are necessary to ensure that the document is repackaged and resealed without alteration or damage.

Examination  
of documents  
in custody

(4) Where a document has been seized and placed in custody under subsection 1, the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document.

Application  
to determine  
privilege

(5) An application under subsection 4 shall be by notice of motion returnable not later than thirty days after the date on which the document was placed in custody.

Limitation

Attorney  
General  
a party

(6) The person who seized the document and the Attorney General are parties to an application under subsection 4 and entitled to at least three days notice thereof.

Private  
hearing and  
scrutiny by  
judge

(7) An application under subsection 4 shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(8) The judge may, by order,

(a) declare that the solicitor-client privilege exists or does not exist in respect of the document;

(b) direct that the document be delivered up to the appropriate person.

Release of  
document  
where no  
application  
under subs. 4

(9) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection 4 within the time limit prescribed by subsection 5, the judge shall order that the document be delivered to the applicant.

## PART VIII

### ORDERS ON APPLICATION UNDER STATUTES

Orders  
under  
statutes

**145.** Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding in the same manner as to a proceeding commenced under Part III, and for the purpose,

(a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and

(b) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order.



## PART IX

## COMMENCEMENT AND TRANSITION

**146.**—(1) This Act, except Parts I and II, applies to offences in respect of which proceedings are commenced after this Act comes into force. Application

(2) Part I and Part II each applies to offences occurring after that Part comes into force. Idem

**147.**—(1) Subject to subsections 2 and 3, the following are repealed: Repeals

1. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970.
2. *The Summary Convictions Amendment Act, 1971*, being chapter 10.

(2) The enactments repealed by subsection 1 continue in force in respect of offences to which this Act does not apply. Transition

(3) If subsection 1 comes into force before Part II comes into force, the enactments repealed by subsection 1 continue to apply in respect of parking infractions. Application of subs. 1 to parking infractions

**148.**—(1) A reference in any Act, regulation or by-law to *The Summary Convictions Act* shall be deemed to be a reference to this Act. Reference to R.S.O. 1970, c. 450

(2) A reference in any Act, regulation or by-law to proceeding by summary conviction shall be deemed to refer to the procedures under this Act. References to summary conviction

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

**150.** The short title of this Act is *The Provincial Offences Act, 1979*. Short title





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An Act to establish a Code of  
Procedure for Provincial Offences

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*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

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THE HON. R. McMURTRY  
Attorney General and Solicitor General

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*(Reprinted as amended by the  
Administration of Justice Committee)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to establish a Code of Procedure for  
Provincial Offences**

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THE HON. R. MCMURTRY  
Attorney General

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

#### EXPLANATORY NOTE

The Bill provides a complete code of procedure for the prosecution of provincial offences in place of the provisions of the *Criminal Code* (Canada) adopted by the present Summary Convictions Act.

The principal changes include,

1. provision of procedures for the prosecution of provincial offences in a provincial code of procedure without reference to the *Criminal Code* (Canada)
2. provision of procedures for minor offences more appropriate to their nature and more expedient for the defendant than those for more serious criminal offences
3. provision for more alternatives in the payment and collection of fines
4. restriction on resorting to imprisonment both in sentencing and for default in payment of fines.

## An Act to establish a Code of Procedure for Provincial Offences

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

### INTERPRETATION

1.—(1) In this Act,

Interpre-  
tation

- (a) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) "court" means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);
- (c) "judge" means a provincial judge;
- (d) "justice" means a provincial judge or a justice of the peace;
- (e) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) "police officer" means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;
- (g) "prescribed" means prescribed by the rules of the provincial offences courts;
- (h) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an information and includes counsel or agent acting on behalf of either of them;
- (i) "provincial offences officer" means a police officer or a person designated under subsection 2;

(j) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation  
of pro-  
vincial  
offences  
officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Purpose of  
Act

R.S.C. 1970,  
c. C-34

2.—(1) The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, including the provisions adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and criminal offences.

Interpre-  
tation

(2) Where, as an aid to the interpretation of provisions of this Act, recourse is had to the judicial interpretation of and practices under corresponding provisions of the *Criminal Code* (Canada), any variation in wording without change in substance shall not, in itself, be construed to intend a change of meaning.

## PART I

### COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate  
of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance  
and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

- (a) an offence notice indicating the set fine for the offence;  
or
- (b) a summons,

in the form prescribed under section 13.

Service

(3) The offence notice or summons shall be served personally upon the person charged within thirty days after the alleged offence occurred.

Signature

(4) Upon the service of an offence notice or summons, the person charged shall be requested to sign the certificate of offence, but the failure or refusal to sign as requested does not invalidate the certificate of offence or the service of the offence notice or summons.



(5) Where service is made by the provincial offences officer who issued the certificate of offence, he shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service. Certificate of service

(6) Where service is made by a person other than the provincial offences officer who issued the certificate of offence, he shall complete an affidavit of service in the prescribed form. Affidavit of service

(7) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it or an affidavit of service under subsection 6 shall be received in evidence and is proof of personal service in the absence of evidence to the contrary. Certificate as evidence

(8) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine, or receive the offence notice for delivery to the court. Officer not to act as agent

**4.** A certificate of offence shall be filed in the office of the court named therein as soon as is practicable after service of the offence notice or summons. Filing of certificate of offence

**5.**—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice. Dispute with trial

(2) Where an offence notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

**6.**—(1) Where an offence notice is served on a defendant whose address as shown on the certificate of offence is outside the territorial jurisdiction of the court specified in the notice, and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may do so by signifying his intention on the offence notice and delivering the offence notice to the office of the court specified in the notice together with a written dispute setting out with reasonable particularity his dispute and any facts upon which he relies. Dispute without appearance

(2) Where an offence notice is delivered under subsection 1, a justice shall, in the absence of the defendant, consider the dispute and, Disposition

- (a) where the dispute raises an issue that may constitute a defence, direct a hearing; or
- (b) where the dispute does not raise an issue that may constitute a defence, convict the defendant and impose the set fine.

## Hearing

(3) Where the justice directs a hearing under subsection 2, the court shall hold the hearing and shall, in the absence of the defendant, consider the evidence in the light of the issues raised in the dispute, and acquit the defendant or convict the defendant and impose the set fine or such lesser fine as is permitted by law.

## Application of section

(4) This section applies in such part or parts of Ontario as are prescribed by the regulations.

## Plea of guilty with representations

7.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the time and place specified in the notice and may appear before a justice sitting in court for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law.

## Submissions under oath

(2) The justice may require submissions under subsection 1 to be made under oath, orally or by affidavit.

## Payment out of court

8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence notice and amount of the set fine to the office of the court specified in the notice.

## Conviction

(2) Acceptance by the court office of payment under subsection 1 constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence.

## Failure to respond to offence notice

9. Where at least fifteen days have elapsed after the defendant was served with the offence notice and the offence notice has not been delivered in accordance with section 6 or 8 and a plea of guilty has not been accepted under section 7, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of offence and,

- (a) where the certificate of offence is complete and regular on its face, he shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence; or
- (b) where the certificate of offence is not complete and regular on its face, he shall quash the proceeding.

**10.** A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person. Signature  
on plea

**11.**—(1) Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under section 5 or proceed under section 7. Reopening  
on failure  
of notice

(2) Where a conviction is struck out under subsection 1, the justice shall give the defendant a certificate of the fact in the prescribed form. Certificate  
of striking  
out  
conviction

**12.**—(1) Where the penalty prescribed for an offence includes a fine of more than \$300 or imprisonment and proceedings are taken under this Part, the provision for fine or imprisonment does not apply and in lieu thereof the offence is punishable by a fine of not more than the maximum fine prescribed for the offence or \$300, whichever is the lesser. Penalty

(2) Where a person is convicted of an offence in a proceeding initiated by an offence notice, Other  
consequences  
of conviction

- (a) a provision in or under any other Act that provides for an action or result following upon a conviction of an offence does not apply to the conviction, except,
  - (i) for the purpose of carrying out the sentence imposed,

R. S. O. 1970,  
c. 202

- (ii) for the purpose of recording and proving the conviction,
  - (iii) for the purposes of the demerit point system under *The Highway Traffic Act*, and
  - (iv) for the purposes of section 27 of *The Highway Traffic Act*; and
- (b) any thing seized in connection with the offence after the service of the offence notice is not liable to forfeiture.

Regula-  
tions

**13.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate an offence;
- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency  
of  
abbreviated  
wording

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26.

## PART II

### COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

Interpre-  
tation

**14.** In this Part, “parking infraction” means any unlawful parking, standing or stopping of a vehicle that constitutes an offence.

Date  
applicable  
to infractions  
under  
municipal  
by-laws

**15.**—(1) Subject to subsection 2, this Part does not apply in respect of parking infractions under by-laws of municipalities until a date two years after this Part comes into force.

(2) Subject to the approval of the Lieutenant Governor in Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions under by-laws in the municipality on a date earlier than the date determined under subsection 1. Idem

**16.**—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the alleged offence occurred. Certificate of parking infraction and notice

(2) A provincial offences officer who believes from his personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing, Issuance and notice

(a) a certificate of parking infraction certifying that a parking infraction has been committed; and

(b) a parking infraction notice indicating the set fine for the infraction,

in the form prescribed under section 21.

(3) The issuing provincial offences officer may serve the parking infraction notice on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place at the time of the alleged infraction, or delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction. Service of notice on owner

**17.**—(1) Where a parking infraction notice is served, the defendant may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the place specified in the notice. Dispute with trial

(2) Where a parking infraction notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

**18.** Where the defendant does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the place shown on the notice. Payment out of court

**19.**—(1) Where at least fifteen days have elapsed after the defendant was served with the parking infraction notice and the parking infraction notice has not been delivered in Failure to respond to parking infraction notice

accordance with subsection 1 of section 17, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of parking infraction and where the justice is satisfied,

- (a) that the certificate of parking infraction is complete and regular on its face;
- (b) where the defendant is liable as owner, that he is the owner; and
- (c) that payment has not been made under section 18,

the justice shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence.

**Quashing  
proceeding**

(2) Where the justice is not able to enter a conviction under subsection 1, he shall quash the proceeding.

**Notice of  
fine**

(3) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection 1 of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default.

**Reopening  
on failure  
of notice**

**20.** Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under subsection 2 of section 17 or accept a plea of guilty under section 18.

**Regula-  
tions**

**21.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate a parking infraction;

(c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression. Sufficiency of abbreviations

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26. Idem

### PART III

#### COMMENCEMENT OF PROCEEDING BY INFORMATION

**22.**—(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information. Commencement of proceeding by information

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection 1 in respect of the same offence except with the consent of the Attorney General or his agent. Exception

**23.** Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before laying an information, serve the person with a summons in the prescribed form. Summons before information laid

**24.**—(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information. Information

(2) An information may be laid anywhere in Ontario. Idem

**25.**—(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and, Procedure on laying of information

(a) where he considers that a case for so doing is made out,

- (i) confirm the summons served under section 23, if any,
  - (ii) issue a summons in the prescribed form, or
  - (iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or
- (b) where he considers that a case for issuing process is not made out,
- (i) so endorse the information, and
  - (ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or warrants in blank

(2) A justice shall not sign a summons or warrant in blank.

Counts

**26.**—(1) Each offence charged in an information shall be set out in a separate count.

Allegation of offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference to statutory provision

(3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

Idem

- (4) The statement referred to in subsection 2 may be,
- (a) in popular language without technical averments or allegations of matters that are not essential to be proved;
  - (b) in the words of the enactment that describes the offence; or
  - (c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.



(5) Any number of counts for any number of offences may be joined in the same information. More than one count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to. Particulars of count

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that, Sufficiency

- (a) it does not name the person affected by the offence or intended or attempted to be affected;
- (b) it does not name the person who owns or has a special property or interest in property mentioned in the count;
- (c) it charges an intent in relation to another person without naming or describing the other person;
- (d) it does not set out any writing that is the subject of the charge;
- (e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;
- (f) it does not specify the means by which the alleged offence was committed;
- (g) it does not name or describe with precision any person, place or thing; or
- (h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

(8) A count is not objectionable for the reason only that, Idem

- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(b) it is double or multifarious.

Need to  
negative  
exception.  
etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information.

Summons

**27.**—(1) A summons issued under section 23 or 25 shall,

- (a) be directed to the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service  
outside  
Ontario

(3) Notwithstanding subsection 2, where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service  
on  
corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

- (a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or
- (b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Substi-  
tutional  
service

(5) A justice, upon application and upon being satisfied that service can not be made effectively on a corporation

in accordance with subsection 4, may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation.

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. Proof of service

**28.—**(1) A warrant issued under section 25 shall, Contents of warrant

- (a) name or describe the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. Idem

## PART IV

### TRIAL AND SENTENCING

#### *Trial*

**29.** This Part applies to proceedings commenced under this Act. Application of Part

**30.—**(1) Subject to subsection 2, a proceeding in respect of an offence shall be heard and determined in the provincial offences court in whose territorial jurisdiction the offence occurred. Proper court

(2) A proceeding in respect of an offence may be heard and determined in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if, Idem

- (a) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and
- (b) the court and place of sitting referred to in clause *a* are named in the summons or offence notice.

(3) Where a proceeding is taken in a court other than one referred to in subsection 1 or 2, the court shall order that the proceeding be transferred to the proper court and may where the defendant appears award costs under section 61. Transfer to proper court

Change of  
venue

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that,

(a) it would be appropriate in the interests of justice to do so; or

(b) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

Conditions

(5) The court may, in an order made upon an application by the prosecutor under subsection 3 or 4, prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue.

Time of  
order for  
change of  
venue

(6) An order under subsection 3 or 4 may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard.

Preliminary  
motions

(7) The court to which proceedings are transferred under this section may receive and determine any motion preliminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of  
papers

(8) Where an order is made under subsection 3 or 4, the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Justice  
presiding  
at trial

**31.—(1)** The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When  
presiding  
justice  
unable to  
act before  
adjudica-  
tion

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When  
presiding  
justice  
unable to  
act after  
adjudica-  
tion

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences

courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection 2 applies as if the justice were unable to act.

Consent to  
change  
presiding  
justice

**32.** The court retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with.

Retention  
of juris-  
diction

**33.—(1)** In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction in court to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated.

Stay of  
proceeding

(2) A proceeding stayed under subsection 1 may be recommenced by direction of the Attorney General, the Deputy Attorney General or a Crown attorney to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced,

Recommence-  
ment

(a) later than one year after the stay; or

(b) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the recommencement,

whichever is the earlier.

**34.—(1)** A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that,

Dividing  
counts

(a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or

(b) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

**Idem** (2) Upon an application under subsection 2, where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

**Amendment of information or certificate** **35.**—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate,

- (a) fails to state or states defectively anything that is requisite to charge the offence;
- (b) does not negative an exception that should be negatived; or
- (c) is in any way defective in substance or in form.

**Idem** (2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial.

**Variances between charge and evidence** (3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

- (a) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or
- (b) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

**Considerations on amendment** (4) The court shall, in considering whether or not an amendment should be made, consider,

- (a) the evidence taken on the trial, if any;
- (b) the circumstances of the case;
- (c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and
- (d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

(5) The question whether an order to amend an information or certificate should be granted or refused is a question of law. Amendment. question of law

(6) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended. Endorsement of order to amend

**36.** The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. Particulars

**37.**—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion to quash information or certificate

(2) The court shall not quash an information or certificate unless an amendment or particulars under section 34, 35 or 36 would fail to satisfy the ends of justice. Grounds for quashing

**38.** Where the information or certificate is amended or particulars are ordered and an adjournment is necessary as a result thereof, the court may make an order under section 61 for costs resulting from the adjournment. Costs on amendment or particulars

**39.**—(1) The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together. Joinder of counts or defendants

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. Separate trials

**40.**—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

Attend-  
ance

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings.

Remaining  
in  
attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice.

Arrest of  
witness

41.—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and,

(a) will not attend if a subpoena is served; or

(b) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

Idem

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established,

(a) that the subpoena has been served; and

(b) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing  
before  
justice

(3) The police officer who arrests a person under a warrant issued under subsection 1 or 2 shall immediately take the person before a justice.

Release on  
recogniz-  
ance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing  
before  
judge

(5) Where a proceeding under subsection 4 is before a justice of the peace and the person is not released, the justice of the peace shall cause the person to be brought before a judge within two days of his decision.



(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection 11.

Detention

(7) Where the judge does not make an order under subsection 6, he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Release on  
recogniz-  
ance

(8) A person who is ordered to be detained in custody under subsection 6 or is not released in fact under subsection 7 shall not be detained in custody for a period longer than ten days.

Maximum  
imprison-  
ment

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified.

Release  
when no  
longer  
required

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and,

Arrest on  
breach of  
recogniz-  
ance

(a) where he is brought directly before the court, subsections 6 and 7 apply; and

(b) where he is not brought directly before the court, subsections 3 to 7 apply.

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 44, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness.

Commission  
evidence of  
witness in  
custody

**42.—(1)** Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied, upon evidence under oath orally or by affidavit, that his attendance is necessary to satisfy the ends of justice, the judge may issue an order in the prescribed form that the person be brought before the court before which his attendance is required, from day to day, as may be necessary.

Order for  
person in  
a prison  
to attend

**Idem** (2) An order under subsection 1 shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall,

(a) deliver the prisoner to the police officer or other person who is named in the order to receive him; or

(b) bring the prisoner before the court upon payment of his reasonable charges in respect thereof.

**Idem** (3) An order made under subsection 1 shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought.

**Penalty for failure to attend**

**43.**—(1) Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than thirty days, or to both.

**Proof of failure to attend**

(2) In a proceeding under subsection 1, a certificate of the clerk or a justice of the court before which the defendant is alleged to have failed to attend stating that the defendant failed to attend is admissible in evidence as *prima facie* proof of the fact without proof of the signature or office of the person appearing to have signed the certificate.

**Order for evidence by commissioner**

**44.**—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause.

**Admission of commissioner evidence**

(2) Evidence taken by a commissioner appointed under subsection 1 may be read in evidence in the proceeding if,

(a) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection 1;

(b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and

(c) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the party had full opportunity to cross-examine the witness.

(3) An order under subsection 1 may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section. Attendance  
of accused

(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court. Application  
of rules  
in civil  
cases

**45.**—(1) Where at any time before a defendant is sentenced a court has reason to believe, based on, Trial of  
issue as to  
capacity to  
conduct  
defence

(a) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner; or

(b) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court may,

(c) where the justice presiding is a judge, by order suspend the proceedings and direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence; or

(d) where the justice presiding is a justice of the peace, refer the matter to a judge who may make an order referred to in clause c.

(2) For the purposes of subsection 1, the court may order the defendant to attend to be examined under subsection 5. Examination

(3) The trial of the issue shall be presided over by a judge and, Finding

(a) where he finds that the defendant is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended;

(b) where he finds that the defendant is able to conduct his defence, he shall order that the suspended proceeding be continued.

Application  
for  
rehearing  
as to  
capacity

(4) At any time within one year after an order is made under subsection 3, either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for  
examination

(5) For the purposes of subsection 1 or a hearing or rehearing under subsection 3 or 4, the court or judge may order the defendant to attend at such place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem

(6) Where the defendant fails or refuses to comply with an order under subsection 5 without reasonable excuse or where the person conducting the examination satisfies a judge that it is necessary to do so, the judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and in any event for not longer than seven days and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility.

Limitation  
on  
suspension  
of  
proceeding

(7) Where an order is made under subsection 3 and one year has elapsed and no further order is made under subsection 4, no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance.

Taking of  
plea

**46.**—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein.

Conviction  
on plea of  
guilty

(2) Where the defendant pleads guilty, the court may accept the plea and convict him.

Refusal  
to plead

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty.

(4) Where the defendant pleads not guilty of the offence charged but guilty of any other offence, whether or not it is an included offence, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty.

Plea of guilty to another offence

**47.**—(1) Subject to section 6, where the defendant pleads not guilty, the court shall hold the trial.

Trial on plea of not guilty

(2) The defendant is entitled to make his full answer and defence.

Right to defend

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses.

Right to examine witnesses

(4) The court may receive and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence.

Agreed facts

(5) Notwithstanding section 8 of *The Evidence Act*, the defendant is not a compellable witness for the prosecution.

Defendant not compellable  
R.S.O. 1970,  
c. 151

**48.**—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties.

Evidence taken on another charge

(2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case.

Certificate as evidence

(3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information.

Burden of proving exception, etc.

**49.**—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation.

Exhibits

Release of exhibits

(2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party tendering it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal.

Adjournments

**50.**—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.

Early resumption

(2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor.

Appearance by defendant

**51.**—(1) A defendant may appear and act personally or by counsel or agent.

Appearance by corporation

(2) A defendant that is a corporation shall appear and act by counsel or agent.

Exclusion of agents

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent.

Compelling attendance of defendant

**52.** Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form.

Excluding defendant from hearing

**53.**—(1) The court may cause the defendant to be removed and to be kept out of court,

(a) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or

(b) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so, Excluding public from hearing

- (a) for the maintenance of order in the courtroom;
- (b) to protect the reputation of a minor; or
- (c) to remove an influence that might affect the testimony of a witness.

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. Prohibition of publication of evidence

**54.**—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to another time upon such terms as it considers proper. Failure of prosecutor to appear

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection 1, the court may dismiss the charge. Idem

(3) Where a hearing is adjourned under subsection 1 or a charge is dismissed under subsection 2, the court may make an order under section 61 for the payment of costs. Costs

(4) Where a charge is dismissed under subsection 1 or 2, the court may, if requested by the defendant, draw up an order of dismissal stating the grounds therefor and shall give the defendant a certified copy of the order of dismissal which is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. Written order of dismissal

**55.**—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved by the prosecutor, having been given a reasonable opportunity to do so, that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court, Ex parte conviction

- (a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;

- (b) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or
- (c) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause *a* or *b*.

Where  
convicted  
*ex parte*

(2) Where, the court proceeds under clause *a* of subsection 1, no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent.

Included  
offences

**56.** Where the commission of the offence charged includes the commission of another offence, the defendant may be convicted of an offence so included that is proved, notwithstanding that the whole offence charged is not proved.

### *Sentencing*

Pre-sentence  
report

**57.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection 1, the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor.

Submissions  
as to  
sentence

**58.**—(1) Where a defendant who appears is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Omission  
to comply

(2) The omission to comply with subsection 1 does not affect the validity of the proceeding.

Inquiries  
by court

(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.



(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by, Proof of previous conviction

(a) the person who made the adjudication; or

(b) the clerk of the court in which the adjudication was made,

is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

**59.** In determining the sentence to be imposed on a person convicted of an offence, the justice may take into account any time spent in custody by the person as a result of the offence. Time spent in custody considered

**60.**—(1) No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum. Provision for minimum penalty

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may impose a fine that is less than the minimum or suspend the sentence. Relief against minimum fine

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than \$2,000 in lieu of imprisonment. Idem, re imprisonment

**61.**—(1) Upon conviction, the defendant is liable to pay to the court an amount by way of costs that is fixed by the regulations. Fixed costs on conviction

(2) The court may, in its discretion, order costs towards fees and expenses reasonably incurred by or on behalf of witnesses in amounts not exceeding the maximum fixed by the regulations, to be paid, Costs respecting witnesses

(a) to the court or prosecutor by the defendant; or

(b) to the defendant by the person who laid the information or issued the certificate, as the case may be,

but where the proceeding is commenced by means of a certificate, the total of such costs shall not exceed \$100.

Costs collectable as a fine

(3) Costs payable under this section shall be deemed to be a fine for the purpose of enforcing payment.

General penalty

**62.**—(1) Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Amendment of subs. 1

(2) Subsection 1 is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the third and fourth lines.

Effective date of amendment

(3) Subsection 2 does not come into force until the 1st day of January, 1981.

Minute of conviction

**63.** Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request.

Time when imprisonment starts

**64.**—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem

(2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing.

Sentences consecutive

**65.** Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment.

Authority of warrant

**66.**—(1) A warrant of committal is sufficient authority,

(a) for the conveyance of the prisoner in custody for the purpose of committal under the warrant; and

(b) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

(2) A person to whom a warrant of committal is directed shall convey the prisoner to the correctional institution named in the warrant. Conveyance of prisoner

(3) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced. Prisoner subject to rules of institution

**67.**—(1) A fine becomes due and payable fifteen days after its imposition. When fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine. Extension of time for payment of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer. Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise. Granting of extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection 6. Notice where convicted in absentia

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections 3 and 4. Further application for extension

**68.** The Lieutenant Governor in Council may make regulations establishing a program to permit the payment of fines by means of credits for work performed, and, for the purpose and without restricting the generality of the foregoing may, Regulation for work credits for fines

- (a) prescribe classes of work and the conditions under which they are to be performed;
- (b) prescribe a system of credits;
- (c) provide for any matter necessary for the effective administration of the program,

and any regulation may limit its application to any part or parts of Ontario.

Civil  
enforcement  
of fines

**69.**—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Limitation

(2) A certificate shall not be filed under subsection 1 after two years after the default in respect of which it is issued.

Certificate of  
discharge

(3) Where a certificate has been filed under subsection 1 and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged and, where a writ of execution has been filed with the sheriff, the clerk shall file a certificate of payment with the sheriff, upon which the writ is cancelled.

Default

**70.**—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

Order on  
default

(2) Where a justice is satisfied that payment of a fine is in default, the justice,

- (a) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued until the fine is paid; and
- (b) may direct the clerk of the court to proceed with civil enforcement under section 69.

Imprison-  
ment for  
non-payment  
of fine

(3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

- (a) an order or direction under clause *a* of subsection 2 has not resulted in payment within a time that is reasonable in the circumstances;

(b) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and

(c) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

(4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection 3 would defeat the ends of justice, the court may, Provision on conviction for imprisonment in default

(a) order that no warrant of committal be issued under subsection 3; or

(b) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

(5) Imprisonment under a warrant issued under subsection 3 or 4 shall be for three days, plus one day for each \$25 or part thereof that is in default, subject to a maximum period of, Term of imprisonment

(a) ninety days; or

(b) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

(6) Any payment made after a warrant is issued under subsection 3 or 4 shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the total fine and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof. Effect of payments

**71.** Where an Act provides that a fine may be suspended subject to the performance of a condition, Suspension of fine on conditions

(a) the period of suspension shall be fixed by the court and shall be for not more than one year;

(b) the court shall provide in its order of suspension the method of proving the performance of the condition;

- (c) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and
- (d) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant.

Probation  
order

**72.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

- (a) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;
- (b) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or
- (c) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory  
conditions  
of order

(2) A probation order shall be deemed to contain the conditions that,

- (a) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;
- (b) the defendant appear before the court as and when required; and
- (c) the defendant notify the court of any change in his address.

Conditions  
imposed  
by court

(3) In addition to the conditions set out in subsection 2, the court may prescribe the following conditions in a probation order,

- (a) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;
- (b) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment that the defendant perform a community service as set out in the order;
- (c) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or
- (d) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than two years from the date when the order takes effect.

Form of order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 75 to be given to the defendant.

Notice of order

(6) The Lieutenant Governor in Council may make regulations governing restitution, compensation and community service orders, including their terms and conditions.

Regulations for community service orders

**73.**—(1) A probation order comes into force,

When order comes into force

- (a) on the date on which the order is made; or
- (b) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

(2) Subject to section 75, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment

Continuation in force

renders it impossible for the defendant to comply for the time being with the order.

Variation of  
probation  
order

**74.** The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

- (a) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;
- (b) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 3 of section 72 that is prescribed in the order; or
- (c) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed.

Breach of  
probation  
order

**75.** Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,



- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or
- (e) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause *d*, revoke the probation order and impose the sentence the passing of which was suspended upon the making of the probation order.

## PART V

### GENERAL PROVISIONS

**76.**—(1) Proceedings shall not be commenced after the expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed. Limitation

(2) A limitation period may be extended by a justice with the consent of the defendant. Extension

**77.**—(1) Every person is a party to an offence who, Parties to offence

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence. Common purpose

**78.**—(1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured. Counselling

- Idem** (2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.
- Computation of age** **79.** In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance.
- Common law defences** **80.** Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act.
- Ignorance of the law** **81.** Ignorance of the law by a person who commits an offence is not an excuse for committing the offence.
- Counsel or agent** **82.** A defendant may act by his counsel or agent.
- Recording of evidence** **83.**—(1) Proceedings in which evidence is taken shall be recorded.
- Evidence under oath** (2) Evidence under this Act shall be taken under oath, except as otherwise provided by law.
- Interpreters** **84.**—(1) A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.
- Idem** (2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available.
- Extension of time** **85.** Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing or recommencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired.
- Penalty for false statements** **86.** Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

**87.**—(1) Except as otherwise provided by this Act or the rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered, whether personally or by mail. Delivery

(2) Where a notice or document that is required or authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is delivered to the person. Idem

**88.** No civil remedy for an act or omission is suspended or affected for the reason that the act or omission is an offence. Civil remedies preserved

**89.** Any action authorized or required by this Act is not invalid for the reason only that the action was taken on a non-judicial day. Process on holidays

**90.**—(1) The validity of any proceeding is not affected by, Irregularities in form

- (a) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or
- (b) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

(2) Where it appears to the court that the defendant has been misled by any irregularity, defect or variance mentioned in subsection 1, the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 61 for the payment of costs. Adjournment to meet irregularities

**91.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 2 of section 150 of *The Highway Traffic Act* for the purpose of proceedings under this Act;

- (c) providing for the extension of times prescribed by or under this Act or the rules in the event of a disruption in postal services ;
- (d) requiring the payment of fees upon the filing of anything required or permitted to be filed under this Act or the rules and fixing the amounts thereof, and providing for the waiver of the payment of a fee by a justice, or by a judge under Part VI, in such circumstances and under such conditions as are set out in the regulations ;
- (e) fixing costs payable upon conviction and referred to in subsection 1 of section 61 ;
- (f) fixing the items in respect of which costs may be awarded under subsection 2 of section 61 and prescribing the maximum amounts that may be awarded in respect of each item.

## PART VI

### APPEALS AND REVIEW

Interpre-  
tation

**92.**—(1) In this Part,

- (a) “counsel” when used in respect of proceedings in a provincial court (criminal division) includes an agent ;
- (b) “court” means the court to which an appeal is or may be taken under this Part ;
- (c) “judge” means a judge of the court to which an appeal is or may be taken under this Part ;
- (d) “rules” means the rules made under section 123 ;
- (e) “sentence” includes any order or disposition consequent upon a conviction and an order as to costs.

References  
to Court  
of Appeal  
R.S.O. 1970,  
c. 228

(2) In this Part, a reference to the Court of Appeal means the Court of Appeal notwithstanding subsection 2 of section 17 of *The Judicature Act*.

### APPEALS UNDER PART III

Appeal

**93.**—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the

Attorney General by way of intervention may appeal from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence.

(2) An appeal under subsection 1 shall be,

Appeal court

(a) where the appeal is from the decision of a justice of the peace, to the provincial court (criminal division) of the county or district in which the adjudication was made; or

(b) where the appeal is from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

(3) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules.

Notice of appeal

**94.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134.

Custody pending appeal

**95.**—(1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from.

Payment of fine before appeal

(2) A judge may waive compliance with subsection 1 and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs.

Exception with recognizance

**96.** The filing of a notice of appeal does not stay the conviction unless a judge so orders.

Stay

**97.**—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a judge to fix a date for the hearing of the appeal.

Fixing of date where appellant in custody

(2) Upon receiving an application under subsection 1, the judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal.

Idem

**98.** A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction.

Payment of fine not waiver

Transmittal  
of material

**99.** Where a notice of appeal has been filed, the clerk of the appeal court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the appeal court to be kept with the records of the appeal court.

Powers  
of court

**100.**—(1) The court may, where it considers it to be in the interests of justice,

- (a) order the production of any writing, exhibit or other thing relevant to the appeal;
- (b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,
  - (i) to attend and be examined before the court, or
  - (ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;
- (c) admit, as evidence, an examination that is taken under subclause ii of clause b;
- (d) receive the evidence, if tendered, of any witness;
- (e) order that any question arising on the appeal that,
  - (i) involves prolonged examination of writings or accounts, or scientific investigation, and
  - (ii) cannot in the opinion of the court conveniently be inquired into before the court,
 be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and
- (f) act upon the report of a commissioner who is appointed under clause e in so far as the court thinks fit to do so.

Right of  
appellant

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses

and, in an inquiry under clause *e* of subsection 1, are entitled to be present during the inquiry and to adduce evidence and to be heard.

**101.**—(1) An appellant may appear and act personally or by counsel. Right to counsel

(2) An appellant who is in custody as a result of the decision appealed from is entitled to be present at the hearing of the appeal. Attendance while in custody

(3) The power of a court to impose sentence may be exercised notwithstanding that the appellant is not present. Sentencing in absence

**102.** An appellant may present his case on appeal and his argument in writing instead of orally, and the court shall consider any case or argument so presented. Written argument

**103.**—(1) On the hearing of an appeal against a conviction or against a finding as to the ability, because of mental disorder, to conduct a defence, the court by order, Powers on appeal against conviction

(a) may allow the appeal where it is of the opinion that,

- (i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,
- (ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or
- (iii) on any ground, there was a miscarriage of justice; or

(b) may dismiss the appeal where,

- (i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,
- (ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause a, or

(iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause ii of clause *a* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred.

**Idem** (2) Where the court allows an appeal under clause *a* of subsection 1, it shall,

(a) where the appeal is from a conviction,

(i) direct a finding of acquittal to be entered, or

(ii) order a new trial; or

(b) where the appeal is from a finding as to the ability, because of mental disorder, to conduct a defence, order a new trial, subject to section 45.

**Idem** (3) Where the court dismisses an appeal under clause *b* of subsection 1, it may substitute the decision that in its opinion should have been made and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

**Powers  
on appeal  
against  
acquittal**

**104.** Where an appeal is from an acquittal, the court may by order,

(a) dismiss the appeal; or

(b) allow the appeal, set aside the finding and,

(i) order a new trial, or

(ii) enter a finding of guilt with respect to the offence of which, in its opinion, the appellant should have been found guilty, and pass a sentence that is warranted in law.

**Appeal  
against  
sentence**

**105.**—(1) Where an appeal is taken against sentence, the court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

(a) dismiss the appeal; or

(b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,



and, in making any order under clause *b*, the court may take into account any time spent in custody by the defendant as a result of the offence.

(2) A judgment of a court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court. Variance of sentence

**106.** Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence. One sentence on more than one count

**107.**—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant. Appeal based on defect in information or process

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect. Idem

**108.** Where a court exercises any of the powers conferred by sections 100 to 107, it may make any order, in addition, that justice requires. Additional orders

**109.**—(1) Where a court orders a new trial, it shall be held in a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance unless the appeal court directs that the new trial be held before the justice who tried the defendant in the first instance. New trial

(2) Where a court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 2 of section 134 and the order may be enforced in the same manner as if it had been made by a justice under that subsection. Order for release

**110.**—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the court, the court may order that the appeal Trial de novo

shall be heard by way of a new trial in the court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

## Evidence

(2) The court may, for the purpose of hearing and determining an appeal under subsection 1, permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

- (a) the appellant and respondent consent;
- (b) the court is satisfied that the attendance of the witness cannot reasonably be obtained; or
- (c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the court.

## Dismissal or abandonment

**111.** The court may, upon proof that notice of an appeal has been given and that,

- (a) the appellant has failed to comply with any order made under section 94 or 95 or with the conditions of any recognizance entered into under either of those sections; or
- (b) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed.

## Costs

**112.—(1)** Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the court may make any order with respect to costs that it considers just and reasonable.

## Payment

(2) Where the court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the trial court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

## Enforcement

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall

be deemed to be a fine for the purpose of enforcing its payment.

**113.** An order or judgment of the appeal court shall be implemented or enforced by the trial court and the clerk of the appeal court shall send to the clerk of the trial court the order and all writings relating thereto. Implementation of appeal court order

**114.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone or as to sentence in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

**115.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134. Custody pending appeal

**116.** Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the court appealed from of the application and, upon receipt of the notification, the clerk of the court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal. Transfer of record

**117.** Sections 98, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109, clause *b* of section 111 and section 112 apply, with necessary modifications, to appeals to the Court of Appeal under section 114. Application of ss. 98, 100-109, 111 (b), 112

#### APPEALS UNDER PARTS I AND II

**118.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made. Appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division) Application for appeal

within fifteen days after the making of the decision appealed from, in accordance with the rules.

Notice of hearing

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal.

Conduct of appeal

**119.**—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Review

(2) An appeal shall be conducted by means of a review in the provincial court (criminal division) of the county or district in which the adjudication was made.

Evidence

(3) In determining a review, the court may,

- (a) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;
- (b) receive the evidence of any witness whether or not the witness gave evidence at the trial;
- (c) require the justice presiding at the trial to report in writing on any matter specified in the request; or
- (d) receive and act upon statements of agreed facts or admissions.

Dismissal on abandonment

**120.** Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed.

Powers of court on appeal

**121.**—(1) Upon an appeal, the court may affirm, reverse or vary the decision appealed from or where, in the opinion of the court, it is necessary to do so to satisfy the ends of justice, direct a new trial.

New trial

(2) Where the court directs a new trial, it shall be held in the provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance, but the appeal court may, with the consent of the parties to the appeal, direct that the new trial be held before the justice who tried the defendant in the first instance or before the judge who directs the new trial.

(3) Upon an appeal, the court may make an order under section 61 for the payment of costs incurred on the appeal, and subsection 3 thereof applies to the order in the same manner as to an order of a provincial offences court. Costs

**122.**—(1) An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

(3) Upon an appeal under this section, the Court of Appeal may make any order with respect to costs that it considers just and reasonable. Costs

#### RULES FOR APPEALS

**123.** The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the provincial courts (criminal division), the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals. Rules of court for appeals

#### REVIEW

**124.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*. Application for relief in nature of mandamus, prohibition, certiorari

(2) Notice of an application under this section shall be served on, Notice of application

(a) the person whose act or omission gives rise to the application;

(b) any person who is a party to a proceeding that gives rise to the application; and

(c) the Attorney General.

Appeal (3) An appeal lies to the Court of Appeal from an order made under this section.

Notice re *certiorari* **125.**—(1) A notice under section 124 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed.

Filing material (2) Where a notice referred to in subsection 1 is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application.

Where appeal available (3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise.

Substantial wrong (4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper.

Order for immunity from civil liability (5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it.

Application for *habeas corpus* **126.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*.

Procedure on application for relief in nature of *habeas corpus* (2) Notice of an application under subsection 1 for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the

hearing of the application the presence before the High Court of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

(3) Subject to subsections 1 and 2, *The Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section. Application of R.S.O. 1970, c. 197

(4) *The Judicial Review Procedure Act, 1971* and sections 69 and 70 of *The Judicature Act* do not apply to matters in respect of which an application may be made under section 124. 1971, c. 48 and R.S.O. 1970, c. 228, ss. 69, 70 do not apply

(5) A court to which an application or appeal is made under section 124 or this section may make any order with respect to costs that it considers just and reasonable. Costs

## PART VII

### ARREST, BAIL AND SEARCH WARRANTS

#### *Arrest*

**127.** In this Part, "officer in charge" means the police officer who is in charge of the lock-up or other place to which a person is taken after his arrest. Officer in charge

**128.**—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario. Execution of warrant

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario. Idem

**129.** Any person may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and, where the person who makes the arrest is not a police officer, shall forthwith deliver the person arrested to a police officer. Arrest without warrant

**130.**—(1) Every police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what he is required or authorized by law to do. Use of force

Use of force  
by citizen

(2) Every person upon whom a police officer calls for assistance is justified in using as much force as he believes on reasonable and probable grounds is necessary to render such assistance.

Immunity  
from civil  
liability

**131.** Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

- (a) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;
- (b) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or
- (c) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made.

Production  
of process

**132.—**(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice of  
reason for  
arrest

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest.

### *Bail*

Release  
after  
arrest  
by  
officer

**133.—**(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons or offence notice unless he has reasonable and probable grounds to believe that,

- (a) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,
  - (i) establish the identity of the person,
  - (ii) secure or preserve evidence of or relating to the offence, or



(iii) prevent the continuation or repetition of the offence or the commission of another offence; or

(b) the person arrested is ordinarily resident outside Ontario and will not respond to a summons or offence notice.

(2) Where a defendant is not released from custody under subsection 1, the police officer shall deliver him to the officer in charge who shall, where in his opinion the conditions set out in clauses *a* and *b* of subsection 1 do not or no longer exist, release the defendant, Release by officer in charge

(a) upon serving him with a summons or offence notice;

(b) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario and it is believed that he will not respond to a summons or offence notice, the officer in charge may, in addition to anything required under subsection 2, require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed, Cash bail by non-resident

(a) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300; or

(b) where the proceeding is commenced by information under Part III, \$500.

**134.**—(1) Where a defendant is not released from custody under section 133, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection 2 is justified for the same purpose. Person in custody to be brought before justice

(2) Subject to subsection 1, the justice may order the release of the defendant, Order for conditional release

- (a) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;
- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court or, with the consent of the prosecutor, upon his depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
- (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300, or
- (ii) where the proceeding is commenced by information under Part III, \$1,000; or
- (c) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
- (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, \$300, or
- (ii) where the proceeding is commenced by information under Part III, \$1,000.

Idem

(3) The justice shall not make an order under clause *b* or *c* of subsection 2 unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

Order for  
detention

(4) Where the prosecutor shows cause why the detention of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

Reasons

(5) The justice shall include in the record a statement of his reasons for his decision under subsection 1, 2 or 4.

Evidence  
at  
hearing

(6) In a proceeding under subsection 1, the justice may receive and base his decision upon information he considers

credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

(7) A proceeding under subsection 1 shall not be adjourned for more than three days without the consent of the defendant.

Adjournments

**135.**—(1) Where a defendant is not released from custody under section 133 or 134, he shall be brought before the court forthwith and, in any event, within eight days.

Expediting trial of person in custody

(2) The justice presiding upon any appearance of the defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 134 and make such further or other order under section 134 as to him seems appropriate in the circumstances.

Further orders

**136.** A defendant or the prosecutor may appeal from an order or refusal to make an order under section 134 or 135 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 123.

Appeal

**137.**—(1) A person who is released upon deposit under subsection 3 of section 133 or clause c of subsection 2 of section 134 may appoint the clerk of the court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the amount so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee.

Appointment of agent for appearance

(2) An officer in charge or justice who takes a recognizance, money or security under section 133 or 134 shall make a return thereof to the court where the defendant is required to appear.

Returns to court

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance and return the surplus, if any.

Returns to sureties

**138.**—(1) The recognizance of a person to appear in a proceeding binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the proceeding is adjourned.

Recognizance binds for all appearances

Recognizance binds independently of other charges (2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability of principal (3) The principal to a recognizance is bound for the amount of the recognizance due upon forfeiture.

Liability where sureties (4) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture for non-appearance.

Application by surety to be relieved **139.**—(1) A surety to a recognizance may, by application in writing to the court at which the defendant is required to appear, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate of arrest (2) When a police officer arrests the defendant under a warrant issued under subsection 1, he shall bring the defendant before a justice under section 134 and certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of recognizance (3) The receipt of the certificate by the court under subsection 2 vacates the recognizance and discharges the sureties.

Delivery of defendant by surety **140.** A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant.

Certificate of default **141.**—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out,

- (a) the nature of the default;
- (b) the reason for the default, if it is known;
- (c) whether the ends of justice have been defeated or delayed by reason of the default; and
- (d) the names and addresses of the principal and sureties.

Certificate as evidence (2) A certificate that has been endorsed on a recognizance under subsection 1 is evidence of the default to which it relates.

(3) The clerk of the court shall transmit the endorsed recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance. Application  
for  
forfeiture

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and, where the application is for forfeiture for non-appearance, each surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited. Notice of  
hearing

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper. Order as to  
forfeiture

(6) Where an order for forfeiture is made under subsection 5, Collection  
on  
forfeiture

- (a) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and
- (b) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court.

### *Search Warrants*

**142.**—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place, Search  
warrant

- (a) anything upon or in respect of which an offence has been or is suspected to have been committed; or
- (b) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named

therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

**Expiration** (2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

**When to be executed** (3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes.

**Detention of things seized** **143.**—(1) Where any thing is seized and brought before a justice, he shall by order,

(a) detain it or direct it to be detained in the care of a person named in the order; or

(b) direct it to be returned,

and the justice may in the order authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

**Time limit for detention** (2) Nothing shall be detained under an order made under subsection 1 for a period of more than three months after the time of seizure unless, before the expiration of that period,

(a) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or

(b) proceedings are instituted in which the thing detained may be required.

**Application for examination and copying** (3) Upon the application of the defendant, prosecutor or person having an interest in a thing detained under subsection 1, a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

**Application for release** (4) Upon the application of a person having an interest in a thing detained under subsection 1, and upon notice to the

defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

(5) Where an order or refusal to make an order under subsection 3 or 4 is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate. Appeal where order by justice of the peace

**144.**—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document, Examination or seizure of documents where privilege claimed

- (a) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and
- (b) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.

(2) No person shall examine or seize a document that is in the possession of a lawyer without giving him a reasonable opportunity to claim the privilege under subsection 1. Opportunity to claim privilege

(3) A judge may, upon the *ex parte* application of the lawyer, by order authorize the lawyer to examine or make a copy of the document in the presence of its custodian or the judge, and the order shall contain such provisions as are necessary to ensure that the document is repackaged and resealed without alteration or damage. Examination of documents in custody

(4) Where a document has been seized and placed in custody under subsection 1, the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document. Application to determine privilege

(5) An application under subsection 4 shall be by notice of motion returnable not later than thirty days after the date on which the document was placed in custody. Limitation

Attorney  
General  
a party

(6) The person who seized the document and the Attorney General are parties to an application under subsection 4 and entitled to at least three days notice thereof.

Private  
hearing and  
scrutiny by  
judge

(7) An application under subsection 4 shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(8) The judge may, by order,

(a) declare that the solicitor-client privilege exists or does not exist in respect of the document;

(b) direct that the document be delivered up to the appropriate person.

Release of  
document  
where no  
application  
under subs. 4

(9) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection 4 within the time limit prescribed by subsection 5, the judge shall order that the document be delivered to the applicant.

## PART VIII

### ORDERS ON APPLICATION UNDER STATUTES

Orders  
under  
statutes

**145.** Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding in the same manner as to a proceeding commenced under Part III, and for the purpose,

(a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and

(b) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order.



## PART IX

## COMMENCEMENT AND TRANSITION

**146.**—(1) This Act, except Parts I and II, applies to offences in respect of which proceedings are commenced after this Act comes into force. Application

(2) Part I and Part II each applies to offences occurring after that Part comes into force. Idem

**147.**—(1) Subject to subsections 2 and 3, the following are repealed: Repeals

1. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970.
2. *The Summary Convictions Amendment Act, 1971*, being chapter 10.

(2) The enactments repealed by subsection 1 continue in force in respect of offences to which this Act does not apply. Transition

(3) If subsection 1 comes into force before Part II comes into force, the enactments repealed by subsection 1 continue to apply in respect of parking infractions. Application of subs. 1 to parking infractions

**148.**—(1) A reference in any Act, regulation or by-law to *The Summary Convictions Act* shall be deemed to be a reference to this Act. Reference to R.S.O. 1970, c. 450

(2) A reference in any Act, regulation or by-law to proceeding by summary conviction shall be deemed to refer to the procedures under this Act. References to summary conviction

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

**150.** The short title of this Act is *The Provincial Offences Act, 1979*. Short title





An Act to establish a Code of  
Procedure for Provincial Offences

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*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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

**BILL 74**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to establish a Code of Procedure for  
Provincial Offences**

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THE HON. R. MCMURTRY  
Attorney General

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## An Act to establish a Code of Procedure for Provincial Offences

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

### INTERPRETATION

1.—(1) In this Act,

Interpre-  
tation

- (a) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) "court" means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);
- (c) "judge" means a provincial judge;
- (d) "justice" means a provincial judge or a justice of the peace;
- (e) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) "police officer" means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;
- (g) "prescribed" means prescribed by the rules of the provincial offences courts;
- (h) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an information and includes counsel or agent acting on behalf of either of them;
- (i) "provincial offences officer" means a police officer or a person designated under subsection 2;

(j) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation  
of pro-  
vincial  
offences  
officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Purpose of  
Act

2.—(1) The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, including the provisions adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and criminal offences.

R.S.C. 1970,  
c. C-34

Interpre-  
tation

(2) Where, as an aid to the interpretation of provisions of this Act, recourse is had to the judicial interpretation of and practices under corresponding provisions of the *Criminal Code* (Canada), any variation in wording without change in substance shall not, in itself, be construed to intend a change of meaning.

## PART I

### COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate  
of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance  
and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

(a) an offence notice indicating the set fine for the offence;  
or

(b) a summons,

in the form prescribed under section 13.

Service

(3) The offence notice or summons shall be served personally upon the person charged within thirty days after the alleged offence occurred.

Signature

(4) Upon the service of an offence notice or summons, the person charged shall be requested to sign the certificate of offence, but the failure or refusal to sign as requested does not invalidate the certificate of offence or the service of the offence notice or summons.



(5) Where service is made by the provincial offences officer who issued the certificate of offence, he shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service. Certificate of service

(6) Where service is made by a person other than the provincial offences officer who issued the certificate of offence, he shall complete an affidavit of service in the prescribed form. Affidavit of service

(7) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it or an affidavit of service under subsection 6 shall be received in evidence and is proof of personal service in the absence of evidence to the contrary. Certificate as evidence

(8) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine, or receive the offence notice for delivery to the court. Officer not to act as agent

4. A certificate of offence shall be filed in the office of the court named therein as soon as is practicable after service of the offence notice or summons. Filing of certificate of offence

5.—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice. Dispute with trial

(2) Where an offence notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

6.—(1) Where an offence notice is served on a defendant whose address as shown on the certificate of offence is outside the territorial jurisdiction of the court specified in the notice, and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may do so by signifying his intention on the offence notice and delivering the offence notice to the office of the court specified in the notice together with a written dispute setting out with reasonable particularity his dispute and any facts upon which he relies. Dispute without appearance

(2) Where an offence notice is delivered under subsection 1, a justice shall, in the absence of the defendant, consider the dispute and, Disposition

(a) where the dispute raises an issue that may constitute a defence, direct a hearing; or

(b) where the dispute does not raise an issue that may constitute a defence, convict the defendant and impose the set fine.

**Hearing**

(3) Where the justice directs a hearing under subsection 2, the court shall hold the hearing and shall, in the absence of the defendant, consider the evidence in the light of the issues raised in the dispute, and acquit the defendant or convict the defendant and impose the set fine or such lesser fine as is permitted by law.

**Application of section**

(4) This section applies in such part or parts of Ontario as are prescribed by the regulations.

**Plea of guilty with representations**

7.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the time and place specified in the notice and may appear before a justice sitting in court for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law.

**Submissions under oath**

(2) The justice may require submissions under subsection 1 to be made under oath, orally or by affidavit.

**Payment out of court**

8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence notice and amount of the set fine to the office of the court specified in the notice.

**Conviction**

(2) Acceptance by the court office of payment under subsection 1 constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence.

**Failure to respond to offence notice**

9. Where at least fifteen days have elapsed after the defendant was served with the offence notice and the offence notice has not been delivered in accordance with section 6 or 8 and a plea of guilty has not been accepted under section 7, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of offence and,

- (a) where the certificate of offence is complete and regular on its face, he shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence; or
- (b) where the certificate of offence is not complete and regular on its face, he shall quash the proceeding.

**10.** A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person. Signature  
on plea

**11.**—(1) Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under section 5 or proceed under section 7. Reopening  
on failure  
of notice

(2) Where a conviction is struck out under subsection 1, the justice shall give the defendant a certificate of the fact in the prescribed form. Certificate  
of striking  
out  
conviction

**12.**—(1) Where the penalty prescribed for an offence includes a fine of more than \$300 or imprisonment and proceedings are taken under this Part, the provision for fine or imprisonment does not apply and in lieu thereof the offence is punishable by a fine of not more than the maximum fine prescribed for the offence or \$300, whichever is the lesser. Penalty

(2) Where a person is convicted of an offence in a proceeding initiated by an offence notice, Other  
consequences  
of conviction

- (a) a provision in or under any other Act that provides for an action or result following upon a conviction of an offence does not apply to the conviction, except,
  - (i) for the purpose of carrying out the sentence imposed,

R.S.O. 1970,  
c. 202

- (ii) for the purpose of recording and proving the conviction,
  - (iii) for the purposes of the demerit point system under *The Highway Traffic Act*, and
  - (iv) for the purposes of section 27 of *The Highway Traffic Act*; and
- (b) any thing seized in connection with the offence after the service of the offence notice is not liable to forfeiture.

Regulations

**13.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate an offence;
- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency of abbreviated wording

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26.

## PART II

### COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

Interpretation

**14.** In this Part, “parking infraction” means any unlawful parking, standing or stopping of a vehicle that constitutes an offence.

Date applicable to infractions under municipal by-laws

**15.**—(1) Subject to subsection 2, this Part does not apply in respect of parking infractions under by-laws of municipalities until a date two years after this Part comes into force.

(2) Subject to the approval of the Lieutenant Governor in Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions under by-laws in the municipality on a date earlier than the date determined under subsection 1. Idem

**16.**—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the alleged offence occurred. Certificate of parking infraction and notice

(2) A provincial offences officer who believes from his personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing, Issuance and notice

(a) a certificate of parking infraction certifying that a parking infraction has been committed; and

(b) a parking infraction notice indicating the set fine for the infraction,

in the form prescribed under section 21.

(3) The issuing provincial offences officer may serve the parking infraction notice on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place at the time of the alleged infraction, or delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction. Service of notice on owner

**17.**—(1) Where a parking infraction notice is served, the defendant may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the place specified in the notice. Dispute with trial

(2) Where a parking infraction notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

**18.** Where the defendant does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the place shown on the notice. Payment out of court

**19.**—(1) Where at least fifteen days have elapsed after the defendant was served with the parking infraction notice and the parking infraction notice has not been delivered in Failure to respond to parking infraction notice

accordance with subsection 1 of section 17, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of parking infraction and where the justice is satisfied,

- (a) that the certificate of parking infraction is complete and regular on its face;
- (b) where the defendant is liable as owner, that he is the owner; and
- (c) that payment has not been made under section 18,

the justice shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence.

Quashing  
proceeding

(2) Where the justice is not able to enter a conviction under subsection 1, he shall quash the proceeding.

Notice of  
fine

(3) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection 1 of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default.

Reopening  
on failure  
of notice

**20.** Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under subsection 2 of section 17 or accept a plea of guilty under section 18.

Regula-  
tions

**21.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause a of any word or expression to designate a parking infraction;

(c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression. Sufficiency of abbreviations

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26. Idem

### PART III

#### COMMENCEMENT OF PROCEEDING BY INFORMATION

**22.**—(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information. Commencement of proceeding by information

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection 1 in respect of the same offence except with the consent of the Attorney General or his agent. Exception

**23.** Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before laying an information, serve the person with a summons in the prescribed form. Summons before information laid

**24.**—(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information. Information

(2) An information may be laid anywhere in Ontario. Idem

**25.**—(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and, Procedure on laying of information

(a) where he considers that a case for so doing is made out,

- (i) confirm the summons served under section 23, if any,
- (ii) issue a summons in the prescribed form, or
- (iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or

(b) where he considers that a case for issuing process is not made out,

(i) so endorse the information, and

(ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or  
warrants  
in blank

(2) A justice shall not sign a summons or warrant in blank.

Counts

**26.**—(1) Each offence charged in an information shall be set out in a separate count.

Allegation  
of  
offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference  
to  
statutory  
provision

(3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

Idem

(4) The statement referred to in subsection 2 may be,

- (a) in popular language without technical averments or allegations of matters that are not essential to be proved;
- (b) in the words of the enactment that describes the offence; or
- (c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.



(5) Any number of counts for any number of offences may be joined in the same information. More than one count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to. Particulars of count

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that, Sufficiency

- (a) it does not name the person affected by the offence or intended or attempted to be affected;
- (b) it does not name the person who owns or has a special property or interest in property mentioned in the count;
- (c) it charges an intent in relation to another person without naming or describing the other person;
- (d) it does not set out any writing that is the subject of the charge;
- (e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;
- (f) it does not specify the means by which the alleged offence was committed;
- (g) it does not name or describe with precision any person, place or thing; or
- (h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

(8) A count is not objectionable for the reason only that, Idem

- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(b) it is double or multifarious.

Need to  
negative  
exception.  
etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information.

Summons

**27.**—(1) A summons issued under section 23 or 25 shall,

- (a) be directed to the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service  
outside  
Ontario

(3) Notwithstanding subsection 2, where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service  
on  
corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

- (a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or
- (b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Substi-  
tutional  
service

(5) A justice, upon application and upon being satisfied that service can not be made effectively on a corporation

in accordance with subsection 4, may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation.

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. Proof of service

**28.—**(1) A warrant issued under section 25 shall, Contents of warrant

- (a) name or describe the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. Idem

## PART IV

### TRIAL AND SENTENCING

#### *Trial*

**29.** This Part applies to proceedings commenced under this Act. Application of Part

**30.—**(1) Subject to subsection 2, a proceeding in respect of an offence shall be heard and determined in the provincial offences court in whose territorial jurisdiction the offence occurred. Proper court

(2) A proceeding in respect of an offence may be heard and determined in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if, Idem

- (a) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and
- (b) the court and place of sitting referred to in clause a are named in the summons or offence notice.

(3) Where a proceeding is taken in a court other than one referred to in subsection 1 or 2, the court shall order that the proceeding be transferred to the proper court and may where the defendant appears award costs under section 61. Transfer to proper court

Change of  
venue

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that,

(a) it would be appropriate in the interests of justice to do so; or

(b) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

Conditions

(5) The court may, in an order made upon an application by the prosecutor under subsection 3 or 4, prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue.

Time of  
order for  
change of  
venue

(6) An order under subsection 3 or 4 may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard.

Preliminary  
motions

(7) The court to which proceedings are transferred under this section may receive and determine any motion preliminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of  
papers

(8) Where an order is made under subsection 3 or 4, the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Justice  
presiding  
at trial

**31.**—(1) The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When  
presiding  
justice  
unable to  
act before  
adjudica-  
tion

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When  
presiding  
justice  
unable to  
act after  
adjudica-  
tion

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences

courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection 2 applies as if the justice were unable to act.

Consent to  
change  
presiding  
justice

**32.** The court retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with.

Retention  
of juris-  
diction

**33.—(1)** In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction in court to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated.

Stay of  
proceeding

(2) A proceeding stayed under subsection 1 may be recommenced by direction of the Attorney General, the Deputy Attorney General or a Crown attorney to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced,

Recommence-  
ment

(a) later than one year after the stay; or

(b) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the recommencement,

whichever is the earlier.

**34.—(1)** A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that,

Dividing  
counts

(a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or

(b) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

Idem

(2) Upon an application under subsection 2, where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

Amendment of information or certificate

**35.**—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate,

- (a) fails to state or states defectively anything that is requisite to charge the offence;
- (b) does not negative an exception that should be negatived; or
- (c) is in any way defective in substance or in form.

Idem

(2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial.

Variances between charge and evidence

(3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

- (a) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or
- (b) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

Considerations on amendment

(4) The court shall, in considering whether or not an amendment should be made, consider,

- (a) the evidence taken on the trial, if any;
- (b) the circumstances of the case;
- (c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and
- (d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

(5) The question whether an order to amend an information or certificate should be granted or refused is a question of law. Amendment. question of law

(6) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended. Endorsement of order to amend

**36.** The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. Particulars

**37.**—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion to quash information or certificate

(2) The court shall not quash an information or certificate unless an amendment or particulars under section 34, 35 or 36 would fail to satisfy the ends of justice. Grounds for quashing

**38.** Where the information or certificate is amended or particulars are ordered and an adjournment is necessary as a result thereof, the court may make an order under section 61 for costs resulting from the adjournment. Costs on amendment or particulars

**39.**—(1) The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together. Joinder of counts or defendants

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. Separate trials

**40.**—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

Attend-  
ance

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings.

Remaining  
in  
attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice.

Arrest of  
witness

41.—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and,

(a) will not attend if a subpoena is served; or

(b) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

Idem

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established,

(a) that the subpoena has been served; and

(b) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing  
before  
justice

(3) The police officer who arrests a person under a warrant issued under subsection 1 or 2 shall immediately take the person before a justice.

Release on  
recogniz-  
ance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing  
before  
judge

(5) Where a proceeding under subsection 4 is before a justice of the peace and the person is not released, the justice of the peace shall cause the person to be brought before a judge within two days of his decision.



(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection 11. Detention

(7) Where the judge does not make an order under subsection 6, he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance. Release on recognizance

(8) A person who is ordered to be detained in custody under subsection 6 or is not released in fact under subsection 7 shall not be detained in custody for a period longer than ten days. Maximum imprisonment

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified. Release when no longer required

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and, Arrest on breach of recognizance

(a) where he is brought directly before the court, subsections 6 and 7 apply; and

(b) where he is not brought directly before the court, subsections 3 to 7 apply.

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 44, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness. Commissioner evidence of witness in custody

**42.—**(1) Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied, upon evidence under oath orally or by affidavit, that his attendance is necessary to satisfy the ends of justice, the judge may issue an order in the prescribed form that the person be brought before the court before which his attendance is required, from day to day, as may be necessary. Order for person in a prison to attend

**Idem** (2) An order under subsection 1 shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall,

- (a) deliver the prisoner to the police officer or other person who is named in the order to receive him; or
- (b) bring the prisoner before the court upon payment of his reasonable charges in respect thereof.

**Idem** (3) An order made under subsection 1 shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought.

**Penalty for failure to attend**

**43.**—(1) Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than thirty days, or to both.

**Proof of failure to attend**

(2) In a proceeding under subsection 1, a certificate of the clerk or a justice of the court before which the defendant is alleged to have failed to attend stating that the defendant failed to attend is admissible in evidence as *prima facie* proof of the fact without proof of the signature or office of the person appearing to have signed the certificate.

**Order for evidence by commission**

**44.**—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause.

**Admission of commission evidence**

(2) Evidence taken by a commissioner appointed under subsection 1 may be read in evidence in the proceeding if,

- (a) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection 1;
- (b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and
- (c) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the party had full opportunity to cross-examine the witness.

(3) An order under subsection 1 may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section. Attendance of accused

(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court. Application of rules in civil cases

**45.**—(1) Where at any time before a defendant is sentenced a court has reason to believe, based on, Trial of issue as to capacity to conduct defence

(a) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner; or

(b) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court may,

(c) where the justice presiding is a judge, by order suspend the proceedings and direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence; or

(d) where the justice presiding is a justice of the peace, refer the matter to a judge who may make an order referred to in clause c.

(2) For the purposes of subsection 1, the court may order the defendant to attend to be examined under subsection 5. Examination

(3) The trial of the issue shall be presided over by a judge and, Finding

(a) where he finds that the defendant is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended;

(b) where he finds that the defendant is able to conduct his defence, he shall order that the suspended proceeding be continued.

Application  
for  
rehearing  
as to  
capacity

(4) At any time within one year after an order is made under subsection 3, either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for  
examination

(5) For the purposes of subsection 1 or a hearing or rehearing under subsection 3 or 4, the court or judge may order the defendant to attend at such place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem

(6) Where the defendant fails or refuses to comply with an order under subsection 5 without reasonable excuse or where the person conducting the examination satisfies a judge that it is necessary to do so, the judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and in any event for not longer than seven days and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility.

Limitation  
on  
suspension  
of  
proceeding

(7) Where an order is made under subsection 3 and one year has elapsed and no further order is made under subsection 4, no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance.

Taking of  
plea

**46.**—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein.

Conviction  
on plea of  
guilty

(2) Where the defendant pleads guilty, the court may accept the plea and convict him.

Refusal  
to plead

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty.

(4) Where the defendant pleads not guilty of the offence charged but guilty of any other offence, whether or not it is an included offence, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty.

Plea of guilty to another offence

**47.**—(1) Subject to section 6, where the defendant pleads not guilty, the court shall hold the trial.

Trial on plea of not guilty

(2) The defendant is entitled to make his full answer and defence.

Right to defend

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses.

Right to examine witnesses

(4) The court may receive and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence.

Agreed facts

(5) Notwithstanding section 8 of *The Evidence Act*, the defendant is not a compellable witness for the prosecution.

Defendant not compellable  
R.S.O. 1970,  
c. 151

**48.**—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties.

Evidence taken on another charge

(2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case.

Certificate as evidence

(3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information.

Burden of proving exception, etc.

**49.**—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation.

Exhibits

**Release of exhibits**

(2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party tendering it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal.

**Adjournments**

**50.**—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.

**Early resumption**

(2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor.

**Appearance by defendant**

**51.**—(1) A defendant may appear and act personally or by counsel or agent.

**Appearance by corporation**

(2) A defendant that is a corporation shall appear and act by counsel or agent.

**Exclusion of agents**

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent.

**Compelling attendance of defendant**

**52.** Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form.

**Excluding defendant from hearing**

**53.**—(1) The court may cause the defendant to be removed and to be kept out of court,

(a) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or

(b) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so, Excluding public from hearing

- (a) for the maintenance of order in the courtroom;
- (b) to protect the reputation of a minor; or
- (c) to remove an influence that might affect the testimony of a witness.

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. Prohibition of publication of evidence

**54.**—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to another time upon such terms as it considers proper. Failure of prosecutor to appear

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection 1, the court may dismiss the charge. Idem

(3) Where a hearing is adjourned under subsection 1 or a charge is dismissed under subsection 2, the court may make an order under section 61 for the payment of costs. Costs

(4) Where a charge is dismissed under subsection 1 or 2, the court may, if requested by the defendant, draw up an order of dismissal stating the grounds therefor and shall give the defendant a certified copy of the order of dismissal which is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. Written order of dismissal

**55.**—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved by the prosecutor, having been given a reasonable opportunity to do so, that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court, Ex parte conviction

- (a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;

(b) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or

(c) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause *a* or *b*.

Where  
convicted  
*ex parte*

(2) Where, the court proceeds under clause *a* of subsection 1, no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent.

Included  
offences

**56.** Where the commission of the offence charged includes the commission of another offence, the defendant may be convicted of an offence so included that is proved, notwithstanding that the whole offence charged is not proved.

### *Sentencing*

Pre-sentence  
report

**57.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection 1, the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor.

Submissions  
as to  
sentence

**58.**—(1) Where a defendant who appears is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Omission  
to comply

(2) The omission to comply with subsection 1 does not affect the validity of the proceeding.

Inquiries  
by court

(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.



(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by,

Proof of  
previous  
conviction

(a) the person who made the adjudication; or

(b) the clerk of the court in which the adjudication was made,

is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

**59.** In determining the sentence to be imposed on a person convicted of an offence, the justice may take into account any time spent in custody by the person as a result of the offence.

Time spent  
in custody  
considered

**60.**—(1) No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum.

Provision  
for  
minimum  
penalty

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may impose a fine that is less than the minimum or suspend the sentence.

Relief  
against  
minimum  
fine

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than \$2,000 in lieu of imprisonment.

Idem. re  
imprison-  
ment

**61.**—(1) Upon conviction, the defendant is liable to pay to the court an amount by way of costs that is fixed by the regulations.

Fixed  
costs on  
conviction

(2) The court may, in its discretion, order costs towards fees and expenses reasonably incurred by or on behalf of witnesses in amounts not exceeding the maximum fixed by the regulations, to be paid,

Costs  
respecting  
witnesses

(a) to the court or prosecutor by the defendant; or

(b) to the defendant by the person who laid the information or issued the certificate, as the case may be,

but where the proceeding is commenced by means of a certificate, the total of such costs shall not exceed \$100.

Costs collectable as a fine

(3) Costs payable under this section shall be deemed to be a fine for the purpose of enforcing payment.

General penalty

**62.**—(1) Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Amendment of subs. 1

(2) Subsection 1 is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the third and fourth lines.

Effective date of amendment

(3) Subsection 2 does not come into force until the 1st day of January, 1981.

Minute of conviction

**63.** Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request.

Time when imprisonment starts

**64.**—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem

(2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing.

Sentences consecutive

**65.** Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment.

Authority of warrant

**66.**—(1) A warrant of committal is sufficient authority,

(a) for the conveyance of the prisoner in custody for the purpose of committal under the warrant; and

(b) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

(2) A person to whom a warrant of committal is directed shall convey the prisoner to the correctional institution named in the warrant.

Conveyance  
of prisoner

(3) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced.

Prisoner  
subject to  
rules of  
institution

**67.**—(1) A fine becomes due and payable fifteen days after its imposition.

When  
fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine.

Extension of  
time for  
payment  
of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer.

Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise.

Granting of  
extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection 6.

Notice  
where  
convicted  
in absentia

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections 3 and 4.

Further  
application  
for  
extension

**68.** The Lieutenant Governor in Council may make regulations establishing a program to permit the payment of fines by means of credits for work performed, and, for the purpose and without restricting the generality of the foregoing may,

Regulation  
for work  
credits for  
fines

- (a) prescribe classes of work and the conditions under which they are to be performed;
- (b) prescribe a system of credits;
- (c) provide for any matter necessary for the effective administration of the program,

and any regulation may limit its application to any part or parts of Ontario.

Civil  
enforcement  
of fines

**69.**—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Limitation

(2) A certificate shall not be filed under subsection 1 after two years after the default in respect of which it is issued.

Certificate of  
discharge

(3) Where a certificate has been filed under subsection 1 and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged and, where a writ of execution has been filed with the sheriff, the clerk shall file a certificate of payment with the sheriff, upon which the writ is cancelled.

Default

**70.**—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

Order on  
default

(2) Where a justice is satisfied that payment of a fine is in default, the justice,

- (a) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued until the fine is paid; and
- (b) may direct the clerk of the court to proceed with civil enforcement under section 69.

Imprison-  
ment for  
non-payment  
of fine

(3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

- (a) an order or direction under clause *a* of subsection 2 has not resulted in payment within a time that is reasonable in the circumstances;

(b) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and

(c) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

(4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection 3 would defeat the ends of justice, the court may, Provision on conviction for imprisonment in default

(a) order that no warrant of committal be issued under subsection 3; or

(b) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

(5) Imprisonment under a warrant issued under subsection 3 or 4 shall be for three days, plus one day for each \$25 or part thereof that is in default, subject to a maximum period of, Term of imprisonment

(a) ninety days; or

(b) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

(6) Any payment made after a warrant is issued under subsection 3 or 4 shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the total fine and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof. Effect of payments

**71.** Where an Act provides that a fine may be suspended subject to the performance of a condition, Suspension of fine on conditions

(a) the period of suspension shall be fixed by the court and shall be for not more than one year;

(b) the court shall provide in its order of suspension the method of proving the performance of the condition;

- (c) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and
- (d) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant.

Probation  
order

**72.**—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

- (a) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;
- (b) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or
- (c) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory  
conditions  
of order

(2) A probation order shall be deemed to contain the conditions that,

- (a) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;
- (b) the defendant appear before the court as and when required; and
- (c) the defendant notify the court of any change in his address.

Conditions  
imposed  
by court

(3) In addition to the conditions set out in subsection 2, the court may prescribe the following conditions in a probation order,

- (a) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;
- (b) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment that the defendant perform a community service as set out in the order;
- (c) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or
- (d) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than two years from the date when the order takes effect.

Form of order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 75 to be given to the defendant.

Notice of order

(6) The Lieutenant Governor in Council may make regulations governing restitution, compensation and community service orders, including their terms and conditions.

Regulations for community service orders

**73.**—(1) A probation order comes into force,

When order comes into force

- (a) on the date on which the order is made; or
- (b) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

(2) Subject to section 75, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment

Continuation in force

renders it impossible for the defendant to comply for the time being with the order.

Variation of  
probation  
order

**74.** The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

- (a) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;
- (b) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 3 of section 72 that is prescribed in the order; or
- (c) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed.

Breach of  
probation  
order

**75.** Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,



- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or
- (e) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause *d*, revoke the probation order and impose the sentence the passing of which was suspended upon the making of the probation order.

## PART V

### GENERAL PROVISIONS

**76.**—(1) Proceedings shall not be commenced after the expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed. Limitation

(2) A limitation period may be extended by a justice with the consent of the defendant. Extension

**77.**—(1) Every person is a party to an offence who, Parties to offence

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence. Common purpose

**78.**—(1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured. Counselling

- Idem** (2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.
- Computation of age** **79.** In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance.
- Common law defences** **80.** Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act.
- Ignorance of the law** **81.** Ignorance of the law by a person who commits an offence is not an excuse for committing the offence.
- Counsel or agent** **82.** A defendant may act by his counsel or agent.
- Recording of evidence** **83.—(1)** Proceedings in which evidence is taken shall be recorded.
- Evidence under oath** (2) Evidence under this Act shall be taken under oath, except as otherwise provided by law.
- Interpreters** **84.—(1)** A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.
- Idem** (2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available.
- Extension of time** **85.** Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing or recommencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired.
- Penalty for false statements** **86.** Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

**87.**—(1) Except as otherwise provided by this Act or the <sup>Delivery</sup> rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered, whether personally or by mail.

(2) Where a notice or document that is required or <sup>Idem</sup> authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is delivered to the person.

**88.** No civil remedy for an act or omission is suspended <sup>Civil remedies preserved</sup> or affected for the reason that the act or omission is an offence.

**89.** Any action authorized or required by this Act is not <sup>Process on holidays</sup> invalid for the reason only that the action was taken on a non-judicial day.

**90.**—(1) The validity of any proceeding is not affected by, <sup>Irregularities in form</sup>

- (a) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or
- (b) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

(2) Where it appears to the court that the defendant <sup>Adjournment to meet irregularities</sup> has been misled by any irregularity, defect or variance mentioned in subsection 1, the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 61 for the payment of costs.

**91.** The Lieutenant Governor in Council may make regu- <sup>Regulations</sup> lations,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 2 of section 150 of *The Highway Traffic Act* for the purpose of proceedings under this Act;

- (c) providing for the extension of times prescribed by or under this Act or the rules in the event of a disruption in postal services;
- (d) requiring the payment of fees upon the filing of anything required or permitted to be filed under this Act or the rules and fixing the amounts thereof, and providing for the waiver of the payment of a fee by a justice, or by a judge under Part VI, in such circumstances and under such conditions as are set out in the regulations;
- (e) fixing costs payable upon conviction and referred to in subsection 1 of section 61;
- (f) fixing the items in respect of which costs may be awarded under subsection 2 of section 61 and prescribing the maximum amounts that may be awarded in respect of each item.

## PART VI

### APPEALS AND REVIEW

Inter-  
pretation

**92.**—(1) In this Part,

- (a) “counsel” when used in respect of proceedings in a provincial court (criminal division) includes an agent;
- (b) “court” means the court to which an appeal is or may be taken under this Part;
- (c) “judge” means a judge of the court to which an appeal is or may be taken under this Part;
- (d) “rules” means the rules made under section 123;
- (e) “sentence” includes any order or disposition consequent upon a conviction and an order as to costs.

References  
to Court  
of Appeal  
R.S.O. 1970,  
c. 228

(2) In this Part, a reference to the Court of Appeal means the Court of Appeal notwithstanding subsection 2 of section 17 of *The Judicature Act*.

### APPEALS UNDER PART III

Appeal

**93.**—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the

Attorney General by way of intervention may appeal from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence.

(2) An appeal under subsection 1 shall be, Appeal court

(a) where the appeal is from the decision of a justice of the peace, to the provincial court (criminal division) of the county or district in which the adjudication was made; or

(b) where the appeal is from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

(3) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules. Notice of appeal

**94.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134. Custody pending appeal

**95.**—(1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from. Payment of fine before appeal

(2) A judge may waive compliance with subsection 1 and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs. Exception with recognizance

**96.** The filing of a notice of appeal does not stay the conviction unless a judge so orders. Stay

**97.**—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a judge to fix a date for the hearing of the appeal. Fixing of date where appellant in custody

(2) Upon receiving an application under subsection 1, the judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal. Idem

**98.** A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction. Payment of fine not waiver

Transmittal  
of material

**99.** Where a notice of appeal has been filed, the clerk of the appeal court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the appeal court to be kept with the records of the appeal court.

Powers  
of court

**100.**—(1) The court may, where it considers it to be in the interests of justice,

(a) order the production of any writing, exhibit or other thing relevant to the appeal;

(b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,

(i) to attend and be examined before the court, or

(ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;

(c) admit, as evidence, an examination that is taken under subclause ii of clause b;

(d) receive the evidence, if tendered, of any witness;

(e) order that any question arising on the appeal that,

(i) involves prolonged examination of writings or accounts, or scientific investigation, and

(ii) cannot in the opinion of the court conveniently be inquired into before the court,

be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and

(f) act upon the report of a commissioner who is appointed under clause e in so far as the court thinks fit to do so.

Right of  
appellant

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses

and, in an inquiry under clause *e* of subsection 1, are entitled to be present during the inquiry and to adduce evidence and to be heard.

**101.**—(1) An appellant may appear and act personally <sup>Right to counsel</sup> or by counsel.

(2) An appellant who is in custody as a result of the <sup>Attendance while in custody</sup> decision appealed from is entitled to be present at the hearing of the appeal.

(3) The power of a court to impose sentence may be <sup>Sentencing in absence</sup> exercised notwithstanding that the appellant is not present.

**102.** An appellant may present his case on appeal and his <sup>Written argument</sup> argument in writing instead of orally, and the court shall consider any case or argument so presented.

**103.**—(1) On the hearing of an appeal against a conviction or against a finding as to the ability, because of <sup>Powers on appeal against conviction</sup> mental disorder, to conduct a defence, the court by order,

(a) may allow the appeal where it is of the opinion that,

(i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,

(ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or

(iii) on any ground, there was a miscarriage of justice; or

(b) may dismiss the appeal where,

(i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,

(ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause a, or

- (iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause ii of clause *a* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred.

**Idem** (2) Where the court allows an appeal under clause *a* of subsection 1, it shall,

(a) where the appeal is from a conviction,

(i) direct a finding of acquittal to be entered, or

(ii) order a new trial; or

(b) where the appeal is from a finding as to the ability, because of mental disorder, to conduct a defence, order a new trial, subject to section 45.

**Idem** (3) Where the court dismisses an appeal under clause *b* of subsection 1, it may substitute the decision that in its opinion should have been made and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

**Powers  
on appeal  
against  
acquittal**

**104.** Where an appeal is from an acquittal, the court may by order,

(a) dismiss the appeal; or

(b) allow the appeal, set aside the finding and,

(i) order a new trial, or

(ii) enter a finding of guilt with respect to the offence of which, in its opinion, the appellant should have been found guilty, and pass a sentence that is warranted in law.

**Appeal  
against  
sentence**

**105.—**(1) Where an appeal is taken against sentence, the court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

(a) dismiss the appeal; or

(b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,



and, in making any order under clause *b*, the court may take into account any time spent in custody by the defendant as a result of the offence.

(2) A judgment of a court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court. Variance of sentence

**106.** Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence. One sentence on more than one count

**107.**—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant. Appeal based on defect in information or process

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect. Idem

**108.** Where a court exercises any of the powers conferred by sections 100 to 107, it may make any order, in addition, that justice requires. Additional orders

**109.**—(1) Where a court orders a new trial, it shall be held in a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance unless the appeal court directs that the new trial be held before the justice who tried the defendant in the first instance. New trial

(2) Where a court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 2 of section 134 and the order may be enforced in the same manner as if it had been made by a justice under that subsection. Order for release

**110.**—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the court, the court may order that the appeal Trial *de novo*

shall be heard by way of a new trial in the court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

**Evidence**

(2) The court may, for the purpose of hearing and determining an appeal under subsection 1, permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

- (a) the appellant and respondent consent;
- (b) the court is satisfied that the attendance of the witness cannot reasonably be obtained; or
- (c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the court.

**Dismissal or abandonment**

**111.** The court may, upon proof that notice of an appeal has been given and that,

- (a) the appellant has failed to comply with any order made under section 94 or 95 or with the conditions of any recognizance entered into under either of those sections; or
- (b) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed.

**Costs**

**112.—(1)** Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the court may make any order with respect to costs that it considers just and reasonable.

**Payment**

(2) Where the court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the trial court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

**Enforcement**

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall

be deemed to be a fine for the purpose of enforcing its payment.

**113.** An order or judgment of the appeal court shall be implemented or enforced by the trial court and the clerk of the appeal court shall send to the clerk of the trial court the order and all writings relating thereto. Implementation of appeal court order

**114.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone or as to sentence in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

**115.** A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134. Custody pending appeal

**116.** Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the court appealed from of the application and, upon receipt of the notification, the clerk of the court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal. Transfer of record

**117.** Sections 98, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109, clause *b* of section 111 and section 112 apply, with necessary modifications, to appeals to the Court of Appeal under section 114. Application of ss. 98, 100-109, 111(b), 112

#### APPEALS UNDER PARTS I AND II

**118.**—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made. Appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division) Application for appeal

within fifteen days after the making of the decision appealed from, in accordance with the rules.

Notice of hearing

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal.

Conduct of appeal

**119.**—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Review

(2) An appeal shall be conducted by means of a review in the provincial court (criminal division) of the county or district in which the adjudication was made.

Evidence

(3) In determining a review, the court may,

- (a) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;
- (b) receive the evidence of any witness whether or not the witness gave evidence at the trial;
- (c) require the justice presiding at the trial to report in writing on any matter specified in the request; or
- (d) receive and act upon statements of agreed facts or admissions.

Dismissal on abandonment

**120.** Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed.

Powers of court on appeal

**121.**—(1) Upon an appeal, the court may affirm, reverse or vary the decision appealed from or where, in the opinion of the court, it is necessary to do so to satisfy the ends of justice, direct a new trial.

New trial

(2) Where the court directs a new trial, it shall be held in the provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance, but the appeal court may, with the consent of the parties to the appeal, direct that the new trial be held before the justice who tried the defendant in the first instance or before the judge who directs the new trial.

(3) Upon an appeal, the court may make an order under section 61 for the payment of costs incurred on the appeal, and subsection 3 thereof applies to the order in the same manner as to an order of a provincial offences court. Costs

**122.**—(1) An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

(3) Upon an appeal under this section, the Court of Appeal may make any order with respect to costs that it considers just and reasonable. Costs

#### RULES FOR APPEALS

**123.** The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the provincial courts (criminal division), the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals. Rules of court for appeals

#### REVIEW

**124.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*. Application for relief in nature of mandamus, prohibition, certiorari

(2) Notice of an application under this section shall be served on, Notice of application

- (a) the person whose act or omission gives rise to the application;
- (b) any person who is a party to a proceeding that gives rise to the application; and
- (c) the Attorney General.

Appeal (3) An appeal lies to the Court of Appeal from an order made under this section.

Notice re *certiorari* **125.**—(1) A notice under section 124 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed.

Filing material (2) Where a notice referred to in subsection 1 is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application.

Where appeal available (3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise.

Substantial wrong (4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper.

Order for immunity from civil liability (5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it.

Application for *habeas corpus* **126.**—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*.

Procedure on application for relief in nature of *habeas corpus* (2) Notice of an application under subsection 1 for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the

hearing of the application the presence before the High Court of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

(3) Subject to subsections 1 and 2, *The Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section. Application of R.S.O. 1970, c. 197

(4) *The Judicial Review Procedure Act, 1971* and sections 69 and 70 of *The Judicature Act* do not apply to matters in respect of which an application may be made under section 124. 1971, c. 48 and R.S.O. 1970, c. 228, ss. 69, 70 do not apply

(5) A court to which an application or appeal is made under section 124 or this section may make any order with respect to costs that it considers just and reasonable. Costs

## PART VII

### ARREST, BAIL AND SEARCH WARRANTS

#### *Arrest*

**127.** In this Part, "officer in charge" means the police officer who is in charge of the lock-up or other place to which a person is taken after his arrest. Officer in charge

**128.**—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario. Execution of warrant

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario. Idem

**129.** Any person may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and, where the person who makes the arrest is not a police officer, shall forthwith deliver the person arrested to a police officer. Arrest without warrant

**130.**—(1) Every police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what he is required or authorized by law to do. Use of force

Use of force  
by citizen

(2) Every person upon whom a police officer calls for assistance is justified in using as much force as he believes on reasonable and probable grounds is necessary to render such assistance.

Immunity  
from civil  
liability

**131.** Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

- (a) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;
- (b) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or
- (c) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made.

Production  
of process

**132.**—(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice of  
reason for  
arrest

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest.

### *Bail*

Release  
after  
arrest  
by  
officer

**133.**—(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons or offence notice unless he has reasonable and probable grounds to believe that,

- (a) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,
  - (i) establish the identity of the person,
  - (ii) secure or preserve evidence of or relating to the offence, or



- (iii) prevent the continuation or repetition of the offence or the commission of another offence;  
or

(b) the person arrested is ordinarily resident outside Ontario and will not respond to a summons or offence notice.

(2) Where a defendant is not released from custody under subsection 1, the police officer shall deliver him to the officer in charge who shall, where in his opinion the conditions set out in clauses *a* and *b* of subsection 1 do not or no longer exist, release the defendant,

Release  
by officer  
in charge

(a) upon serving him with a summons or offence notice;

(b) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario and it is believed that he will not respond to a summons or offence notice, the officer in charge may, in addition to anything required under subsection 2, require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed,

Cash bail  
by non-  
resident

(a) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300; or

(b) where the proceeding is commenced by information under Part III, \$500.

**134.**—(1) Where a defendant is not released from custody under section 133, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection 2 is justified for the same purpose.

Person in  
custody to  
be brought  
before  
justice

(2) Subject to subsection 1, the justice may order the release of the defendant,

Order for  
conditional  
release

- (a) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;
- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court or, with the consent of the prosecutor, upon his depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
- (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300, or
- (ii) where the proceeding is commenced by information under Part III, \$1,000; or
- (c) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
- (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, \$300, or
- (ii) where the proceeding is commenced by information under Part III, \$1,000.

Idem

(3) The justice shall not make an order under clause *b* or *c* of subsection 2 unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

Order for  
detention

(4) Where the prosecutor shows cause why the detention of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

Reasons

(5) The justice shall include in the record a statement of his reasons for his decision under subsection 1, 2 or 4.

Evidence  
at  
hearing

(6) In a proceeding under subsection 1, the justice may receive and base his decision upon information he considers

credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

(7) A proceeding under subsection 1 shall not be adjourned for more than three days without the consent of the defendant.

Adjournments

**135.**—(1) Where a defendant is not released from custody under section 133 or 134, he shall be brought before the court forthwith and, in any event, within eight days.

Expediting trial of person in custody

(2) The justice presiding upon any appearance of the defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 134 and make such further or other order under section 134 as to him seems appropriate in the circumstances.

Further orders

**136.** A defendant or the prosecutor may appeal from an order or refusal to make an order under section 134 or 135 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 123.

Appeal

**137.**—(1) A person who is released upon deposit under subsection 3 of section 133 or clause *c* of subsection 2 of section 134 may appoint the clerk of the court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the amount so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee.

Appointment of agent for appearance

(2) An officer in charge or justice who takes a recognizance, money or security under section 133 or 134 shall make a return thereof to the court where the defendant is required to appear.

Returns to court

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance and return the surplus, if any.

Returns to sureties

**138.**—(1) The recognizance of a person to appear in a proceeding binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the proceeding is adjourned.

Recognizance binds for all appearances

Recognizance binds independently of other charges (2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability of principal (3) The principal to a recognizance is bound for the amount of the recognizance due upon forfeiture.

Liability where sureties (4) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture for non-appearance.

Application by surety to be relieved **139.**—(1) A surety to a recognizance may, by application in writing to the court at which the defendant is required to appear, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate of arrest (2) When a police officer arrests the defendant under a warrant issued under subsection 1, he shall bring the defendant before a justice under section 134 and certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of recognizance (3) The receipt of the certificate by the court under subsection 2 vacates the recognizance and discharges the sureties.

Delivery of defendant by surety **140.** A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant.

Certificate of default **141.**—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out,

(a) the nature of the default ;

(b) the reason for the default, if it is known ;

(c) whether the ends of justice have been defeated or delayed by reason of the default ; and

(d) the names and addresses of the principal and sureties.

Certificate as evidence (2) A certificate that has been endorsed on a recognizance under subsection 1 is evidence of the default to which it relates.

(3) The clerk of the court shall transmit the endorsed <sup>Application for forfeiture</sup> recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance.

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and, where the application is for forfeiture for non-appearance, each surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited. <sup>Notice of hearing</sup>

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper. <sup>Order as to forfeiture</sup>

(6) Where an order for forfeiture is made under subsection 5, <sup>Collection on forfeiture</sup>

- (a) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and
- (b) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court.

### *Search Warrants*

**142.**—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place, <sup>Search warrant</sup>

- (a) anything upon or in respect of which an offence has been or is suspected to have been committed; or
- (b) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named

therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

**Expiration** (2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

**When to be executed** (3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes.

**Detention of things seized** **143.**—(1) Where any thing is seized and brought before a justice, he shall by order,

(a) detain it or direct it to be detained in the care of a person named in the order; or

(b) direct it to be returned,

and the justice may in the order authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

**Time limit for detention** (2) Nothing shall be detained under an order made under subsection 1 for a period of more than three months after the time of seizure unless, before the expiration of that period,

(a) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or

(b) proceedings are instituted in which the thing detained may be required.

**Application for examination and copying** (3) Upon the application of the defendant, prosecutor or person having an interest in a thing detained under subsection 1, a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

**Application for release** (4) Upon the application of a person having an interest in a thing detained under subsection 1, and upon notice to the

defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

(5) Where an order or refusal to make an order under subsection 3 or 4 is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate. Appeal where order by justice of the peace

**144.**—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document, Examination or seizure of documents where privilege claimed

- (a) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and
- (b) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.

(2) No person shall examine or seize a document that is in the possession of a lawyer without giving him a reasonable opportunity to claim the privilege under subsection 1. Opportunity to claim privilege

(3) A judge may, upon the *ex parte* application of the lawyer, by order authorize the lawyer to examine or make a copy of the document in the presence of its custodian or the judge, and the order shall contain such provisions as are necessary to ensure that the document is repackaged and resealed without alteration or damage. Examination of documents in custody

(4) Where a document has been seized and placed in custody under subsection 1, the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document. Application to determine privilege

(5) An application under subsection 4 shall be by notice of motion returnable not later than thirty days after the date on which the document was placed in custody. Limitation

Attorney  
General  
a party

(6) The person who seized the document and the Attorney General are parties to an application under subsection 4 and entitled to at least three days notice thereof.

Private  
hearing and  
scrutiny by  
judge

(7) An application under subsection 4 shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(8) The judge may, by order,

(a) declare that the solicitor-client privilege exists or does not exist in respect of the document;

(b) direct that the document be delivered up to the appropriate person.

Release of  
document  
where no  
application  
under subs. 4

(9) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection 4 within the time limit prescribed by subsection 5, the judge shall order that the document be delivered to the applicant.

## PART VIII

### ORDERS ON APPLICATION UNDER STATUTES

Orders  
under  
statutes

**145.** Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding in the same manner as to a proceeding commenced under Part III, and for the purpose,

(a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and

(b) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order.



## PART IX

## COMMENCEMENT AND TRANSITION

**146.**—(1) This Act, except Parts I and II, applies to offences in respect of which proceedings are commenced after this Act comes into force. Application

(2) Part I and Part II each applies to offences occurring after that Part comes into force. Idem

**147.**—(1) Subject to subsections 2 and 3, the following are repealed: Repeals

1. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970.
2. *The Summary Convictions Amendment Act, 1971*, being chapter 10.

(2) The enactments repealed by subsection 1 continue in force in respect of offences to which this Act does not apply. Transition

(3) If subsection 1 comes into force before Part II comes into force, the enactments repealed by subsection 1 continue to apply in respect of parking infractions. Application of subs. 1 to parking infractions

**148.**—(1) A reference in any Act, regulation or by-law to *The Summary Convictions Act* shall be deemed to be a reference to this Act. Reference to R.S.O. 1970, c. 450

(2) A reference in any Act, regulation or by-law to proceeding by summary conviction shall be deemed to refer to the procedures under this Act. References to summary conviction

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

**150.** The short title of this Act is *The Provincial Offences Act, 1979*. Short title





An Act to establish a Code of  
Procedure for Provincial Offences

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*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

March 27th, 1979

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THE HON. R. McMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Provincial Courts Act**

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THE HON. R. MCMURTRY  
Attorney General and Solicitor General

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#### EXPLANATORY NOTES

SECTION 1. The new provision empowers the courts and judges to proceed in accordance with the due administration of justice where express procedures are not otherwise provided.

SECTION 2. The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.

SECTION 3. The rules committee for provincial courts (criminal division) is established in respect of procedures under the *Criminal Code* (Canada). The same rules committee will make rules for provincial offences courts under section 16f, as enacted by section 4 of this Bill.

## An Act to amend The Provincial Courts Act

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

1. Section 9 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:
 

(1a) Where jurisdiction is conferred on a judge, justice of the peace or provincial court, in the absence of express provision for procedures therefor in any Act, regulation or rule, the judge, justice of the peace or provincial court shall exercise the jurisdiction in any manner consistent with the due administration of justice.
2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 46, section 1, is further amended by adding thereto the following subsection:
 

(1a) The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.
3. The said Act is amended by adding thereto the following section:
 

16a.—(1) The rules committee of the provincial courts (criminal division) is established and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

(2) A majority of the members of the rules committee constitutes a quorum.

(3) The rules committee of the provincial courts (criminal division) is a provincial court (criminal division) for the purpose of making rules of court under the *Criminal Code* (Canada).

s. 9,  
amendedWhere  
procedures  
not  
provideds. 10,  
amendedChief judge  
of provincial  
offences  
courtss. 16a,  
enactedRules  
committee

Quorum

Rules

R.S.C. 1970,  
c. C-34

Part II-A  
(ss. 16b-16f),  
enacted

4. The said Act is further amended by adding thereto the following Part:

PART II-A

Provincial  
offences  
court

16b.—(1) There shall be in every county and district a court of record to be styled,

- (a) in counties, the “Provincial Offences Court of the County (or Judicial District or United Counties) of (naming the county, etc.)”;
- (b) in districts, the “Provincial Offences Court of the District of (naming the district)”,

presided over by a judge or justice of the peace.

Jurisdiction

(2) Each provincial offences court has jurisdiction to hear, determine and dispose of,

1979, c. ...

- (a) all matters in which jurisdiction is conferred by *The Provincial Offences Act, 1979*; and
- (b) any other matter assigned to it by or under any statute.

Sittings

16c.—(1) The provincial offences courts may hold sittings at any place in the county or district designated by the chief judge of the provincial offences courts.

Idem

(2) Where a proceeding in which a provincial offences court has jurisdiction is conducted during the course of a sitting of the provincial court (criminal division) or provincial court (family division) in the same county or district, the proceeding shall be deemed to be conducted in the provincial offences court.

Penalty  
for  
contempt

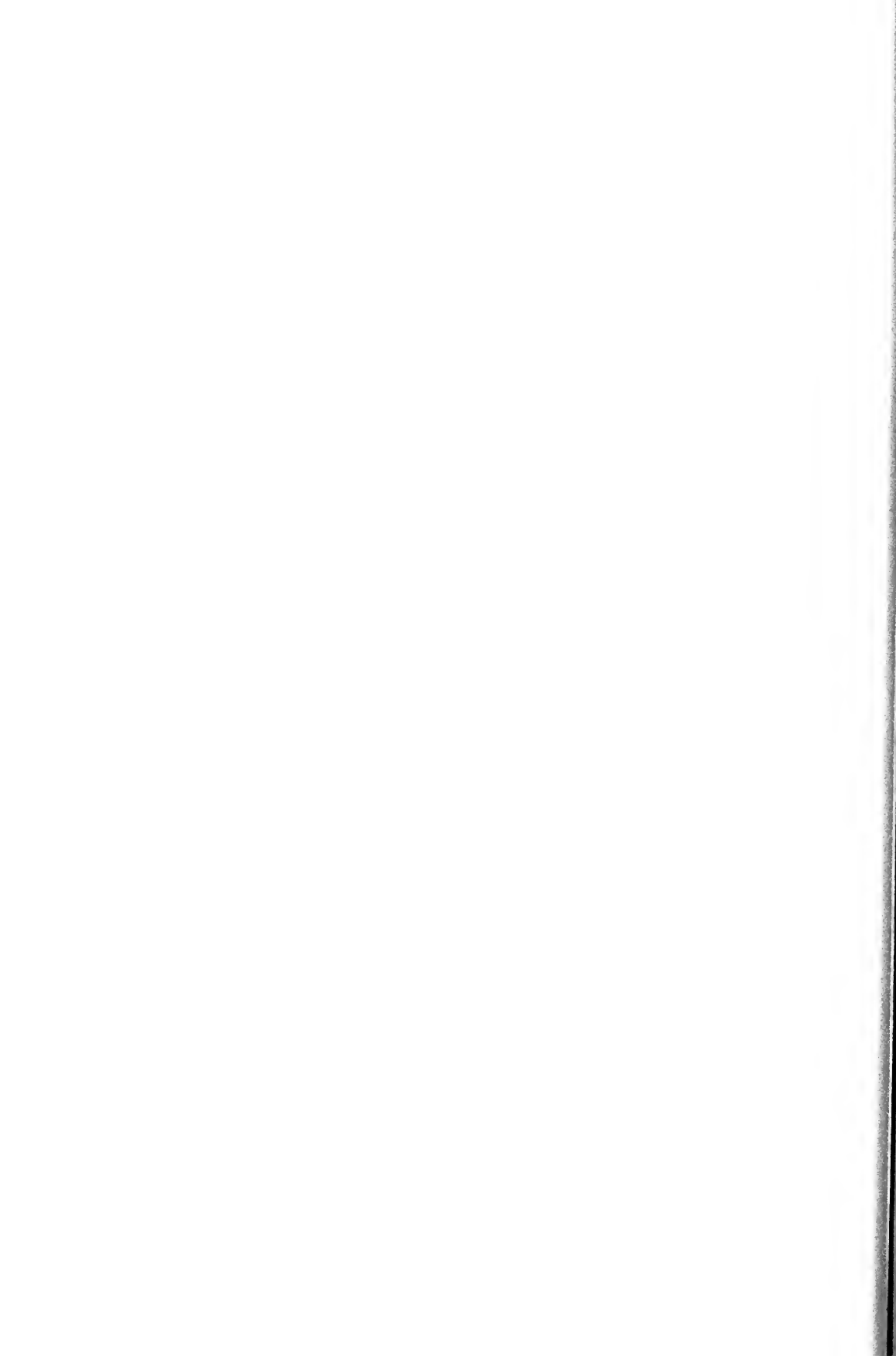
16d.—(1) Except as otherwise provided by statute, every person who commits contempt in the face of a provincial offences court is upon conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement  
to  
offender

(2) Before proceedings are taken for contempt under subsection 1, the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him of his right to show cause why he should not be punished.



SECTION 4. The provincial offences courts are established in a manner parallel to provincial courts (criminal division). Provision is made for contempt procedures and rules. The new Part is complementary to the Bill to enact *The Provincial Offences Act, 1979*.



(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he should not be punished.

Show  
cause

(4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day.

Adjournment  
for  
adjudication  
of contempt

(5) Where a contempt proceeding is adjourned to another day under subsection 1, the contempt proceeding shall be heard and determined by the court presided over by a judge.

Adjudication  
by a Judge

(6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection 4, the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.

Arrest for  
immediate  
adjudication  
of contempt

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he be barred from acting as agent in the proceeding in addition to any other punishment to which he is liable.

Barring of  
agent in  
contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of *The Provincial Offences Act, 1979*.

Appeals

1979, c . . .

(9) *The Provincial Offences Act, 1979* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section.

Enforcement

16e. Any person who knowingly disturbs or interferes with the proceedings of a provincial offences court, without reasonable justification, while outside the courtroom is guilty of an offence and upon conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Penalty for  
disturbance  
outside  
courtroom

16f. Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (criminal division) may make rules regulating any matters relating to the practice and procedure of the provincial offences courts including, without limiting the generality of the foregoing,

Rules for  
provincial  
offences  
courts

- (a) prescribing forms respecting proceedings in the court;

- (b) prescribing any matter required to be or referred to as prescribed by the rules of the court;
- (c) prescribing and regulating the proceedings under any Act that confers jurisdiction upon a provincial offences court or a judge or justice of the peace sitting therein.

s. 27,  
amended

5. Section 27 of the said Act is amended by adding thereto the following subsection:

Idem

(1a) The clerk of a provincial court (criminal division) is the clerk of the provincial offences court of the same county or district.

References  
to  
provincial  
courts  
(criminal  
division)

6. Where, in any Act, regulation or by-law, a reference is made to a provincial court (criminal division) in connection with a provincial offence, the reference shall be deemed to be to a provincial offences court.

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 Provincial Courts Amendment Act, 1979*.

**SECTION 5.** The amendment provides for clerks for the provincial offences courts.

**SECTION 6.** The provision recognizes the transfer of jurisdiction from provincial courts (criminal division) to provincial offences courts.





An Act to amend  
The Provincial Courts Act

---

*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

---

THE HON. R. McMURTRY  
Attorney General and Solicitor General

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*(Government Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Provincial Courts Act**

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THE HON. R. MCMURTRY  
Attorney General and Solicitor General

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*(Reprinted as amended by the Administration of Justice Committee)*

#### EXPLANATORY NOTES

SECTION 1. The new provision empowers the courts and judges to proceed in accordance with the due administration of justice where express procedures are not otherwise provided.

SECTION 2. The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.

SECTION 3. The rules committee for provincial courts (criminal division) is established in respect of procedures under the *Criminal Code* (Canada). The same rules committee will make rules for provincial offences courts under section 16f, as enacted by section 4 of this Bill.

## An Act to amend The Provincial Courts Act

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

1. Section 9 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

s. 9,  
amended

(1a) Where jurisdiction is conferred on a judge, justice of the peace or provincial court, in the absence of express provision for procedures therefor in any Act, regulation or rule, the judge, justice of the peace or provincial court shall exercise the jurisdiction in any manner consistent with the due administration of justice.

Where  
procedures  
not  
provided

2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 46, section 1, is further amended by adding thereto the following subsection:

s. 10,  
amended

(1a) The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.

Chief judge  
of provincial  
offences  
courts

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

s. 16a,  
enacted

16a.—(1) The rules committee of the provincial courts (criminal division) is established and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

Rules  
committee

(2) A majority of the members of the rules committee constitutes a quorum.

Quorum

(3) The rules committee of the provincial courts (criminal division) is a provincial court (criminal division) for the purpose of making rules of court under the *Criminal Code* (Canada).

Rules

R.S.C. 1970,  
c. C-34

Part II-A  
(ss. 16b-16f),  
enacted

4. The said Act is further amended by adding thereto the following Part:

## PART II-A

Provincial  
offences  
court

16b.—(1) There shall be in every county and district a court of record to be styled,

(a) in counties, the "Provincial Offences Court of the County (or Judicial District or United Counties) of (*naming the county, etc.*)";

(b) in districts, the "Provincial Offences Court of the District of (*naming the district*)",

presided over by a judge or justice of the peace.

Jurisdiction

(2) Each provincial offences court has jurisdiction to hear, determine and dispose of,

1979, c. ...

(a) all matters in which jurisdiction is conferred by *The Provincial Offences Act, 1979*; and

(b) any other matter assigned to it by or under any statute.

Sittings

16c.—(1) The provincial offences courts may hold sittings at any place in the county or district designated by the chief judge of the provincial offences courts.

Idem

(2) Where a proceeding in which a provincial offences court has jurisdiction is conducted during the course of a sitting of the provincial court (criminal division) or provincial court (family division) in the same county or district, the proceeding shall be deemed to be conducted in the provincial offences court.

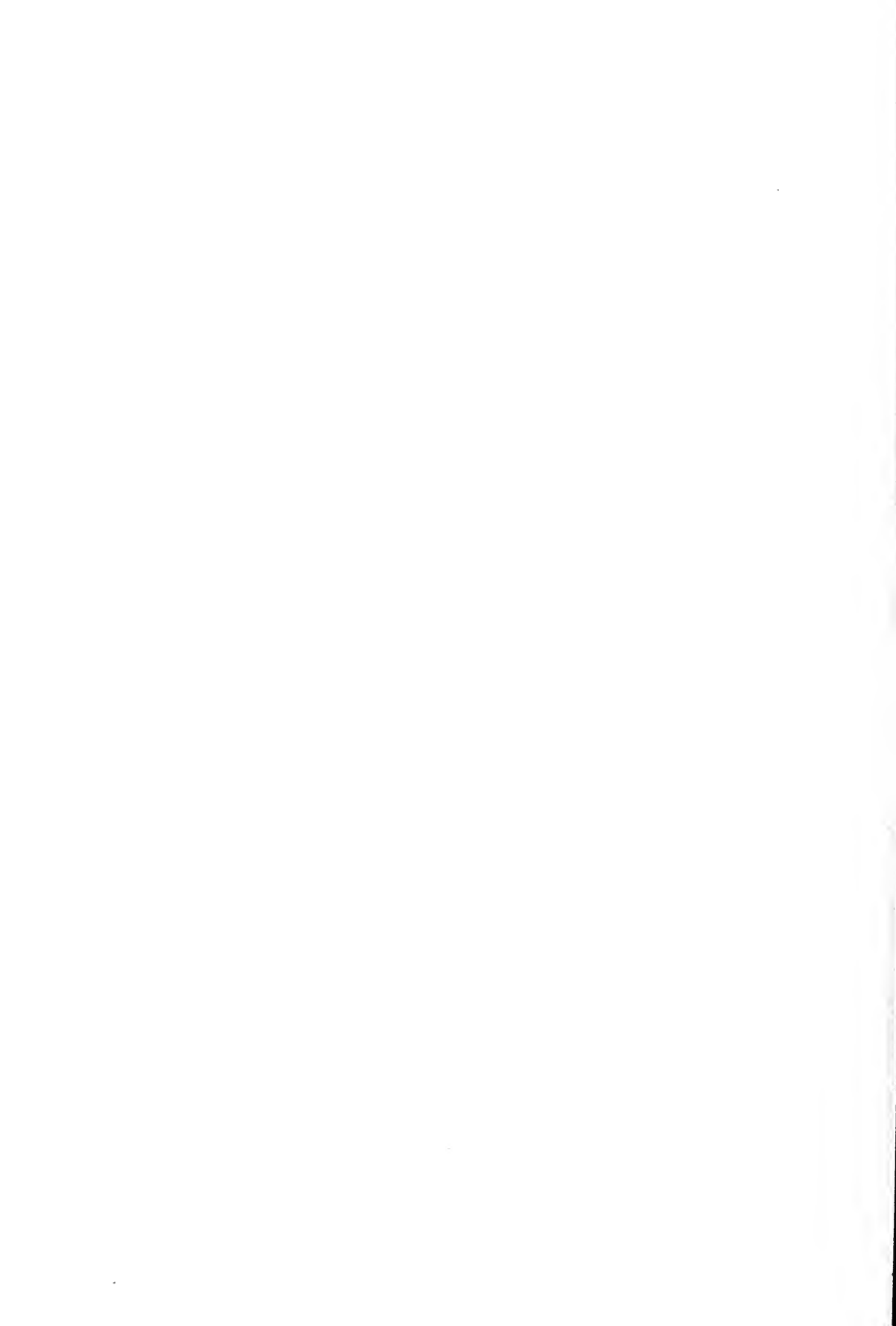
Penalty  
for  
contempt

16d.—(1) Except as otherwise provided by statute, every person who commits contempt in the face of a provincial offences court is upon conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement  
to  
offender

(2) Before proceedings are taken for contempt under subsection 1, the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him of his right to show cause why he should not be punished.

SECTION 4. The provincial offences courts are established in a manner parallel to provincial courts (criminal division). Provision is made for contempt procedures and rules. The new Part is complementary to the Bill to enact *The Provincial Offences Act, 1979*.



- (3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he should not be punished. Show cause
- (4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day. Adjournment for adjudication of contempt
- (5) Where a contempt proceeding is adjourned to another day under subsection 1, the contempt proceeding shall be heard and determined by the court presided over by a judge. Adjudication by a judge
- (6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection 4, the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination. Arrest for immediate adjudication of contempt
- (7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he be barred from acting as agent in the proceeding in addition to any other punishment to which he is liable. Barring of agent in contempt
- (8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of *The Provincial Offences Act, 1979*. Appeals  
1979, c. . .
- (9) *The Provincial Offences Act, 1979* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement
- 16e. Any person who knowingly disturbs or interferes with the proceedings of a provincial offences court, without reasonable justification, while outside the courtroom is guilty of an offence and upon conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. Penalty for disturbance outside courtroom
- 16f. Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (criminal division) may make rules regulating any matters relating to the practice and procedure of the provincial offences courts including, without limiting the generality of the foregoing, Rules for provincial offences courts
- (a) prescribing forms respecting proceedings in the court;

- (b) prescribing any matter required to be or referred to as prescribed by the rules of the court;
- (c) prescribing and regulating the proceedings under any Act that confers jurisdiction upon a provincial offences court or a judge or justice of the peace sitting therein.

s. 27,  
amended

5. Section 27 of the said Act is amended by adding thereto the following subsection:

Idem

(1a) The clerk of a provincial court (criminal division) is the clerk of the provincial offences court of the same county or district.

References  
to  
provincial  
courts  
(criminal  
division)

6. Where, in any Act, regulation or by-law, a reference is made to a provincial court (criminal division) in connection with a provincial offence, the reference shall be deemed to be to a provincial offences court.

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 Provincial Courts Amendment Act, 1979*



**SECTION 5.** The amendment provides for clerks for the provincial offences courts.

**SECTION 6.** The provision recognizes the transfer of jurisdiction from provincial courts (criminal division) to provincial offences courts.





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An Act to amend  
The Provincial Courts Act

---

*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General and Solicitor General

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*(Reprinted as amended by the  
Administration of Justice Committee)*

**BILL 75**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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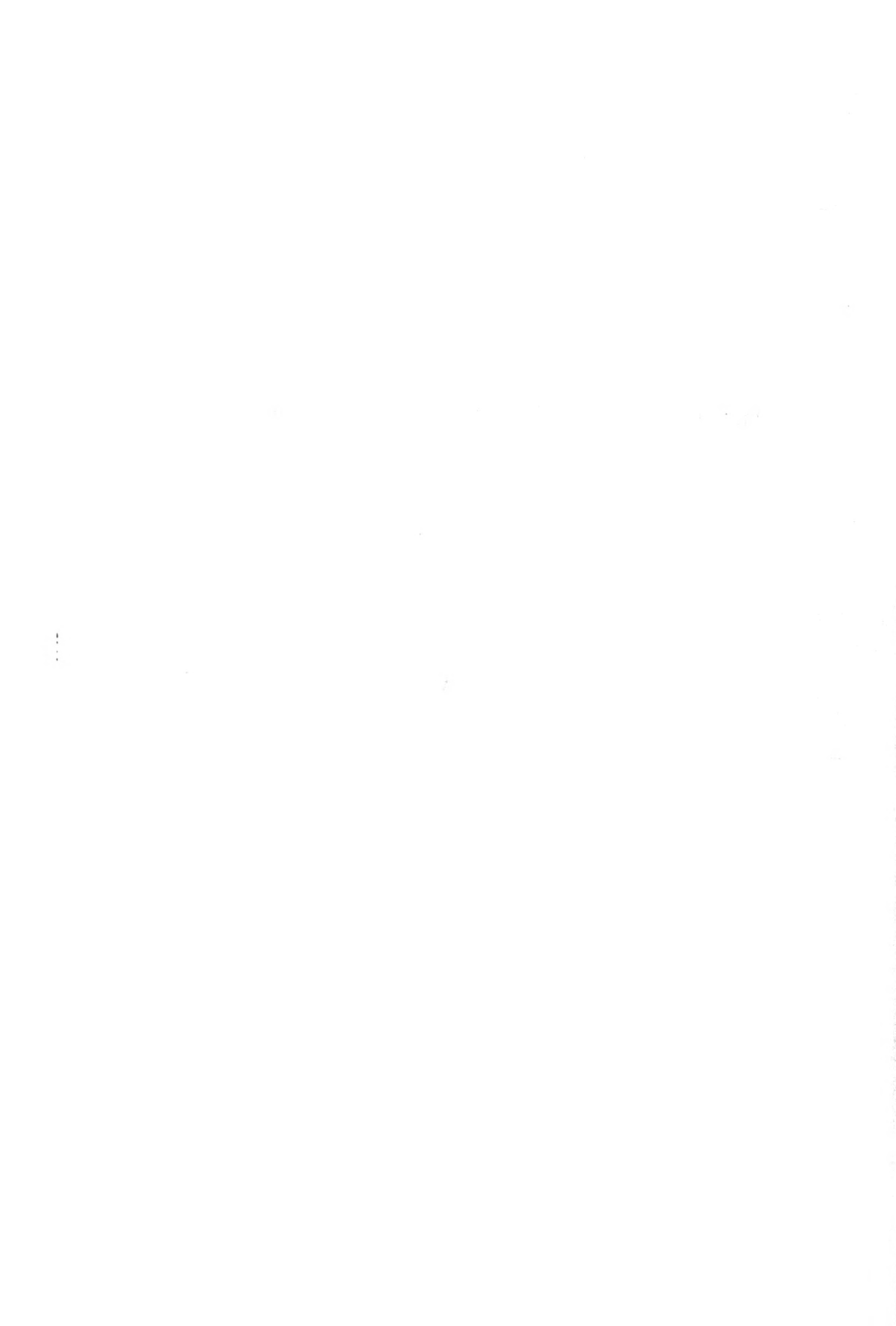
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**An Act to amend The Provincial Courts Act**

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THE HON. R. MCMURTRY  
Attorney General

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BILL 75

1979

## An Act to amend The Provincial Courts Act

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

1. Section 9 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:
 

(1a) Where jurisdiction is conferred on a judge, justice of the peace or provincial court, in the absence of express provision for procedures therefor in any Act, regulation or rule, the judge, justice of the peace or provincial court shall exercise the jurisdiction in any manner consistent with the due administration of justice.
2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 46, section 1, is further amended by adding thereto the following subsection:
 

(1a) The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.
3. The said Act is amended by adding thereto the following section:
 

16a.—(1) The rules committee of the provincial courts (criminal division) is established and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

(2) A majority of the members of the rules committee constitutes a quorum.

(3) The rules committee of the provincial courts (criminal division) is a provincial court (criminal division) for the purpose of making rules of court under the *Criminal Code* (Canada).

s. 9.  
amendedWhere  
procedures  
not  
provideds. 10.  
amendedChief Judge  
of provincial  
offences  
courtss. 16a.  
enactedRules  
committee

Quorum

Rules

R.S.C. 1970.  
c. C-34

Part II-A  
(ss. 16b-16f),  
enacted

4. The said Act is further amended by adding thereto the following Part:

## PART II-A

Provincial  
offences  
court

16b.—(1) There shall be in every county and district a court of record to be styled,

- (a) in counties, the "Provincial Offences Court of the County (or Judicial District or United Counties) of (*naming the county, etc.*)";
- (b) in districts, the "Provincial Offences Court of the District of (*naming the district*)",

presided over by a judge or justice of the peace.

Jurisdiction

(2) Each provincial offences court has jurisdiction to hear, determine and dispose of,

1979, c. . . .

- (a) all matters in which jurisdiction is conferred by *The Provincial Offences Act, 1979*; and
- (b) any other matter assigned to it by or under any statute.

Sittings

16c.—(1) The provincial offences courts may hold sittings at any place in the county or district designated by the chief judge of the provincial offences courts.

Idem

(2) Where a proceeding in which a provincial offences court has jurisdiction is conducted during the course of a sitting of the provincial court (criminal division) or provincial court (family division) in the same county or district, the proceeding shall be deemed to be conducted in the provincial offences court.

Penalty  
for  
contempt

16d.—(1) Except as otherwise provided by statute, every person who commits contempt in the face of a provincial offences court is upon conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement  
to  
offender

(2) Before proceedings are taken for contempt under subsection 1, the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him of his right to show cause why he should not be punished.



- (3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he should not be punished. Show cause
- (4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day. Adjournment for adjudication of contempt
- (5) Where a contempt proceeding is adjourned to another day under subsection 1, the contempt proceeding shall be heard and determined by the court presided over by a judge. Adjudication by a judge
- (6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection 4, the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination. Arrest for immediate adjudication of contempt
- (7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he be barred from acting as agent in the proceeding in addition to any other punishment to which he is liable. Barring of agent in contempt
- (8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of *The Provincial Offences Act, 1979*. Appeals  
1979, c. . . .
- (9) *The Provincial Offences Act, 1979* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement
- 16e. Any person who knowingly disturbs or interferes with the proceedings of a provincial offences court, without reasonable justification, while outside the courtroom is guilty of an offence and upon conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. Penalty for disturbance outside courtroom
- 16f. Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (criminal division) may make rules regulating any matters relating to the practice and procedure of the provincial offences courts including, without limiting the generality of the foregoing, Rules for provincial offences courts
- (a) prescribing forms respecting proceedings in the court;

- (b) prescribing any matter required to be or referred to as prescribed by the rules of the court;
- (c) prescribing and regulating the proceedings under any Act that confers jurisdiction upon a provincial offences court or a judge or justice of the peace sitting therein.

s. 27,  
amended

5. Section 27 of the said Act is amended by adding thereto the following subsection:

Idem

(1a) The clerk of a provincial court (criminal division) is the clerk of the provincial offences court of the same county or district.

References  
to  
provincial  
courts  
(criminal  
division)

6. Where, in any Act, regulation or by-law, a reference is made to a provincial court (criminal division) in connection with a provincial offence, the reference shall be deemed to be to a provincial offences court.

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 Provincial Courts Amendment Act, 1979*.



An Act to amend  
The Provincial Courts Act

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*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

March 27th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Highway Traffic Act**

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MR. SWART

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#### EXPLANATORY NOTE

The purpose of the Bill is to require that all school buses in Ontario be equipped with seat belts. The Bill contains an amendment to *The Highway Traffic Act* stating that any school bus used for the purpose of transporting children to or from school must be equipped with a seat belt assembly for each passenger seat. The responsibility for ensuring that seat belts are used by all passengers is incorporated in the existing *Highway Traffic Act* and provides that the driver of a vehicle is responsible for those under 16 years of age.

BILL 76

1979

## An Act to amend The Highway Traffic Act

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

1. Subsection 6 of section 63a of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 1, is amended by inserting after "vehicle" in the first line "including a school bus referred to in section 120". s. 63a (6). amended
2. Section 120 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 29, 1975, chapter 64, section 1 and 1977, chapter 54, section 14, is further amended by adding thereto the following subsection:
 

(5a) No school bus shall be used to transport children to or from school unless the bus is equipped with a seat belt assembly for each seating position occupied by the driver and passengers. School bus to be equipped with seat belts
3. This Act comes into force on the day it receives Royal Assent. Commencement
4. The short title of this Act is *The Highway Traffic Amendment Act, 1979*. Short title

An Act to amend  
The Highway Traffic Act

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*1st Reading*

May 3rd, 1979

*2nd Reading*

*3rd Reading*

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MR. SWART

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*(Private Member's Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Crown Timber Act**

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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#### EXPLANATORY NOTES

SECTION 1. Clauses *e* and *g* of section 1 of the Act now read as follows:

(*e*) "*licence*" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber;

(*g*) "*licensee*" means a person to whom a licence has been granted or to whom a licence has been assigned with the consent of the Minister or in whom a licence has become vested by operation of law.

Clause *e* is extended to include an agreement referred to in the new section 5a of the Act (section 5 of the Bill). Clause *g* is extended to include a person who enters into such an agreement.

SECTION 2. Subsection 7 of section 2 of the Act now reads as follows:

(7) *Notwithstanding subsection 1, the Minister may grant licences to cut Crown timber at such rates and subject to such terms and conditions as he considers proper, if the stumpage charges payable for such timber do not exceed \$2,000.*

The limitation to granting a licence under subsection 7 is changed to a maximum licensed area of 160 acres.

## An Act to amend The Crown Timber Act

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

1. Clauses *e* and *g* of section 1 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1 (e), (g), re-enacted

(e) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 3 of section 5*a*, includes an agreement entered into under subsection 1 of that section;

. . . . .

(g) "licensee" means a person,

- (i) to whom a licence has been granted,
- (ii) with whom the Minister has entered into an agreement under subsection 1 of section 5*a*,
- (iii) to whom a licence has been assigned with the consent of the Minister, or
- (iv) in whom a licence has become vested by operation of law.

2. Subsection 7 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (7), re-enacted

(7) Notwithstanding subsection 1, the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. Licence where licensed area not more than 160 acres

s. 4,  
re-enacted

3. Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 23, section 1, is repealed and the following substituted therefor:

Crown  
management  
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.

s. 5 (1),  
re-enacted

4. Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Salvage  
licences

(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

s. 5a,  
enacted

5. The said Act is amended by adding thereto the following section:

Authority to  
enter into a  
forest  
management  
agreement

5a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, any such agreement may provide for,

- (a) the cutting of Crown timber and the prices therefor;
- (b) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such prices, if any, and to such terms and conditions as the Minister and such person may agree upon;
- (c) any matter referred to in subsection 4 of section 25;
- (d) the construction, reconstruction and maintenance of any road necessary for such management and operations;

SECTION 3. Section 4 of the Act now reads as follows:

4. *The Minister, with the approval of the Lieutenant Governor in Council, may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.*

The amendment dispenses with the requirement that the Lieutenant Governor in Council approve the designation of a Crown management unit.

SECTION 4. Subsection 1 of section 5 of the Act now reads as follows:

- (1) *Where Crown timber in respect of which a licence has not been granted has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.*

The underlined words have been struck out and replaced with the words "that is not subject to a licence". The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 5. Subsection 1 of the new section 5a enables the Minister, with the approval of the Lieutenant Governor in Council, to enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management.

Subsection 2 defines "sustained yield" and complements subsection 1.

Subsection 3 excludes the application of various provisions of the Act to an agreement entered into under subsection 1.

SECTION 6. Section 12 of the Act now reads as follows:

12.—(1) *A licence does not confer any right to cut Crown timber on lands for which at the time the licence is granted a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly granted by the licence.*

(2) *A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence is granted have been located or sold under The Public Lands Act.*

The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 7. Section 18 of the Act, exclusive of the clauses, now reads as follows:

18. *Notwithstanding the granting of a licence, the Minister may,*

The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

- (e) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (f) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (g) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause *b* or *e*, any such agreement shall be subject to the terms and conditions prescribed in the regulations.

(2) In subsection 1, the expression "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut. Meaning of "sustained yield"

(3) Subsections 2 and 3 of section 5, section 15*a*, clause *b* of section 18, sections 24, 25, 26 and 31 and clause *k* of section 46 do not apply in respect of an agreement entered into under subsection 1. Certain sections do not apply to agreement

6. Section 12 of the said Act is repealed and the following substituted therefor: s. 12. re-enacted

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence. Express right necessary to cut on certain lands

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under *The Public Lands Act*. No right to cut on located or sold lands R.S.O. 1970, c. 380

7. Section 18 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 18. amended

18. Notwithstanding any licence, the Minister may, Additional powers

s. 26 (1),  
re-enacted

8. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor:

Cancellation  
or variation of  
licence, etc.

(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

(a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and

(b) with the consent of the licensee, may cancel or vary any term or condition of a licence.

s. 32 (1),  
amended

9. Subsection 1 of section 32 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Boards of  
examiners,  
appointment  
and duties

(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

Commence-  
ment

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

Short title

11. The short title of this Act is *The Crown Timber Amendment Act, 1979*.



SECTION 8. Subsection 1 of section 26 of the Act now reads as follows:

- (1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council, having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him.*

The amendment enables the Lieutenant Governor in Council, with the consent of a licensee, to cancel or vary any term or condition of a licence.

SECTION 9. Subsection 1 of section 32 of the Act, exclusive of the clauses, now reads as follows:

- (1) The Lieutenant Governor in Council may appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,*

The amendment gives the Minister the authority to appoint boards of examiners.





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An Act to amend  
The Crown Timber Act

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*1st Reading*

May 4th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Crown Timber Act**

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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

EXPLANATORY NOTES

SECTION 1. Clauses *e* and *g* of section 1 of the Act now read as follows:

(*e*) "*licence*" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber;

. . . . .

(*g*) "*licensee*" means a person to whom a licence has been granted or to whom a licence has been assigned with the consent of the Minister or in whom a licence has become vested by operation of law.

Clause *e* is extended to include an agreement referred to in the new section 5*a* of the Act (section 5 of the Bill). Clause *g* is extended to include a person who enters into such an agreement.

SECTION 2. Subsection 7 of section 2 of the Act now reads as follows:

(7) *Notwithstanding subsection 1, the Minister may grant licences to cut Crown timber at such rates and subject to such terms and conditions as he considers proper, if the stumpage charges payable for such timber do not exceed \$2,000.*

The limitation to granting a licence under subsection 7 is changed to a maximum licensed area of 160 acres.

## An Act to amend The Crown Timber Act

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

1. Clauses *e* and *g* of section 1 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: <sup>s. 1 (e) (g), re-enacted</sup>

(*e*) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 3 of section 5*a*, includes an agreement entered into under subsection 1 of that section;

. . . . .

(*g*) "licensee" means a person,

- (i) to whom a licence has been granted,
- (ii) with whom the Minister has entered into an agreement under subsection 1 of section 5*a*,
- (iii) to whom a licence has been assigned with the consent of the Minister, or
- (iv) in whom a licence has become vested by operation of law.

2. Subsection 7 of section 2 of the said Act is repealed and the following substituted therefor: <sup>s. 2 (7), re-enacted</sup>

(7) Notwithstanding subsection 1, the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. <sup>Licence where licensed area not more than 160 acres</sup>

s. 4.  
re-enacted

3. Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 23, section 1, is repealed and the following substituted therefor:

Crown  
management  
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.

s. 5 (1),  
re-enacted

4. Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Salvage  
licences

(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

s. 5a,  
enacted

5. The said Act is amended by adding thereto the following section:

Authority to  
enter into a  
forest  
management  
agreement

5a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, every such agreement shall set out,

- (a) the silvicultural specifications that are to be observed and performed in respect of the harvesting, regeneration and tending of the forest areas that are subject to the agreement; and
- (b) the standards of regeneration to be achieved on the forest areas that are subject to the agreement,

and may provide for,

- (c) the cutting of Crown timber and the prices therefor:
- (d) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such



SECTION 3. Section 4 of the Act now reads as follows:

4. *The Minister, with the approval of the Lieutenant Governor in Council, may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.*

The amendment dispenses with the requirement that the Lieutenant Governor in Council approve the designation of a Crown management unit.

SECTION 4. Subsection 1 of section 5 of the Act now reads as follows:

- (1) *Where Crown timber in respect of which a licence has not been granted has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.*

The underlined words have been struck out and replaced with the words "that is not subject to a licence". The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 5. Subsection 1 of the new section 5a enables the Minister, with the approval of the Lieutenant Governor in Council, to enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management.

Subsection 2 defines "sustained yield" and complements subsection 1.

Subsection 3 excludes the application of various provisions of the Act to an agreement entered into under subsection 1.

Subsection 4 provides for the tabling of copies of agreements and certain reports.

prices, if any, and to such terms and conditions as the Minister and such person may agree upon;

- (e) the construction, reconstruction and maintenance of any road necessary for such management and operations;
- (f) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (g) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (h) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause *d* or *f*, any such agreement shall be subject to the terms and conditions prescribed in the regulations.

(2) In subsection 1, the expression "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut.

Meaning of "sustained yield"

(3) Subsections 2 and 3 of section 5, section 15*a*, clause *b* of section 18, sections 24, 25, 26 and 31 and clause *k* of subsection 1 of section 46 do not apply in respect of an agreement entered into under subsection 1.

Certain sections do not apply to agreement

(4) If the Assembly is then in session, the Minister shall,

Tabling

- (a) within five days after entering into an agreement under subsection 1 or an amending agreement, lay before the Assembly a copy of the agreement or amending agreement, as the case may be;
- (b) after the end of each year of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the areas harvested, regenerated and tended under such agreement in the year that has ended; and
- (c) after the end of each term of five years of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the relationship between the harvest and growth, including regeneration, of timber during the said term on the area subject to the agreement,

or, if the Assembly is not then in session, at the beginning of the next ensuing session.

s. 12,  
re-enacted

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

Express right necessary to cut on certain lands

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence.

No right to cut on located or sold lands R.S.O. 1970, c. 380

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under *The Public Lands Act*.

s. 18,  
amended

- 7. Section 18 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Additional powers

18. Notwithstanding any licence, the Minister may,

. . . . .

s. 26 (1),  
re-enacted

- 8. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor:

Cancellation or variation of licence, etc.

(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

(a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and

(b) with the consent of the licensee, may cancel or vary any term or condition of a licence.

s. 32 (1),  
amended

- 9. Subsection 1 of section 32 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Boards of examiners, appointment and duties

(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

. . . . .

SECTION 6. Section 12 of the Act now reads as follows:

- 12.—(1) *A licence does not confer any right to cut Crown timber on lands for which at the time the licence is granted a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly granted by the licence.*
- (2) *A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence is granted have been located or sold under The Public Lands Act.*

The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 7. Section 18 of the Act, exclusive of the clauses, now reads as follows:

*18. Notwithstanding the granting of a licence, the Minister may,*

. . . . .

The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 8. Subsection 1 of section 26 of the Act now reads as follows:

- (1) *Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council, having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him.*

The amendment enables the Lieutenant Governor in Council, with the consent of a licensee, to cancel or vary any term or condition of a licence.

SECTION 9. Subsection 1 of section 32 of the Act, exclusive of the clauses, now reads as follows:

- (1) *The Lieutenant Governor in Council may appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,*
- . . . . .

The amendment gives the Minister the authority to appoint boards of examiners.



10. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
11. The short title of this Act is *The Crown Timber Amendment Act, 1979*. Short title

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An Act to amend  
The Crown Timber Act

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*1st Reading*

May 4th, 1979

*2nd Reading*

November 6th, 1979

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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



**BILL 77**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Crown Timber Act**

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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**An Act to amend The Crown Timber Act**

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

- 1. Clauses *e* and *g* of section 1 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1 (e) (g),  
re-enacted

(e) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 3 of section 5*a*, includes an agreement entered into under subsection 1 of that section;

. . . . .

(g) "licensee" means a person,

- (i) to whom a licence has been granted,
- (ii) with whom the Minister has entered into an agreement under subsection 1 of section 5*a*,
- (iii) to whom a licence has been assigned with the consent of the Minister, or
- (iv) in whom a licence has become vested by operation of law.

- 2. Subsection 7 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (7),  
re-enacted

(7) Notwithstanding subsection 1, the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. Licence where  
licensed area  
not more than  
160 acres

s. 4,  
re-enacted

3. Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 23, section 1, is repealed and the following substituted therefor:

Crown  
management  
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.

s. 5 (1),  
re-enacted

4. Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Salvage  
licences

(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

s. 5a,  
enacted

5. The said Act is amended by adding thereto the following section:

Authority to  
enter into a  
forest  
management  
agreement

5a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, every such agreement shall set out,

- (a) the silvicultural specifications that are to be observed and performed in respect of the harvesting, regeneration and tending of the forest areas that are subject to the agreement; and
- (b) the standards of regeneration to be achieved on the forest areas that are subject to the agreement,

and may provide for,

- (c) the cutting of Crown timber and the prices therefor:
- (d) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such

prices, if any, and to such terms and conditions as the Minister and such person may agree upon;

- (e) the construction, reconstruction and maintenance of any road necessary for such management and operations;
- (f) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (g) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (h) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause *d* or *f*, any such agreement shall be subject to the terms and conditions prescribed in the regulations.

(2) In subsection 1, the expression "sustained yield" <sup>Meaning of "sustained yield"</sup> means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut.

(3) Subsections 2 and 3 of section 5, section 15*a*, clause *b* <sup>Certain sections do not apply to agreement</sup> of section 18, sections 24, 25, 26 and 31 and clause *k* of subsection 1 of section 46 do not apply in respect of an agreement entered into under subsection 1.

(4) If the Assembly is then in session, the Minister shall, <sup>Tabling</sup>

- (a) within five days after entering into an agreement under subsection 1 or an amending agreement, lay before the Assembly a copy of the agreement or amending agreement, as the case may be;
- (b) after the end of each year of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the areas harvested, regenerated and tended under such agreement in the year that has ended; and
- (c) after the end of each term of five years of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the relationship between the harvest and growth, including regeneration, of timber during the said term on the area subject to the agreement,

or, if the Assembly is not then in session, at the beginning of the next ensuing session.

s. 12,  
re-enacted

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

Express right  
necessary to  
cut on certain  
lands

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence.

No right to  
cut on located  
or sold lands  
R.S.O. 1970,  
c. 380

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under *The Public Lands Act*.

s. 18,  
amended

7. Section 18 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Additional  
powers

18. Notwithstanding any licence, the Minister may,

. . . . .

s. 26 (1),  
re-enacted

8. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor:

Cancellation  
or variation of  
licence, etc.

(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

(a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and

(b) with the consent of the licensee, may cancel or vary any term or condition of a licence.

s. 32 (1),  
amended

9. Subsection 1 of section 32 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Boards of  
examiners,  
appointment  
and duties

(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

. . . . .

- 10.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment
- 11.** The short title of this Act is *The Crown Timber Amendment Act, 1979*. Short title

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An Act to amend  
The Crown Timber Act

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*1st Reading*

May 4th, 1979

*2nd Reading*

November 6th, 1979

*3rd Reading*

December 18th, 1979

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Statute Labour Act**

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MR. WILDMAN

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide additional authority to roads commissioners under the Act in order to better enable them to carry out their duties.

The principal changes are the following:

1. The limitation on the amount which the commissioners may fix for commutation of statute labour is removed. (s. 2).
2. The authority to conduct a sale of lands to recover arrears payable under *The Statute Labour Act* is transferred from the sheriff of the district in which the roads commissioners have jurisdiction to the secretary-treasurer of the roads commissioners.
3. The roads commissioners are authorized to erect and maintain enforceable traffic signs in the area under their jurisdiction.

## An Act to amend The Statute Labour Act

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

1. Section 4 of *The Statute Labour Act*, being chapter 445 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 4.  
re-enacted

4. The council of any township may by by-law direct that a sum, as may be determined by the council, shall be paid as commutation of statute labour for the whole or any part of the township, in which case the amount of the commutation shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes. Commutation  
of labour

2. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor: s. 26 (1).  
re-enacted

(1) Any person instead of performing the statute labour required of him may commute therefor by payment at the rate per day fixed by resolution of the commissioners, and the commissioners shall expend all commutation money upon the roads on which the labour that is commuted for should have been performed, unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. Commutation

3. Section 34 of the said Act is repealed. s. 34.  
repealed

4. Section 35 of the said Act is repealed and the following substituted therefor: s. 35.  
re-enacted

35.—(1) Where it appears to the secretary-treasurer that any amount chargeable for statute labour is in arrears for three years from the 31st day of December in the year in which the amount became payable, the secretary-treasurer Sale of  
land by  
secretary-  
treasurer  
for arrears

may proceed to collect the amount together with the penalties provided by section 29 and interest as provided by subsection 5 of section 34 and all other lawful charges and costs incurred in connection with the sale of the lands in respect of which the arrears are chargeable.

Idem

(2) The procedure in relation to the sale of lands under subsection 1 and the provisions applicable to deeds and the redemption of lands following the sale shall be the same as nearly as possible as in the case of the sale of lands by the treasurer of a county under *The Municipal Act*, but the commissioner shall not purchase such land.

R.S.O. 1970,  
c. 284

Notice of  
adjourned  
sale

(3) The secretary-treasurer shall give notice in the advertisement of an adjourned sale that if no price is offered for any land or any interest therein at the adjourned sale, the land or the interest therein of the owner or person liable for the statute labour in arrear may be forfeited to the Crown and if, at the adjourned sale, no price is in fact offered, he shall forthwith notify the Minister of Revenue accordingly giving a description of the land, the name of the owner or person liable for the statute labour in arrear and the amount of the arrears together with any penalties, interest, charges and costs that may be payable in respect thereof.

Forfeiture

(4) Upon notification by the secretary-treasurer that no price has been offered for any land or any interest therein at an adjourned sale, the Minister of Revenue may declare the land or the interest therein forfeited to the Crown as provided in *The Provincial Land Tax Act* in the case of land or the interest therein in respect of which the taxes imposed under that Act remain unpaid for a period of two years and the provisions of *The Provincial Land Tax Act* apply *mutatis mutandis* to the land or the interest therein so forfeited.

R.S.O. 1970,  
c. 370

Where  
forfeiture  
annulled  
on payment  
of arrears

(5) Where forfeiture is annulled upon payment to the Minister of Revenue in addition to any amounts payable under *The Provincial Land Tax Act* by reason of forfeiture, of the amount of the arrears, penalties, interest, charges and costs referred to in subsection 1, the Minister of Revenue shall remit to the secretary-treasurer of the commissioners the amount of such arrears, penalties and interest, and to the Minister of Transportation and Communications such charges and costs.

s. 38,  
enacted

5. The said Act is amended by adding thereto the following section:

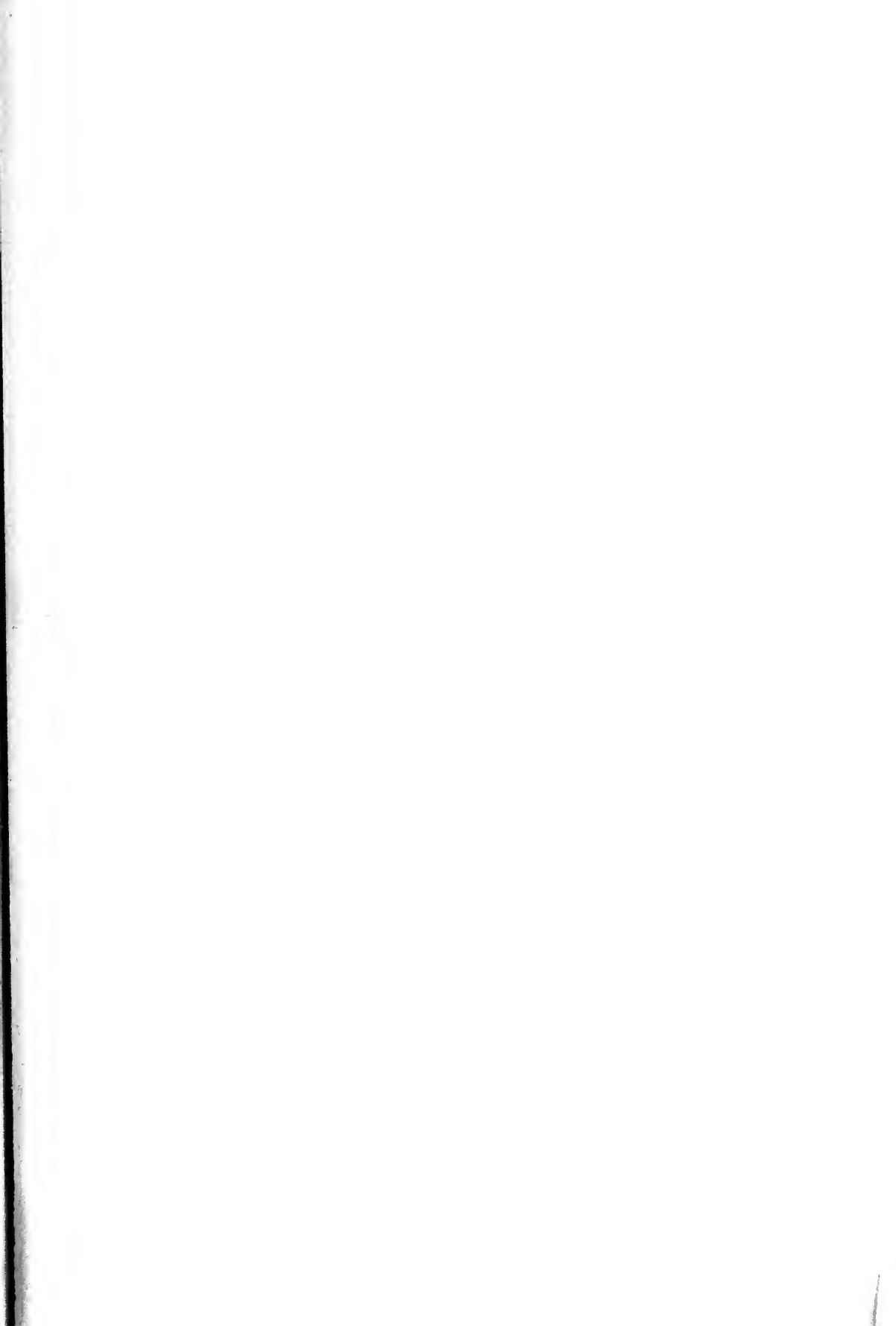
Power to  
erect  
traffic  
signs  
R.S.O. 1970,  
c. 202

38. The commissioners have power to erect and maintain any sign prescribed under *The Highway Traffic Act* in any

location under their jurisdiction and any sign erected by the commissioners shall be deemed to be validly erected and in force for the purpose of any prosecution or other proceeding brought under that Act.

6. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
7. The short title of this Act is *The Statute Labour Amendment Act, 1979*. Short title





An Act to amend  
The Statute Labour Act

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*1st Reading*

May 7th, 1979

*2nd Reading*

*3rd Reading*

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MR. WILDMAN

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting Election Public Opinion Polls**

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MR. SAMIS

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**EXPLANATORY NOTE**

This Bill prohibits the publishing and broadcasting of political opinion polls during an election where the polls relate to the outcome of the election, or the standing of any leader, candidate or party in the election.

BILL 79

1979

## An Act respecting Election Public Opinion Polls

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

1. In this Act,

Interpre-  
tation

(a) "candidate" means,

(i) a person who is duly nominated as a candidate for an electoral district in accordance with *The Election Act*,

R.S.O. 1970,  
c. 142

(ii) a person who is nominated by a constituency association of a registered party in an electoral district as the official candidate of such party in the electoral district, or

(iii) a person who, on or after the date of the issue of a writ for an election in an electoral district, declares himself to be an independent candidate at the election in the electoral district;

(b) "election" means an election to elect a member or members to serve in the Assembly;

(c) "leader" means a leader of a political party registered under *The Election Finances Reform Act, 1975*;

1975, c. 12

(d) "party" means a political party registered under *The Election Finances Reform Act, 1975*;

(e) "publication" means a communication to the general public by means of newspaper, magazine or other periodical, broadcasting, or outdoor advertising facilities, and "publish" has a corresponding meaning;

(f) "public opinion poll" includes public opinion survey.

Prohibition  
re opinion  
polls

**2.** No person shall procure for publication, cause to be published or consent to the publication of a public opinion poll in respect of the outcome of an election or the standing of any leader, candidate or party in the election during the period from the issue of the writ for the election until the time the voting polls are officially closed.

Offence

**3.** Every person who contravenes any provision of this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporation

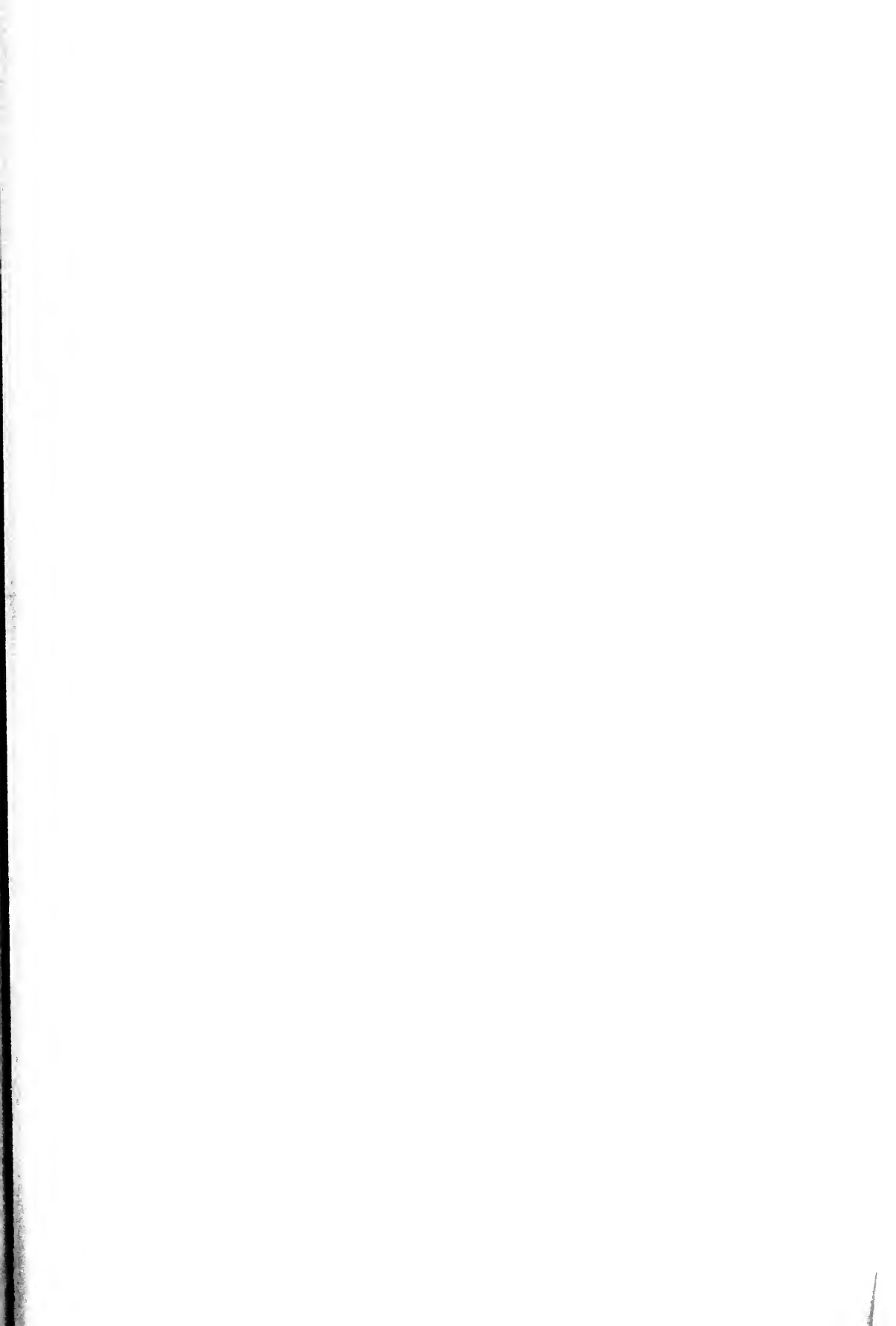
**4.** Where a corporation is convicted of an offence under section 3, the maximum penalty that may be imposed upon the corporation is \$10,000, and not as provided therein.

Commence-  
ment

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

Short title

**6.** The short title of this Act is *The Election Public Opinion Polls Act, 1979*.







An Act respecting Election  
Public Opinion Polls

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*1st Reading*

May 7th, 1979

*2nd Reading*

*3rd Reading*

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MR. SAMIS

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Veterinarians Act**

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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#### EXPLANATORY NOTES

SECTION 1. Clauses *a* and *b* of subsection 1 of section 8 of the Act now read as follows:

(1) *The council may pass by-laws,*

(a) *respecting the admission and registration of members;*

(b) *fixing the examination fee, the annual registration fee and the penalty for default in payment of the latter.*

The authority to make by-laws is enlarged to provide for classes of registrations. The authority to make by-laws respecting the payment of fees is also enlarged.

SECTION 2. Subsection 2 of section 12 of the Act now reads as follows:

(2) *Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty, not exceeding \$25, as the by-laws prescribe.*

The maximum amount (\$25) that may be prescribed by by-law as a penalty for late payment of a prescribed fee is removed.

BILL 80

1979

## An Act to amend The Veterinarians Act

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

1. Clauses *a* and *b* of subsection 1 of section 8 of *The Veterinarians Act*, being chapter 480 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 8 (1) (a, b),  
re-enacted

(a) respecting the admission and registration of members, prescribing classes of registrations and governing the requirements and qualifications for the granting of registrations or any class thereof and prescribing the terms and conditions on which registrations or any class thereof are granted;

(b) requiring the payment of fees by members and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the registrar is required or authorized to do, and prescribing the amounts thereof.

2. Subsection 2 of section 12 of the said Act is repealed and the following substituted therefor: s. 12 (2),  
re-enacted

(2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty as the by-laws prescribe. Default in  
payment

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

4. The short title of this Act is *The Veterinarians Amendment Act, 1979*. Short title

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An Act to amend  
The Veterinarians Act

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*1st Reading*

May 8th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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*(Government Bill)*

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**BILL 80**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Veterinarians Act**

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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BILL 80

1979

**An Act to amend  
The Veterinarians Act**

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

1. Clauses *a* and *b* of subsection 1 of section 8 of *The Veterinarians Act*, being chapter 480 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:
  - (a) respecting the admission and registration of members, prescribing classes of registrations and governing the requirements and qualifications for the granting of registrations or any class thereof and prescribing the terms and conditions on which registrations or any class thereof are granted;
  - (b) requiring the payment of fees by members and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the registrar is required or authorized to do, and prescribing the amounts thereof.
  
2. Subsection 2 of section 12 of the said Act is repealed and the following substituted therefor:
  - (2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty as the by-laws prescribe.
  
3. This Act comes into force on the day it receives Royal Assent.
  
4. The short title of this Act is *The Veterinarians Amendment Act, 1979*.

s. 8 (1) (a, b).  
re-enacted

s. 12 (2).  
re-enacted

Default in  
payment

Commence-  
ment

Short title

An Act to amend  
The Veterinarians Act

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*1st Reading*

May 8th, 1979

*2nd Reading*

June 18th, 1979

*3rd Reading*

June 18th, 1979

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Hunter Damage Compensation Act**

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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## EXPLANATORY NOTES

*The Hunter Damage Compensation Act* now provides for compensation to be paid to farmers whose live stock or other property is damaged by hunters. The maximum amounts payable in respect of various species of live stock are presently set out in the Act.

The general purpose of the Bill is to remove from the Act the maximum amounts of compensation to be paid and to provide authority to prescribe maximum amounts by regulation.

SECTION 1. Subsections 2, 3 and 4 of section 3 of the Act now read as follows:

(2) *Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property in respect of which payment is made.*

(3) *No payment shall be made under subsection 2 of an amount in respect of,*

(a) *a head of cattle in excess of \$500;*

(b) *a goat in excess of \$100;*

(c) *a horse in excess of \$500;*

(d) *a head of sheep in excess of \$100; or*

(e) *a head of swine in excess of \$100.*

(4) *Where an applicant is entitled to receive an amount under a contract of insurance against loss by reason of the death of or injury to live stock or damage to property in respect of which he has made application under subsection 1, the Minister shall apply an amount equal to that amount in reduction of any payment under subsection 2.*

The re-enactment of subsection 2 makes it clear that the amount of compensation is to be based on the market value at the time of death, injury or damage and not on the ultimate market value.

The present subsection 3 is re-enacted as subsection 4. The re-enactment is complementary to the general purpose of the Bill.

The present subsection 4 is re-enacted as subsection 3. The re-enactment clarifies how the amount of any payment received under a contract of insurance is to be taken into account.

SECTION 2. Section 5 of the Act authorizes the Lieutenant Governor in Council to make regulations respecting the matters set out in the clauses.

The added clause gives the Lieutenant Governor in Council the power to prescribe by regulation the maximum amounts of payments in respect of live stock and other property.

BILL 81

1979

## An Act to amend The Hunter Damage Compensation Act

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

1. Subsections 2, 3 and 4 of section 3 of *The Hunter Damage Compensation Act*, being chapter 215 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 3 (2-4),  
re-enacted

(2) Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property at the time of the death, injury or damage in respect of which payment is made. Payment of  
compensation

(3) Where an applicant receives an amount under a contract of insurance by reason of the death of or injury to live stock or damage to property for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock or other property shall be deemed to be reduced by that amount. Reduction  
in market  
value by  
reason of  
insurance

(4) No payment shall be made under subsection 2 of an amount in excess of the maximum amount prescribed in the regulations for the live stock or other property. Amount of  
payment  
limited

2. Section 5 of the said Act is amended by adding thereto the following clause: s 5,  
amended

(ea) prescribing maximum amounts for live stock and other property for the purposes of subsection 4 of section 3.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment
4. The short title of this Act is *The Hunter Damage Compensation Amendment Act, 1979*. Short title

An Act to amend  
The Hunter Damage Compensation Act

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*1st Reading*

May 8th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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*(Government Bill)*

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**BILL 81**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Hunter Damage Compensation Act**

---

THE HON. W. NEWMAN  
Minister of Agriculture and Food

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BILL 81

1979

**An Act to amend  
The Hunter Damage Compensation Act**

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

1. Subsections 2, 3 and 4 of section 3 of *The Hunter Damage Compensation Act*, being chapter 215 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s 3 (2-4),  
re-enacted

(2) Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property at the time of the death, injury or damage in respect of which payment is made. Payment of  
compensation

(3) Where an applicant receives an amount under a contract of insurance by reason of the death of or injury to live stock or damage to property for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock or other property shall be deemed to be reduced by that amount. Reduction  
in market  
value by  
reason of  
insurance

(4) No payment shall be made under subsection 2 of an amount in excess of the maximum amount prescribed in the regulations for the live stock or other property. Amount of  
payment  
limited

2. Section 5 of the said Act is amended by adding thereto the following clause: s 5.  
amended

(ea) prescribing maximum amounts for live stock and other property for the purposes of subsection 4 of section 3.

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

4. The short title of this Act is *The Hunter Damage Compensation Amendment Act, 1979*. Short title

An Act to amend  
The Hunter Damage Compensation Act

---

*1st Reading*

May 8th, 1979

*2nd Reading*

June 18th, 1979

*3rd Reading*

June 18th, 1979

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Dog Licensing and Live Stock and  
Poultry Protection Act**

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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## EXPLANATORY NOTES

*The Dog Licensing and Live Stock and Poultry Protection Act* now authorizes compensation to be paid to owners of live stock and poultry that have been killed or injured by dogs or wolves. Maximum amounts are set out in the Act for payments in respect of farm animals and poultry whereas the maximum amounts for fur-bearing animals and rabbits are prescribed by regulation.

The Act also provides for compensation to be paid where bee colonies are damaged by bears. The maximum amounts payable are set out in the Act.

The general purpose of the Bill is to remove from the Act the maximum amounts of compensation to be paid for the various animals and bees and to provide authority to prescribe such amounts by regulation.

SECTION 1. Subsection 13 of section 14 of the Act now reads as follows:

*(13) No municipality shall be liable to an owner for an amount in respect of,*

*(a) a head of cattle in excess of \$500;*

*(aa) a fur-bearing animal in excess of the maximum amount prescribed therefor in the regulations;*

*(b) a goat in excess of \$100;*

*(c) a horse in excess of \$500;*

*(d) a head of sheep in excess of \$100;*

*(da) a rabbit in excess of the maximum amount prescribed therefor in the regulations;*

*(e) a head of swine in excess of \$100; or*

*(f) poultry of one owner, killed or injured in any year, in excess of \$1,000.*

The re-enactment removes from the Act the maximum amounts payable in respect of live stock and poultry and is complementary to the general purpose of the Bill.

SECTION 2. Clause *d* of section 22 of the Act now reads as follows:

*22. The Lieutenant Governor in Council make regulations,*

*(d) prescribing, for the purposes of subsection 13 of section 14, a maximum amount for,*

*(i) a fur-bearing animal or any species or class thereof, or*

*(ii) a rabbit or any class thereof.*

The re-enacted clause enlarges the power to make regulations prescribing maximum amounts so that it now covers all live stock and poultry as well as bees and hive equipment and is complementary to sections 1 and 3 of the Bill.

BILL 82

1979

**An Act to amend  
The Dog Licensing and Live Stock and  
Poultry Protection Act**

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

1. Subsection 13 of section 14 of *The Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 133 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 86, section 2, is repealed and the following substituted therefor: <sup>s. 14 (13), re-enacted</sup>

(13) No municipality shall be liable to an owner for an amount in respect of live stock or poultry in excess of the maximum amount prescribed therefor in the regulations. <sup>Amount of liability limited</sup>

2. Clause *d* of section 22 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 86, section 3, is repealed and the following substituted therefor: <sup>s. 22 (d), re-enacted</sup>

(*d*) prescribing maximum amounts for,

(i) live stock and poultry or any species or class thereof for the purposes of subsection 13 of section 14, and

(ii) honey bees and hive equipment for the purposes of subsection 3 of section 23.

3. Subsection 3 of section 23 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 94, section 7, is repealed and the following substituted therefor: <sup>s. 23 (3), re-enacted</sup>

(3) No payment in respect of a colony of honey bees shall exceed the maximum amount prescribed for honey bees and hive equipment in the regulations. <sup>Amount of payment limited</sup>

Part IV  
(ss. 24, 25),  
enacted

4. The said Act is amended by adding thereto the following Part.

## PART IV

### LIMITATION ON AMOUNT OF COMPENSATION

Amount of  
payment  
limited

24. Subject to subsection 13 of section 14, subsection 3 of section 23 and section 25, where compensation is payable under this Act, the amount payable shall not exceed the market value of the live stock, poultry, honey bees or hive equipment at the time of the death, injury or damage in respect of which payment is made.

Reduction  
in market  
value by  
reason of  
insurance

25. Where an owner receives an amount under a contract of insurance by reason of the death of or injury to live stock or poultry or damage to or the destruction of honey bees or hive equipment for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock, poultry, honey bees or hive equipment shall be deemed to be reduced by that amount.

Commence-  
ment

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

Short title

6. The short title of this Act is *The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1979*.

SECTION 3. Subsection 3 of section 23 of the Act now reads as follows:

(3) *No payment in respect of a colony of honey bees shall exceed,*

(a) *\$50 for the hive equipment; and*

(b) *\$25 for the honey bees.*

The re-enactment removes from the Act the maximum amount of payment for damage to bees and hive equipment and is complementary to the general purpose of the Bill.

SECTION 4. The new section 24 provides that the amount of compensation payable shall not exceed the market value of live stock, etc., at the time of death, injury or damage.

The new section 25 provides that the market value of live stock, etc., shall be deemed to be reduced by the amount of any payment received under a contract of insurance.





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An Act to amend  
The Dog Licensing and Live Stock  
and Poultry Protection Act

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*1st Reading*

May 8th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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*(Government Bill)*

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**BILL 82**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Dog Licensing and Live Stock and  
Poultry Protection Act**

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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**An Act to amend  
The Dog Licensing and Live Stock and  
Poultry Protection Act**

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

1. Subsection 13 of section 14 of *The Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 133 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 86, section 2, is repealed and the following substituted therefor: <sup>s. 14 (13).  
re-enacted</sup>

(13) No municipality shall be liable to an owner for an amount in respect of live stock or poultry in excess of the maximum amount prescribed therefor in the regulations. <sup>Amount of  
liability  
limited</sup>

2. Clause *d* of section 22 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 86, section 3, is repealed and the following substituted therefor: <sup>s. 22 (d).  
re-enacted</sup>

(*d*) prescribing maximum amounts for,

(i) live stock and poultry or any species or class thereof for the purposes of subsection 13 of section 14, and

(ii) honey bees and hive equipment for the purposes of subsection 3 of section 23.

3. Subsection 3 of section 23 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 94, section 7, is repealed and the following substituted therefor: <sup>s. 23 (3).  
re-enacted</sup>

(3) No payment in respect of a colony of honey bees shall exceed the maximum amount prescribed for honey bees and hive equipment in the regulations. <sup>Amount of  
payment  
limited</sup>

Part IV  
(ss. 24, 25),  
enacted

4. The said Act is amended by adding thereto the following Part.

#### PART IV

##### LIMITATION ON AMOUNT OF COMPENSATION

Amount of  
payment  
limited

24. Subject to subsection 13 of section 14, subsection 3 of section 23 and section 25, where compensation is payable under this Act, the amount payable shall not exceed the market value of the live stock, poultry, honey bees or hive equipment at the time of the death, injury or damage in respect of which payment is made.

Reduction  
in market  
value by  
reason of  
insurance

25. Where an owner receives an amount under a contract of insurance by reason of the death of or injury to live stock or poultry or damage to or the destruction of honey bees or hive equipment for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock, poultry, honey bees or hive equipment shall be deemed to be reduced by that amount.

Commence-  
ment

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

Short title

6. The short title of this Act is *The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1979*.







An Act to amend  
The Dog Licensing and Live Stock  
and Poultry Protection Act

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*1st Reading*

May 8th, 1979

*2nd Reading*

June 18th, 1979

*3rd Reading*

June 18th, 1979

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THE HON. W. NEWMAN  
Minister of Agriculture and Food

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting the Purchase of Goods and Services  
by the Government of Ontario and Government-supported  
Institutions**

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MR. MAKARCHUK

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#### EXPLANATORY NOTE

The purpose of the Bill is to establish purchasing rules applicable to the Government of Ontario and institutions supported by the Government of Ontario to encourage the purchase of commodities and services that are substantially produced in Canada. The Bill provides that a public institution shall not purchase a commodity or service that is not substantially produced in Canada where an alternative commodity or service of comparable quality and price is substantially produced and available in Canada.

BILL 83

1979

**An Act respecting the Purchase of Goods  
and Services by the Government of Ontario  
and Government-supported Institutions**

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

**1.** In this Act,

Interpre-  
tation

- (a) "Canadian producer" means a manufacturer, producer or farmer, whether a corporation or an individual, that is resident in Canada;
- (b) "commodity" means tangible personal property of any kind, including food;
- (c) "competitive price" means a price for a commodity or service that is not more than 10 per cent above and not less than 10 per cent below the price of a comparable commodity or service;
- (d) "public institution" means,
  - (i) a ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof, and
  - (ii) a corporation or unincorporated institution that receives financial support from the Government of Ontario constituting more than 50 per cent of its operating revenue;
- (e) "purchasing authority" means a person authorized to purchase commodities and services on behalf of a public institution.

**2.—(1)** Before a public institution makes a purchase of any commodity or service that is not substantially produced in

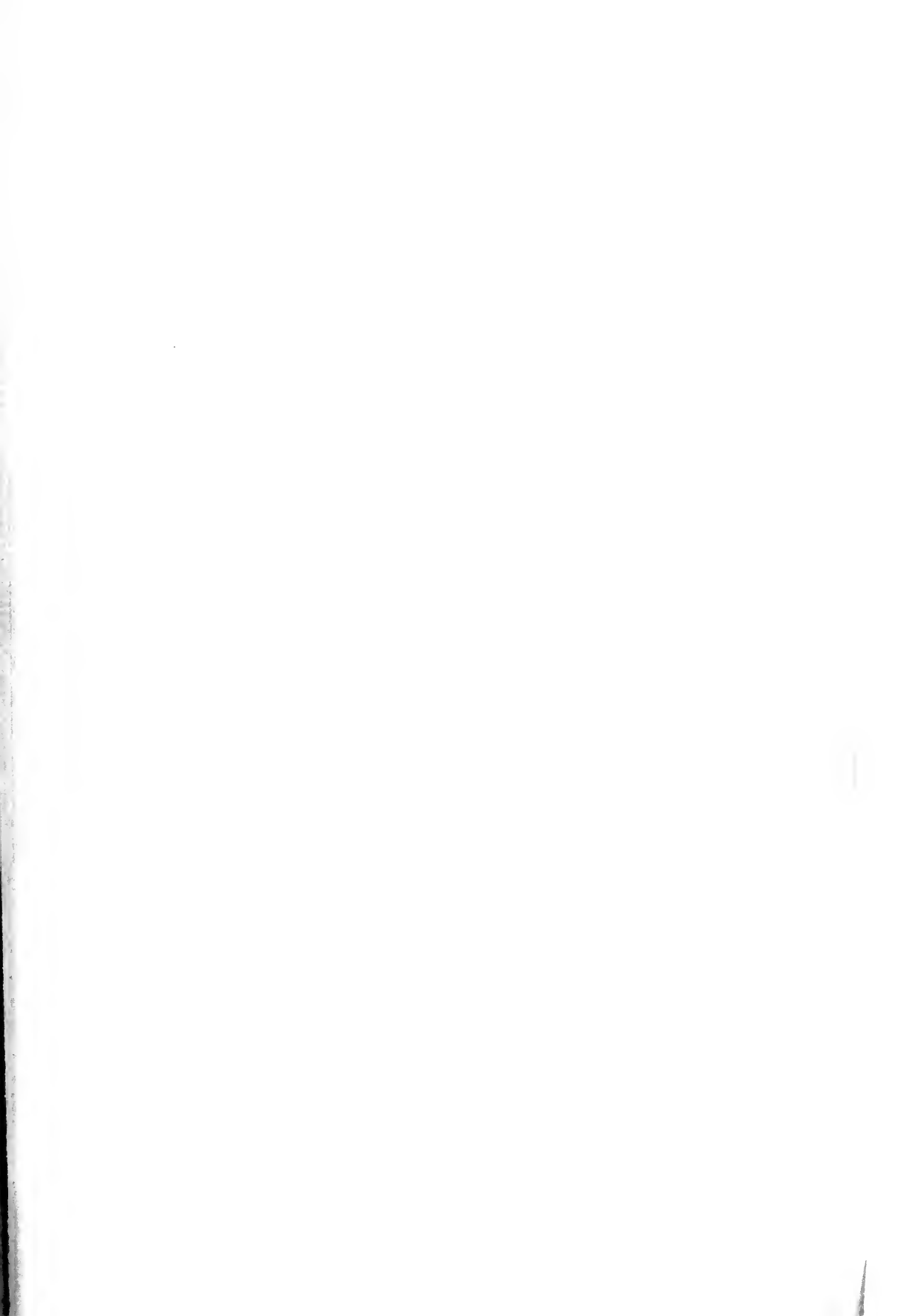
Purchasing  
principle

Canada, the purchasing authority shall make a reasonable effort, according to the circumstances, to ascertain whether a commodity or service of similar quality and competitive price is produced and available for purchase in Canada.

- Idem** (2) Where a purchasing authority for a public institution, in considering a purchase, determines that a commodity or service that is substantially produced in Canada has a similar quality and competitive price to a commodity or service of the same type that is not substantially produced in Canada, the public institution shall purchase only the commodity or service that is substantially produced in Canada.
- Damages** **3.**—(1) Any Canadian producer who, having made known to a public institution the nature and price of the commodity or service it produces, suffers loss or damage as a result of the failure of the public institution to comply with a provision of section 2 may, in a court of competent jurisdiction, sue for and recover an amount equal to the loss or damage.
- Limitation on damages** (2) Notwithstanding subsection 1, an amount recovered under subsection 1 for loss or damage shall not exceed an amount equal to 10 per cent of the value of the contract that the plaintiff would have received if the public institution had complied with the provisions of section 2.
- Application** **4.** This Act does not apply to a contract for purchase by a public institution where the amount of the purchase is less than \$100.
- Regulations** **5.** The Lieutenant Governor in Council may make regulations defining “resident in Canada” and “substantially produced in Canada” for the purposes of this Act.
- Commence-ment** **6.** This Act comes into force on the day it receives Royal Assent.
- Short title** **7.** The short title of this Act is *The Government Purchasing Act, 1979*.







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An Act respecting  
the Purchase of Goods and Services  
by the Government of Ontario and  
Government-supported Institutions

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*1st Reading*

May 8th, 1979

*2nd Reading*

*3rd Reading*

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MR. MAKARCHUK

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*(Private Member's Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to revise  
The Private Investigators and Security Guards Act**

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THE HON. R. MCMURTRY  
Solicitor General

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#### EXPLANATORY NOTE

The purpose of the Bill is to revise, update and extend the application of *The Private Investigators and Security Guards Act*.

Some of the features of the Bill are as follows:

1. The present legislation is extended to apply to burglar alarm agencies and agents and security consulting agencies and agents.
2. The Bill applies to in-house agents but such agents are not required to be licensed.
3. The definitions of a private investigator and a security guard are enlarged to apply to a wider range of activities.
4. The powers of the Registrar respecting inspections, investigations, enforcement and licensing are enlarged in keeping with similar powers in recent legislation.
5. The Private Investigation and Security Services Licensing Appeal Board is established and its composition, powers and procedures are provided for.
6. An appeal to the Board from decisions of the Registrar is provided for.
7. Decisions of the Board may be appealed to the Divisional Court.
8. An applicant for an agency licence may be required to furnish proof of liability insurance in an amount prescribed by the regulations.
9. The authority of the Lieutenant Governor in Council to make regulations is enlarged to provide for the regulation of advertising, the use of equipment and guard dogs, the use of automatic telephone-dialing devices and taped messages in a burglar alarm system, the design, components, installation, testing, servicing and monitoring of any such system, and the shutting down of any such system where any circumstance prescribed by the regulations exists.

**An Act to revise  
The Private Investigators and Security  
Guards Act**

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

**1. In this Act,**

Interpre-  
tation

- (a) "agency" means a private investigation agency, security guard agency, security consulting agency or burglar alarm agency;
- (b) "agent" means a private investigator, security guard, security consultant or burglar alarm agent;
- (c) "Board" means the Private Investigation and Security Services Licensing Appeal Board;
- (d) "burglar alarm agency" means the business of selling, providing, installing or servicing burglar alarm systems or of monitoring a signal from a premises protected by a burglar alarm system or of providing the services of burglar alarm agents;
- (e) "burglar alarm agent" means a person who sells, installs, services, tests or patrols a burglar alarm system or acts as an operator to receive signals or responds in person to alarm warnings of a burglar alarm system;
- (f) "burglar alarm system" means a system consisting of a device or devices to provide warnings against intrusion, including burglary, robbery, theft or vandalism, or attempted burglary, robbery, theft or vandalism;
- (g) "equity share" means a share of a class of shares that carries a voting right either under all circum-

stances or under some circumstances that have occurred and are continuing;

- (h) "licence" means a licence issued under this Act;
- (i) "licensee" means the holder of a licence;
- (j) "Minister" means the Solicitor General;
- (k) "person" means a natural person, an association of natural persons, a partnership or a corporation;
- (l) "private investigation agency" means the business of providing the services of private investigators;
- (m) "private investigator" means a person who, for hire or reward, investigates and furnishes information and includes a person who,
  - (i) searches for and furnishes information as to the personal character or actions of a person, or the character or kind of business or occupation of a person,
  - (ii) searches for offenders against the law,
  - (iii) searches for missing persons or property,
  - (iv) performs shopping or other services in civilian or plain clothes for a client for the purpose of reporting to him upon the conduct, integrity or trustworthiness of his employees or other persons, or
  - (v) performs services in civilian or plain clothes for the prevention or detection of shoplifting;
- (n) "Registrar" means the Registrar of Private Investigation and Security Services;
- (o) "regulations" means the regulations made under this Act;
- (p) "security consultant" means a person who, for hire or reward, advises and consults on security systems for premises or other property and does not otherwise act as a private investigator, security guard or burglar alarm agent and includes a person who inspects premises or other property for devices capable of intercepting private communications;
- (q) "security consulting agency" means the business of providing the services of security consultants;

- (r) "security guard" means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property and includes a person who,
- (i) on behalf of his employer, supervises and inspects security guards while they are guarding or patrolling,
  - (ii) guards or transports valuable property in an armoured vehicle or other vehicle whether or not such property is owned by his employer, or
  - (iii) accompanies a guard dog while the dog is guarding or patrolling;
- (s) "security guard agency" means the business of providing the services of security guards or of guard dogs, or of both. R.S.O. 1970, c. 362, s. 1, *amended*.

2.—(1) This Act does not apply to,

Application  
of Act

- (a) a barrister or solicitor in the practice of his profession;
- (b) consumer reporting agencies and personal information investigators registered under *The Consumer Reporting Act, 1973* while acting in the usual and regular scope of their employment; 1973, c. 97
- (c) collection agencies and collectors registered under *The Collection Agencies Act* while acting in the usual and regular scope of their employment, except as provided in subsection 2 of section 43; R.S.O. 1970, c. 71
- (d) a person who is acting as a peace officer, except as provided in subsection 1 of section 44;
- (e) insurance adjusters and their employees licensed or registered under *The Insurance Act* while acting in the usual and regular scope of their employment; R.S.O. 1970, c. 224
- (f) insurance companies and their employees licensed or registered under *The Insurance Act* while acting in the usual and regular scope of their employment;
- (g) an employee of a municipality as defined in *The Municipal Affairs Act* while acting within the scope of his employment; R.S.O. 1970, c. 118
- (h) a person who sells or provides a burglar alarm system where no survey or inspection of the premises

to be protected by the system is carried out by him or his employee or a person acting on his behalf and he does not install, service, test, monitor or patrol the system;

- (i) a person who is not in the employ of a burglar alarm agency and who,
  - (i) installs a burglar alarm system where all specialized and final connections necessary to make the system operable are made by a licensed burglar alarm agent on the direction of his agency employer, or
  - (ii) acts as an operator to receive a signal from a burglar alarm system where such service is provided without remuneration;
- (j) a member of a Corps of Commissionaires while acting within the objects of its incorporation; and
- (k) any person or class of persons exempted by the regulations. R.S.O. 1970, c. 362, s. 2, *amended*.

Exemption  
from  
licensing

(2) An agent who is permanently employed by one employer in a business or undertaking other than the business of providing the services of agents and whose work is confined to the affairs of that employer is not required to be licensed under this Act.

Persons  
deemed  
registered  
for purposes  
of 1973, c. 97

(3) Every person who is licensed as a private investigation agency or a private investigator under this Act shall, so long as he is so licensed, be deemed to be registered under *The Consumer Reporting Act, 1973* as a consumer reporting agency or personal information investigator, as the case may be.

Application  
of  
1973, c. 97

(4) *The Consumer Reporting Act, 1973* applies to a private investigation agency and a private investigator only in respect of a consumer report, credit information and personal information, as those expressions are defined in that Act, obtained, furnished or stored by the agency or agent, as the case may be. *New*.

Registrar

**3.—(1)** There shall be a Registrar of Private Investigation and Security Services appointed by the Lieutenant Governor in Council who may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act.

(2) The Lieutenant Governor in Council may appoint one or more Deputy Registrars of Private Investigation and Security Services who shall act as and have all the powers and authority of the Registrar during the absence of the Registrar or his inability to act and who may do any act or thing that the Registrar is authorized to do by or under this Act when authorized so to do by the Registrar and such act or thing shall for the purposes of this Act be deemed to have been done by the Registrar. R.S.O. 1970, c. 362, s. 3, *amended*.

4.—(1) No person shall carry on or hold himself out as carrying on the business of an agency unless he is the holder of a licence therefor. R.S.O. 1970, c. 362, s. 4 (1), *part*, *amended*.

(2) No licence to carry on the business of an agency shall be issued to any person unless,

- (a) he is a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (b) where the applicant for the licence is a corporation, a majority of the members of the board of directors are Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) he has an office for the agency in Ontario approved by the Registrar; and
- (d) the person who will manage the business is ordinarily resident in Ontario.

(3) No licence to carry on the business of a private investigation agency shall be issued to any person where he or the person who will manage the business of the agency has been found guilty or convicted of an offence under the *Criminal Code* (Canada) that the Registrar considers relevant to the fitness of the person to carry on or manage the business and no pardon has been granted in respect of the discharge or conviction. *New*.

5.—(1) No branch office of an agency shall be opened or operated unless the person who carries on the business of the agency is the holder of a licence to operate such branch office.

(2) For the purposes of this Act, a branch office includes any place at which the public is invited to deal in respect of the services provided by the agency. *New*.

Employer  
to ensure  
agents  
licensed

**6.** No person who is the holder of a licence to carry on business as an agency shall employ as an agent a person who is not the holder of a licence to act as such agent. R.S.O. 1970, c. 362, s. 5 (4), *amended*.

No acting  
or holding  
out unless  
holder of  
licence

**7.**—(1) Subject to subsection 2 of section 8, no person shall act or hold himself out as acting as an agent unless he is the holder of a licence to so act and is the employee of an agency licensed to carry on the business of providing the services of such an agent.

Qualifications  
for licence

(2) No person shall be licensed as an agent unless he,

(a) is a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada; and

(b) is eighteen years of age or over.

Where no  
licence to be  
issued  
R.S.C. 1970,  
c. C-34

(3) No person shall be licensed as a private investigator where he has been found guilty or convicted of an offence under the *Criminal Code* (Canada) that the Registrar considers relevant to his fitness to act as a private investigator and no pardon has been granted in respect of the discharge or conviction. *New*.

Application  
for licence

**8.**—(1) Every applicant for a licence shall apply to the Registrar for the licence.

Person  
carrying on  
business  
other than  
as employee

(2) Where a person wishes to act as an agent otherwise than as an employee of an agency, he shall be deemed to be an agency and to be an employee of such agency and shall not act as such agent unless he is licensed as an agency and as an agent. *New*.

Application  
for licence

**9.** An application for a licence under section 8 shall be in the prescribed form and shall be accompanied by the fee prescribed by the regulations and, in the case of an agency, shall be accompanied in addition by proof of liability insurance in the amount and a bond in the amount and form prescribed by the regulations. R.S.O. 1970, c. 362, s. 5 (1), *amended*.

Issue of  
licence

**10.**—(1) The Registrar shall on application therefor issue a licence to a person to carry on business as an agency unless, after making such inquiry as he considers necessary, he is of the opinion that,

(a) such person does not comply with the requirements of this Act or the regulations for a licence;



- (b) such person has knowingly made or caused to be made any false or misleading statement in the application for the licence;
- (c) having regard to his financial position, such person cannot reasonably be expected to be financially responsible in the conduct of his business;
- (d) such person or the person who will manage the business is not competent to act responsibly in the conduct of the business that would be authorized by the licence;
- (e) the past conduct of such person or the person who will manage the business affords reasonable grounds for belief that the business will not be carried on in accordance with law and with honesty and integrity;
- (f) where such person is a corporation, partnership or association of natural persons,
  - (i) the officers or directors of the corporation or the members of the partnership or association of natural persons are not competent to act responsibly in the conduct of the business, or
  - (ii) the past conduct of the officers or directors of the corporation or of a shareholder who owns or controls 10 per cent or more of its issued and outstanding equity shares or of the members of the partnership or association of natural persons affords reasonable grounds for belief that the business will not be carried on in accordance with law and with honesty and integrity;
- (g) such person or the person who will manage the business is not in a position to observe or carry out the provisions of this Act and the regulations;
- (h) such person or the person who will manage the business does not have the experience and training prescribed by the regulations or experience and training that, in the opinion of the Registrar, is equivalent thereto;
- (i) such person or the person who will manage the business is carrying on activities that are, or will be, if the licence is issued, in contravention of this Act or the regulations;

- (j) such person or the person who will manage the business is engaged in or proposes to engage in any activity, in addition to carrying on the business, that may give rise to a conflict of interest;
- (k) the proposed name of the agency is so like or similar to the name of an existing agency as to be likely to cause confusion between them or to mislead persons into believing that the agency is such existing agency;
- (l) any other ground for refusal to issue prescribed by this Act or the regulations exists; or
- (m) for any other reason, to do so is not in the public interest.

Idem

(2) The Registrar shall on application therefor issue a licence to a person to act as an agent unless, after making such inquiry as he considers necessary, he is of the opinion that,

- (a) such person does not comply with the requirements of this Act or the regulations for a licence;
- (b) such person has knowingly made or caused to be made any false or misleading statement in the application for the licence;
- (c) the past conduct of such person affords reasonable grounds for belief that he will not act as an agent in accordance with law and with honesty and integrity;
- (d) such person is not in a position to observe or carry out the provisions of this Act and the regulations;
- (e) such person does not have the experience and training prescribed by the regulations or experience and training that, in the opinion of the Registrar, is equivalent thereto;
- (f) such person is engaged in or proposes to engage in any activity in addition to acting as an agent that may give rise to a conflict of interest;
- (g) any other ground for refusal to issue prescribed by this Act or the regulations exists; or
- (h) for any other reason, to do so is not in the public interest.

(3) Where the Registrar proposes to refuse to issue a licence, he shall serve notice of his proposal on the applicant. Notice of proposal to refuse

(4) A notice under subsection 3 shall inform the applicant that he is entitled to a hearing by the Registrar if he mails or delivers to the Registrar, within thirty days after the notice under subsection 3 is served on him, notice in writing requiring a hearing, and he may so require such a hearing. Notice of entitlement to hearing, etc.

(5) Where an applicant does not require a hearing by the Registrar in accordance with subsection 4, the Registrar may refuse to issue the licence. Power of Registrar where no hearing

(6) Where an applicant requires a hearing by the Registrar in accordance with subsection 4, the Registrar shall appoint a time for and hold the hearing and may, after the hearing, refuse to issue the licence. Power of Registrar where hearing held

(7) *The Statutory Powers Procedure Act, 1971* does not apply to an inquiry by the Registrar under subsection 1 or 2, notwithstanding anything contained therein. *New.* Non-application of 1971, c. 47

11.—(1) Every licensee that is a corporation shall notify the Registrar in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights where such issue, transfer or happening results in, Notice of transfer of shares

(a) any shareholder and shareholders associated with him beneficially owning or controlling at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or

(b) any shareholder and shareholders associated with him who already beneficially owns or controls 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. Idem

(3) Where a licensee that is a corporation is aware that a transfer that comes within the provisions of subsection 1 has taken place, it shall notify the Registrar in writing Idem

within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer.

Associated  
shareholder

(4) For the purposes of subsection 1, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder. *New.*

Notice to  
Registrar

**12.—(1)** Every person licensed to carry on the business of an agency shall within five days notify the Registrar in writing of,

- (a) any change in the address of his office or any branch thereof;
- (b) any change in its officers, directors or members where the licensee is a corporation, partnership or association of natural persons;
- (c) any commencement or termination of employment of a person licensed under this Act;
- (d) any change in the relative financial interests of the members of a partnership or association of natural persons so licensed;
- (e) any change affecting the requirements set out in clause *a*, *b* or *d* of subsection 2 of section 4; and
- (f) any change affecting the management of the business. R.S.O. 1970, c. 362, s. 6, *amended.*

Idem

(2) Every person licensed to act as an agent shall within five days notify the Registrar in writing of,

- (a) any change in his address; and

(b) any change affecting the requirements set out in clause *a* of subsection 2 of section 7.

(3) Where a person licensed to carry on the business of an agency or to act as an agent has been charged with an offence under the *Criminal Code* (Canada) or under this Act, he shall forthwith notify the Registrar in writing of the charge and the particulars thereof. *New.*

Notice to Registrar where licensee charged with offence  
R.S.C. 1970, c. C-34

**13.**—(1) Where a person who is licensed to carry on the business of an agency dies, the Registrar may grant to his executor or administrator a temporary licence for such agency and all licensed employees of the deceased licensee at the time of his death shall be deemed to be licensed as employees of such executor or administrator.

Temporary licence

(2) A temporary licence expires at the end of the term thereof specified in the licence or otherwise as provided by the regulations. R.S.O. 1970, c. 362, s. 9 (2, 3), *amended.*

Expiry of temporary licence

**14.**—(1) A licence is not transferable. R.S.O. 1970, c. 362, s. 10.

Licence not transferable

(2) A licence or a renewal of a licence is subject to such terms and conditions as are imposed from time to time by the Registrar or prescribed by the regulations, or both, and the Registrar is empowered to impose terms and conditions and to remove or alter terms and conditions that he imposes as he considers proper. *New.*

Imposition of terms and conditions

**15.** Immediately upon the receipt of a licence to carry on the business of an agency, the licensee shall cause it to be displayed in a conspicuous place in the office or branch office of the business for which it is issued and shall keep it displayed. R.S.O. 1970, c. 362, s. 12, *amended.*

Displaying licence

**16.** Every person who is licensed to carry on the business of an agency shall forward the agency licence to the Registrar immediately upon the termination of the business of the agency. R.S.O. 1970, c. 362, s. 13 (3), *amended.*

Surrender of licence

**17.** No person shall carry on the business of an agency in a name other than that in which he is licensed. *New.*

Name of business

**18.**—(1) Every applicant for renewal of a licence shall apply to the Registrar in accordance with this Act and the regulations and not less than sixty days prior to the expiration of the licence. R.S.O. 1970, c. 362, s. 11 (2), *amended.*

Renewal of licence

(2) Subject to subsection 2 of section 19, where application has been made in compliance with subsection 1, the existing

Continuation of licence pending renewal

licence is deemed not to have expired until the applicant has received the decision of the Registrar on his application for renewal. *New.*

Refusal  
to renew,  
suspension or  
revocation

**19.**—(1) The Registrar may refuse to renew or may suspend or revoke a licence if, after a hearing, he finds that,

- (a) the licensee would be disentitled to a licence for any reason specified in subsection 1 or 2 of section 10 if he were making application for the licence in the first instance;
- (b) the licensee or, if the licensee is a corporation or partnership or association of natural persons, any of its officers, directors or members has contravened or has permitted any person under his control or direction to contravene any provision of this Act or the regulations or any order of the Registrar or any term or condition of the licence; or
- (c) any other ground for refusal to renew, suspension or revocation prescribed by the regulations exists.

Provisional  
revocation,  
etc.

(2) Notwithstanding subsection 1, the Registrar may, by notice in writing served on a licensee and without a hearing, provisionally refuse to renew or revoke his licence where in the opinion of the Registrar it is necessary to do so for the immediate protection of the public and the Registrar so states in such notice giving his reasons therefor.

Notice of  
entitlement  
to hearing,  
etc.

(3) A notice under subsection 2 shall inform the licensee that he is entitled to a hearing by the Registrar if he delivers to the Registrar, within thirty days after the notice under subsection 2 is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Power of  
Registrar  
where no  
hearing

(4) Where a licensee does not require a hearing by the Registrar in accordance with subsection 3, his licence shall be deemed to have been revoked.

Power of  
Registrar  
where  
hearing  
held

(5) Where a licensee requires a hearing by the Registrar in accordance with subsection 3, the Registrar shall appoint a time for and hold the hearing and may, after the hearing, refuse to renew or may suspend or revoke the licence.

Surrender  
of licence

(6) Where a licence is suspended or revoked, the licensee shall forthwith forward it to the Registrar. *New.*

Notice of  
hearing

**20.**—(1) The notice of a hearing by the Registrar under section 10 or 19 shall afford the applicant or licensee a

reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue, renewal or retention of the licence.

(2) An applicant or licensee who is a party to proceedings in which the Registrar holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination  
of  
documentary  
evidence

**21.** Where the Registrar has refused to issue or renew or has suspended or revoked a licence after a hearing he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Registrar shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after such rehearing as he considers proper under this Act and the regulations. *New.* Variation  
of decision  
by Registrar

**22.**—(1) A board to be known as the Private Investigation and Security Services Licensing Appeal Board is hereby established and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall appoint one of the members as chairman. Board  
established

(2) The members of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for further terms not exceeding three years each. Term of  
office

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

(4) The chairman shall have general supervision and direction over the conduct of the affairs of the Board and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances may require. Duties of  
chairman

(5) Two members of the Board constitute a quorum, but the chairman may in writing authorize one member of the Board to hear and determine any matter and for such purpose such member may exercise all the jurisdiction and powers of the Board and his decision shall be a decision of the Board. *New.* Quorum

**23.**—(1) Where after a hearing the Registrar refuses to issue or renew or suspends or revokes a licence, the applicant Appeal  
to Board

or licensee may appeal to the Board by written notice delivered to the Registrar and filed with the Board within fifteen days after receipt of notice of the decision of the Registrar.

Extension of  
time for  
appeal

(2) The Board may extend the time for the giving of notice under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon such extension.

Powers  
of Board

(3) The Board shall hear an appeal under subsection 1 by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Registrar or direct the Registrar to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Registrar.

Parties

**24.**—(1) The Registrar, the appellant and such other persons having a direct and immediate interest in the outcome of the appeal as are specified by the Board are parties to the proceedings before the Board under section 23.

Members  
making  
decision not  
to have  
taken part in  
investigation,  
etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording  
of evidence

(3) The oral evidence taken before the Board on the appeal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings  
of fact

(4) The findings of fact of the Board on the appeal shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only  
members at  
hearing  
to participate  
in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present



throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. *New.*

**25.**—(1) Any party to proceedings before the Board under section 23 may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

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

(3) Where notice of an appeal is served under this section, the Board shall forthwith file in the Divisional Court the record of the proceedings before it in which the decision was made which, together with a transcript of the evidence before the Board, if it is not part of the record of the Board, constitutes the record on the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is a question of law alone and the court may confirm or alter the decision of the Board appealed from or direct the Registrar to do any act he is authorized to do under this Act or may refer the matter back to the Board for rehearing by it as the court considers proper. Powers of court on appeal

(5) Notwithstanding that an appeal has been made under this section, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending disposition of appeal  
*New.*

**26.** Notwithstanding that the Registrar, the Board or the Divisional Court has refused to issue or renew or has suspended or revoked a licence, a further application for a licence may be made to the Registrar upon new or other evidence or where material circumstances have changed. Further application on new evidence  
R.S.O. 1970, c. 362, s. 16, *amended.*

**27.**—(1) For the purpose of determining whether or not to issue, renew, suspend or revoke a licence, Investigation and inquiry by Registrar

(a) the Registrar or any person authorized by him may make such investigation and inquiry as the Registrar considers sufficient regarding the character, financial position or competence of an applicant or licensee or any other matter relevant to the issue, renewal or retention of the licence and may require an

applicant or licensee to try such examinations to determine competence as the Registrar considers necessary; and

- (b) the Registrar may require further information or material to be submitted by an applicant or a licensee.

Powers  
of person  
making  
inquiry  
1971, c. 49

(2) For the purpose of an inquiry under this section, the person making the inquiry has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. *New.*

Investigation  
on order of  
Minister

**28.** The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. *New.*

Investigation  
by Registrar

**29.—(1)** Where the Registrar believes on reasonable and probable grounds that any person has,

- (a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,  
c. C-34

- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that the Registrar considers relevant to his fitness for a licence under this Act,

the Registrar or any person authorized by him may make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person making the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his authority, enter at any reasonable time the premises of such person, not including any premises or part thereof occupied as living accommodation, and examine books, papers,

documents and things relevant to the subject-matter of the investigation; and

- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person making an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the Registrar has directed that the investigation be made and that such person is authorized by the Registrar and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

Admissibility of copies (6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of expert (7) The Registrar may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. *New.*

Inspections **30.** The Registrar or any person authorized by him may at any reasonable time enter upon any premises in respect of which a licence is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. *New.*

Special audit **31.—(1)** The Registrar or any person authorized by him may at any time enter upon any premises where the books, accounts or records of or pertaining to any licensed agency are kept or may be, and may inspect, study, audit, take extracts from such books, accounts or other records, and may, upon giving a receipt therefor, remove any such material that relates to the purpose of the inspection for the purpose of making a copy thereof, but such copying shall be carried out with reasonable dispatch and the material in question shall be promptly thereafter returned to the person being inspected, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copy (2) Any copy made as provided in subsection 1 and certified to be a true copy by the person inspecting is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. *New.*

Matters confidential **32.—(1)** Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations or any pro-

ceedings under this Act or the due enforcement of the law;

- (b) to his counsel;
- (c) with the consent of the person to whom the information relates; or
- (d) to disclose that a licence has been issued to an agency or agent, the name and address of such agency and the name and address of the agency with whom such agent is employed.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act. *New.*

Testimony  
in civil  
suit

**33.** Where the Registrar believes on reasonable and probable grounds that a person licensed under this Act is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, or that the material is in contravention of the regulations, the Registrar may order the immediate cessation of the use of such material and section 23 applies with necessary modifications to the order in the same manner as to a decision by the Registrar refusing to issue a licence, and the order of the Registrar shall take effect immediately unless the Registrar otherwise directs. R.S.O. 1970, c. 362, s. 31, *amended.*

Misleading  
advertising,  
etc.

**34.**—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by prepaid first class mail addressed to the person to whom delivery or service is required to be made at his last-known address.

Service  
of notice  
or order

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. *New.*

Idem

**35.**—(1) Where it appears to the Registrar that any person does not comply with any provision of this Act or the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Registrar may apply to a judge of the High Court for an

Restraining  
order

order directing such person to comply with such provision, and, upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection 1. *New.*

Evidence of authority

**36.**—(1) No private investigator, while acting as a private investigator, shall wear a uniform or carry or display any badge, shield, card or other evidence of authority except the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a business card containing no reference to licensing under this Act.

Licence to be carried

(2) Every licensed private investigator, while acting as a private investigator, shall carry on his person the licence issued to him under this Act and shall produce it for inspection at the request of any person.

Use of uniform

(3) No licensed private investigator who is also licensed as a security guard shall act as a private investigator while in uniform. R.S.O. 1970, c. 362, s. 25, *amended.*

Employment by more than one agency prohibited

(4) No licensed private investigator shall seek or accept employment with more than one private investigation agency at one time. *New.*

Uniform to be worn

**37.**—(1) Every security guard, while acting as a security guard, shall wear a uniform that is in accordance with the regulations. R.S.O. 1970, c. 362, s. 27, *amended.*

Licence, etc., to be carried

(2) Every licensed security guard, while acting as a security guard, shall carry on his person the licence issued to him under this Act and, if he is authorized to enforce municipal parking by-laws under section 44 and is so engaged, a document evidencing such authority and shall produce it or them for inspection at the request of any person.

Evidence of authority

(3) No security guard, while acting as a security guard, shall carry or display any evidence of authority except his uniform, the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a document evidencing his authority to enforce municipal parking by-laws if he is so authorized under section 44. R.S.O. 1970, c. 362, s. 28, *amended.*

**38.**—(1) Every licensed security consultant, while acting as a security consultant, shall carry on his person the licence issued to him under this Act and shall produce it for inspection at the request of any person. Licence to be carried

(2) No security consultant, while acting as a security consultant, shall carry or display any evidence of authority except the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a business card containing no reference to licensing under this Act. *New.* Evidence of authority

**39.**—(1) Every burglar alarm agent who installs, services, tests or patrols a burglar alarm system, or who responds to an alarm warning from a burglar alarm system, shall, while acting as a burglar alarm agent, wear a uniform that is in accordance with the regulations. Uniform to be worn

(2) Every licensed burglar alarm agent, while acting as a burglar alarm agent, shall carry on his person the licence issued to him under this Act and shall produce it for inspection at the request of any person. Licence to be carried

(3) No burglar alarm agent, while acting as a burglar alarm agent, shall carry or display any evidence of authority except his uniform and the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a business card containing no reference to licensing under this Act. *New.* Evidence of authority

**40.**—(1) Every burglar alarm system that is installed by an agency shall be comprised of the components and materials and shall be designed and installed in the manner prescribed by the regulations. Installation, etc., of burglar alarm system

(2) Where a burglar alarm system installed by an agency before the regulations come into force is not in conformity therewith, the regulations may provide that the owner of the system shall bring the system into conformity therewith on or before a date specified therein. Owner may be required to bring system into conformity with regulations

(3) Every agency that services, tests or monitors a burglar alarm system shall service, test or monitor the system in the manner prescribed by the regulations. *New.* Servicing, testing and monitoring of burglar alarm system

**41.** No person engaged in any business or employment, whether licensed under this Act or otherwise, shall use the expression "private detective" in connection with such Use of expression "private detective" prohibited

business or employment or hold himself out in any manner as a private detective. R.S.O. 1970, c. 362, s. 23.

Possession  
of licence

**42.** No person other than the licensee to whom it has been issued shall have in his possession or display any licence issued under this Act. *New.*

Licensees  
not to be  
collectors  
or bailiffs

**43.**—(1) No licensee shall act as a collector of accounts or bailiff, or undertake or hold himself out, or advertise as undertaking, to collect accounts or act as a bailiff for any person either with or without remuneration. R.S.O. 1970, c. 362, s. 29.

No collector  
or bailiff  
shall act  
as private  
investigator  
R.S.O. 1970,  
cc. 71, 38

(2) No person registered as a collection agency or a collector under *The Collection Agencies Act* or appointed as a bailiff under *The Bailiffs Act* shall carry on business as a private investigation agency or act as a private investigator or be eligible for licensing as a private investigation agency or a private investigator under this Act. *New.*

Peace  
officer not  
entitled to  
be licensed

**44.**—(1) No peace officer or auxiliary member of a police force shall act as an agent or be eligible for licensing under this Act. *New.*

No agent  
shall act  
as police  
officer

(2) No agent shall at any time,

(a) whether by agreement with the council of a municipality or a board of commissioners of police or otherwise, act as a member of a police force or as a municipal law enforcement officer or, subject to subsections 3 and 4, perform the duties of a police officer or municipal law enforcement officer; or

(b) hold himself out in any manner as providing the services or duties of or connected with police or as performing services or duties as a police officer. R.S.O. 1970, c. 362, s. 30, *amended.*

Contract  
to provide  
services  
of security  
guards

(3) A person carrying on the business of a security guard agency may contract with the owner or lessee of private property to provide the services of licensed security guards to enforce municipal by-laws relating to the parking of vehicles on that private property.

Security  
guard not  
to enforce  
by-laws  
without  
authority

(4) No security guard shall enforce by-laws under a contract entered into under subsection 3 unless he is authorized to do so by the board of commissioners of police or, where there is no board, by the council of the municipality. *New.*



**45.**—(1) No person carrying on the business of an agency shall divulge information acquired by him in the course of the business to any person other than the client of the agency for whom the information was obtained, employees of the agency, police officers or otherwise as required by law. Information  
not to be  
divulged

(2) No agent or person employed by an agency in a capacity other than as an agent shall divulge information acquired by him in the course of his employment other than to his employer or other employees of his employer, the client, if any, for whom the information was obtained, police officers or otherwise as required by law. Idem R.S.O. 1970, c. 362, s. 24, *amended.*

**46.**—(1) Every person who, Offences

- (a) knowingly furnishes or causes to be furnished any false information in any application under this Act or in any statement, form, return, information or material furnished or submitted under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act or the regulations; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 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 \$25,000 and not as provided therein. Corporations

(3) No proceeding under subsection 1 shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the Registrar. Limitation R.S.O. 1970, c. 362, s. 32, *amended.*

**47.**—(1) A statement as to, Evidence

- (a) the licensing or non-licensing of any person;
- (b) the furnishing or non-furnishing of any document or material required or permitted to be furnished to the Registrar;

- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or
- (d) any other matter pertaining to such licensing, non-licensing, furnishing or non-furnishing,

certified by the Registrar is, without proof of the office or signature of the Registrar, admissible in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 362, s. 33, *amended*.

*Idem*

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister.  
*New.*

Regulations

**48.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) exempting persons or classes of persons from this Act or the regulations or any provision thereof in addition to those exempted under section 2;
- (b) prescribing classes of licences and the terms and conditions to which each class is subject;
- (c) governing applications for licences and for renewals thereof;
- (d) providing for the expiration and renewal of licences;
- (e) requiring the payment of fees on application for licences or renewal of licences or any class thereof, and prescribing the amounts thereof,
- (f) requiring agencies or any class thereof to have and maintain a bond in such amount, form and terms and with such collateral security as are prescribed and providing for the forfeiture or cancellation of bonds, the disposition of the proceeds and the period that bonds shall subsist and respecting all matters subsequent to forfeiture or cancellation;
- (g) governing the form and content of advertising by agencies;

- (h) regulating the management and operation of offices of agencies or branches thereof and requiring approval thereof by the Registrar;
- (i) requiring and governing the books, accounts, files and records that shall be kept or not kept by agencies or agents;
- (j) governing the uniforms, badges and insignia that shall be worn by security guards and burglar alarm agents and requiring approval thereof by the Registrar and prohibiting the wearing of uniforms, badges and insignia not so approved;
- (k) prohibiting or regulating and controlling the use of equipment by agents;
- (l) governing the insignia and markings that may be used on vehicles and requiring approval thereof by the Registrar and prohibiting the use of insignia and markings not so approved;
- (m) governing contracts entered into by a person carrying on the business of an agency with persons who engage his services;
- (n) requiring agencies to make returns and furnish information to the Registrar;
- (o) prescribing forms and providing for their use;
- (p) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (q) prescribing grounds for the refusal to issue licences in addition to those grounds mentioned in subsections 1 and 2 of section 10;
- (r) prescribing grounds for the refusal to renew or the suspension or revocation of licences in addition to those grounds mentioned in clauses *a* and *b* of subsection 1 of section 19;
- (s) prohibiting or regulating and controlling the use of guard dogs;
- (t) prescribing the design of a burglar alarm system, the components and materials to be used in any such

system and the manner in which the system is to be installed, serviced, tested and monitored, and providing for the shutting down of a burglar alarm system where any circumstance prescribed by the regulations exists;

- (u) prohibiting or regulating and controlling the use of automatic telephone-dialing devices and taped messages to inform police forces of alarm warnings from a burglar alarm system;
- (v) governing the method of terminating the business of an agency;
- (w) requiring agencies or any class thereof to have and maintain liability insurance and prescribing the amount thereof;
- (x) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations. R.S.O. 1970, c. 362, s. 34, *amended*.

Adoption  
of code in  
regulations

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or procedure, and may require compliance with any code, standard or procedure so adopted. *New*.

Repeals

**49.** *The Private Investigators and Security Guards Act*, being chapter 362 of the Revised Statutes of Ontario, 1970 and section 98 of *The Government Reorganization Act, 1972*, being chapter 1, are repealed.

Commence-  
ment

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

Short title

**51.** The short title of this Act is *The Private Investigation and Security Services Act, 1979*.







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An Act to revise  
The Private Investigators and  
Security Guards Act

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*1st Reading*

May 11th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. McMURTRY  
Solicitor General

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*(Government Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide  
Political Rights for Public Servants**

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MR. CASSIDY

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#### EXPLANATORY NOTE

This Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workmen's Compensation Board, and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies, and other senior policy-making officials.

The deleted sections of *The Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of 4 to 5 weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of *The Crown Employees Collective Bargaining Act, 1972* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity, and provides for a wider range of penalties.

BILL 85

1979

## An Act to provide Political Rights for Public Servants

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

**1.** In this Act,

Interpre-  
tation

- (a) "agency" means any board, agency, or commission of the Crown in right of Ontario;
- (b) "public servant" means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission, or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;
- (c) "Tribunal" means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of *The Crown Employees Collective Bargaining Act*, 1972, c 67, 1972.

**2.—(1)** Every public servant shall be entitled to exercise the following political rights,

Political  
rights

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;

- (e) the right to be a member of a political party and to hold office in such party; and
- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection 1 are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he is directly engaged in his employment with the Crown;
- (d) the employee respects his oath of office and secrecy, as provided under section 10 of *The Public Service Act*.

R.S.O. 1970,  
c. 386Partisan  
work by  
public  
servants

**3.** No public servant shall be required by his employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer, or other disciplinary action.

Leave  
of  
absence

**4.** A public servant who proposes to become a candidate in a provincial or federal election shall inform his Minister or the chief officer of his agency, and,

- (a) may seek leave of absence without pay at any time after he is duly nominated by his party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he is nominated by his party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

**5.** Where a public servant who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a public servant. <sup>Resignation</sup>

**6.** Where a public servant who has resigned under section 5, <sup>Reappointment</sup>

(a) ceases to be an elected political representative within five years of his resignation; and

(b) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified, within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

**7.** Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned his position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and his service shall be deemed to be continuous for all purposes. <sup>Period of leave of absence</sup>

**8.** Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his employer. <sup>Disciplinary action</sup>

**9.—(1)** In this section, "employee organization" means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. <sup>Interpretation</sup>

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. <sup>Prohibitions</sup>

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of section 9, a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, <sup>Tribunal</sup>

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

(c) levy a fine; or

(d) take such other disciplinary action as it considers appropriate.

R.S.O. 1970,  
c. 386, ss. 12-16,  
repealed

**10.** Sections 12, 13, 14, 15 and 16 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, are repealed.

1972, c. 67,  
s. 1 (1) (h),  
repealed

**11.** Clause *h* of subsection 1 of section 1 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67 of the Statutes of Ontario, 1972, is repealed.

Short title

**12.** The short title of this Act is *The Public Servants Political Rights Act, 1979*.



An Act to provide  
Political Rights for Public Servants

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*1st Reading*

May 11th, 1979

*2nd Reading*

*3rd Reading*

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MR. CASSIDY

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*(Private Member's Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Pesticides Act, 1973**

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THE HON. H. C. PARROTT  
Minister of the Environment

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#### EXPLANATORY NOTES

SECTION 1. The reference to "Board" is changed from "Pesticides Appeal Board" to "Environmental Appeal Board under Part X of *The Environmental Protection Act, 1971*".

SECTION 2. Section 12 of the Act established the Pesticides Appeal Board, provided for the appointment of a chairman, fixed the quorum and provided for the appointment of staff.

SECTION 3. Paragraph 21 of section 28 of the Act provides for the making of regulations providing for the remuneration and expenses of members of the Pesticides Appeal Board.

SECTION 4. The section provides for the continuance of matters not completed by the Pesticides Appeal Board on the coming into force of *The Pesticides Amendment Act, 1979*.

### An Act to amend The Pesticides Act, 1973

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

1. Paragraph 2 of subsection 1 of section 1 of *The Pesticides Act*, s 1(1) par 2, 1973, being chapter 25, is repealed and the following substituted therefor:
  2. "Board" means the Environmental Appeal Board under Part X of *The Environmental Protection Act*, 1971 c 86 1971.
2. Section 12 of the said Act is repealed. § 12, repealed
3. Paragraph 21 of section 28 of the said Act is repealed. s 28, par 21, repealed
- 4.—(1) The Environmental Appeal Board shall exercise the powers and perform the duties of the Pesticides Appeal Board in relation to any matter in respect of which the Pesticides Appeal Board has not completed its duties before the coming into force of this Act. Transitional
- (2) The Environmental Appeal Board may hold a fresh hearing in any matter referred to in subsection 1 where the chairman of the Environmental Appeal Board in his discretion is of the opinion that to do so is necessary or advisable. Idem
- (3) Any action taken or notice given by the Pesticides Appeal Board in respect of a matter referred to in subsection 1 shall be deemed to have been taken or given, as the case may be, by the Environmental Appeal Board. Idem
5. This Act comes into force on the day it receives Royal Assent. Commencement
6. The short title of this Act is *The Pesticides Amendment Act*, 1979. Short title

An Act to amend  
The Pesticides Act, 1973

---

*1st Reading*

May 14th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. H. C. PARROTT  
Minister of the Environment

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*(Government Bill)*

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**BILL 86**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Pesticides Act, 1973**

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THE HON. H. C. PARROTT  
Minister of the Environment

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BILL 86

1979

### An Act to amend The Pesticides Act, 1973

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

1. Paragraph 2 of subsection 1 of section 1 of *The Pesticides Act, 1973*, being chapter 25, is repealed and the following substituted therefor:
  2. "Board" means the Environmental Appeal Board under Part X of *The Environmental Protection Act, 1971*. s 1 (1), par 2, re-enacted 1971, c 86
2. Section 12 of the said Act is repealed. s 12, repealed
3. Paragraph 21 of section 28 of the said Act is repealed. s 28, par 21, repealed
- 4.—(1) The Environmental Appeal Board shall exercise the powers and perform the duties of the Pesticides Appeal Board in relation to any matter in respect of which the Pesticides Appeal Board has not completed its duties before the coming into force of this Act. Transitional
  - (2) The Environmental Appeal Board may hold a fresh Idem hearing in any matter referred to in subsection 1 where the chairman of the Environmental Appeal Board in his discretion is of the opinion that to do so is necessary or advisable.
  - (3) Any action taken or notice given by the Pesticides Idem Appeal Board in respect of a matter referred to in subsection 1 shall be deemed to have been taken or given, as the case may be, by the Environmental Appeal Board.
5. This Act comes into force on the day it receives Royal Assent. Commencement
6. The short title of this Act is *The Pesticides Amendment Act, 1979*. Short title

**BILL 86**

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An Act to amend  
The Pesticides Act, 1973

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*1st Reading*

May 14th, 1979

*2nd Reading*

October 23rd, 1979

*3rd Reading*

October 23rd, 1979

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THE HON. H. C. PARROTT  
Minister of the Environment

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Conveyancing and Law of Property Act**

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THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

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#### EXPLANATORY NOTE

The section now provides that where a person who has a home on land leased from Ontario Housing Corporation acquires the title to the land, the land remains subject to the encumbrances that were a charge on the leasehold interest. The amendment expands this to include land leased from the Ontario Land Corporation or the Crown pursuant to the two Acts mentioned.

BILL 87

1979

**An Act to amend  
The Conveyancing and Law of Property Act**

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

1. Subsection 2 of section 37 of *The Conveyancing and Law of Property Act*, being chapter 85 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 19, section 1, is repealed and the following substituted therefor:

(2) Where a person who has a leasehold estate in land under a lease,

Merger of  
leasehold  
in  
freehold

(a) from Ontario Housing Corporation or Ontario Land Corporation; or

(b) from the Crown under *The Mining Act* or *The Public Lands Act*,

R.S.O. 1970  
c. 274-380

acquires the freehold estate in the land, the leasehold estate merges in the freehold estate and upon the merging the freehold estate becomes subject to any interest to which the leasehold estate was subject immediately before the merging in the same ranking as to priorities as were then held.

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Conveyancing and Law of Property Amendment Act, 1979*.

Commence-  
ment

Short title

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An Act to amend  
The Conveyancing and Law  
of Property Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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**BILL 87**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Conveyancing and Law of Property Act**

---

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

---



BILL 87

1979

**An Act to amend  
The Conveyancing and Law of Property Act**

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

1. Subsection 2 of section 37 of *The Conveyancing and Law of Property Act*, being chapter 85 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 19, section 1, is repealed and the following substituted therefor:

(2) Where a person who has a leasehold estate in land under a lease, Merger of leasehold in freehold

(a) from Ontario Housing Corporation or Ontario Land Corporation; or

(b) from the Crown under *The Mining Act* or *The Public Lands Act*, R.S.O. 1970, cc 274, 380

acquires the freehold estate in the land, the leasehold estate merges in the freehold estate and upon the merging the freehold estate becomes subject to any interest to which the leasehold estate was subject immediately before the merging in the same ranking as to priorities as were then held.

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is *The Conveyancing and Law of Property Amendment Act, 1979*. Short title

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An Act to amend  
The Conveyancing and Law  
of Property Act

---

*1st Reading*

May 15th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

May 24th, 1979

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Ontario Highway Transport Board Act**

THE HON. J. W. SNOW  
Minister of Transportation and Communications

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#### EXPLANATORY NOTES

SECTION 1 The Act now provides that the chairman of the Board may authorize one member to dispose of applications or references to the Board. The provisions as recast extend this power to a rehearing or review under section 17 of the Act.

SECTION 2 Section 13 of the Act now provides that an order or certificate is effective if signed by two members, one of whom is the chairman or vice-chairman. The amended provision renders an order, etc., effective if signed by a majority of members hearing the matter. The matters referred to are also extended to correspond with the new section 6 of the Act.

**An Act to amend  
The Ontario Highway Transport Board Act**

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

1. Section 6 of *The Ontario Highway Transport Board Act*, being <sup>s. 6</sup> chapter 316 of the Revised Statutes of Ontario, 1970 as re-enacted by the Statutes of Ontario, 1971, chapter 50 section 62, is repealed and the following substituted therefor:

6. (1) The chairman may authorize one member of the Board to hear and dispose of any application or reference to the Board, or any rehearing or review under section 17, and that member may exercise all the powers of the Board with respect thereto. <sup>One member may be authorized to hear application etc.</sup>

(2) Any decision, order, certificate, report or recommendation of a member of the Board made under subsection 1 shall be deemed to be a decision, order, certificate, report or recommendation of the Board for the purposes of this Act. <sup>Decision of member</sup>

2. Section 13 of the said Act is repealed and the following substituted therefor: <sup>s. 13 re-enacted</sup>

13. (1) An order, certificate, report or recommendation made after a hearing is effective upon being signed. <sup>Signing of orders etc.</sup>

(a) by the majority of the members who heard the matter; or

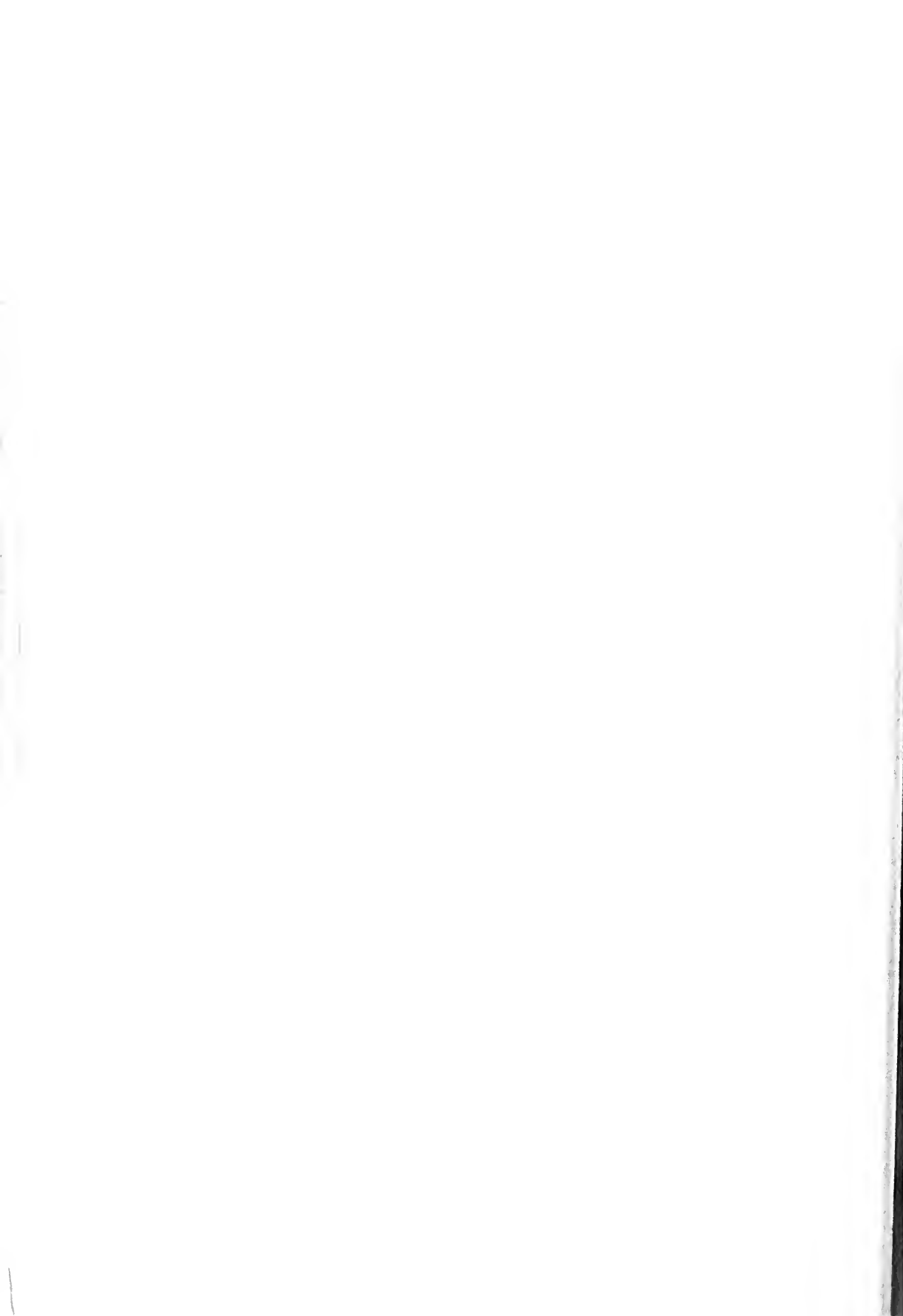
(b) where the matter was heard by a member sitting alone or by two members, by that member or those members, as the case may be.

(2) Every order, certificate, report or recommendation to which subsection 1 does not apply is effective upon being signed by two members of the Board. <sup>idem</sup>

- Idem (3) Every document other than an order, certificate, report or recommendation issued by the Board shall be signed by a member of the Board.
- s. 18b (4) re-enacted **3.** Subsection 4 of section 18b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor:
- Members at hearing to participate in decision (4) No member of the Board shall be a party to a decision, order, certificate, report or recommendation made after a hearing unless he was present throughout the hearing and heard the evidence and arguments of the parties and, except with the consent of the parties, no decision, order, certificate, report or recommendation shall be made unless all members so present participate in the making of the decision, order, certificate, report or recommendation.
- Who is no majority agreement (5) Where a majority of the members of the Board hearing a matter cannot agree on a decision, order, certificate, report or recommendation, the chairman shall notify all parties to the hearing of the failure of a majority to agree and, upon the consent of the parties, assign another member of the Board to participate in the making of the decision, order, certificate, report or recommendation upon such terms as the parties may agree.
- Idem (6) Where the consent required under subsection 5 cannot be obtained, the matter shall be reheard under section 17 before a member or members of the Board who did not participate in the initial hearing.
- Commencement **4.** This Act comes into force on the day it receives Royal Assent.
- Short title **5.** The short title of this Act is *The Ontario Highway Transport Board Amendment Act, 1979.*

SECTION 3 The new provisions provide that where the board is not able to come to a majority decision after a hearing, an additional member may be brought in, with the consent of all parties, to participate in making the decision.

Where consent cannot be obtained, a rehearing will be held.





An Act to amend  
The Ontario Highway Transport Board Act

*1st Reading*

May 15th 1979

*2nd Reading*

*3rd Reading*

THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

*(Government Bill)*



**BILL 88**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Ontario Highway Transport Board Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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**An Act to amend  
The Ontario Highway Transport Board Act**

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

1. Section 6 of *The Ontario Highway Transport Board Act*, being chapter 316 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor:

6.—(1) The chairman may authorize one member of the Board to hear and dispose of any application or reference to the Board, or any rehearing or review under section 17, and that member may exercise all the powers of the Board with respect thereto.

(2) Any decision, order, certificate, report or recommendation of a member of the Board made under subsection 1 shall be deemed to be a decision, order, certificate, report or recommendation of the Board for the purposes of this Act.

2. Section 13 of the said Act is repealed and the following substituted therefor:

13.—(1) An order, certificate, report or recommendation made after a hearing is effective upon being signed,

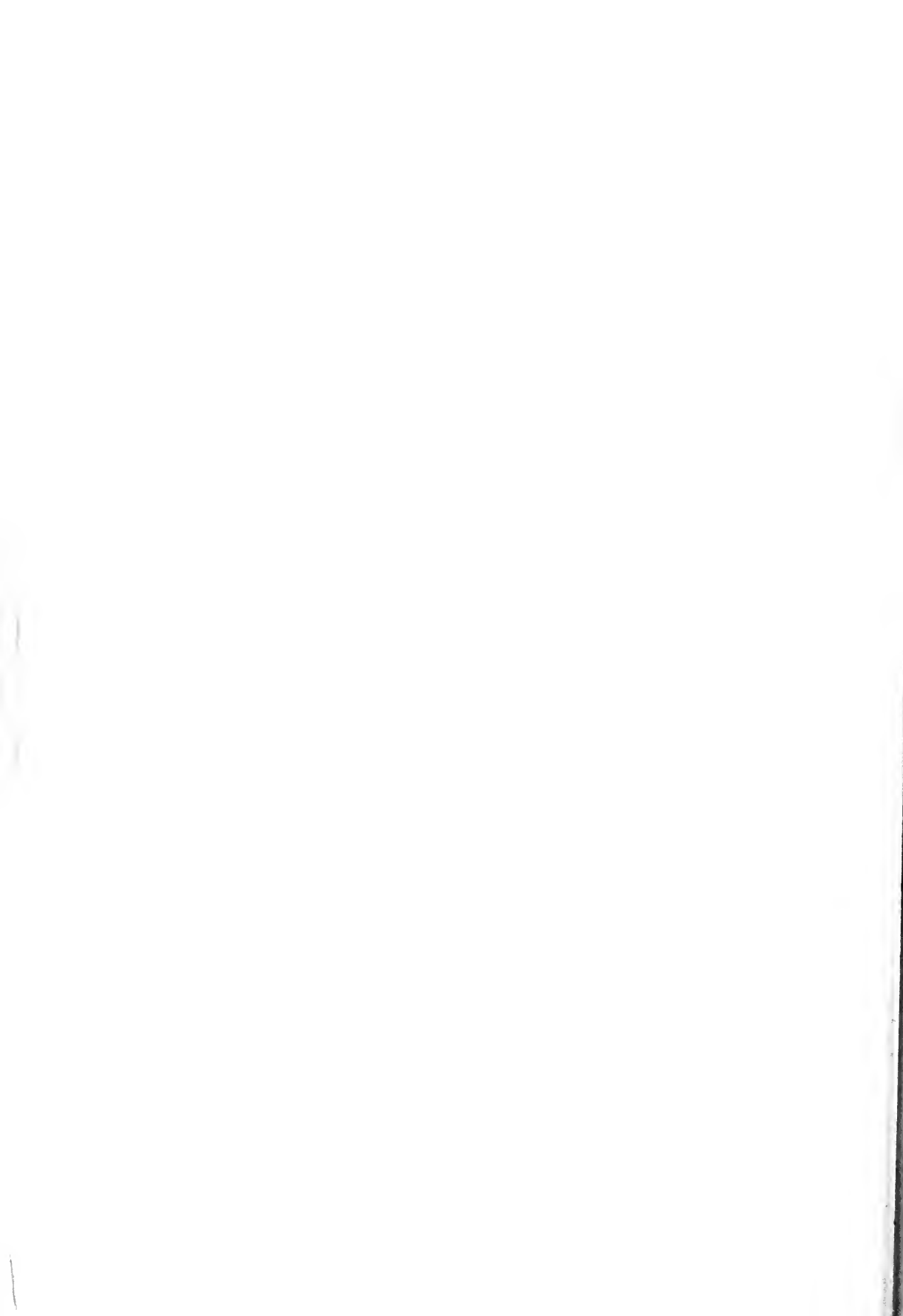
(a) by the majority of the members who heard the matter; or

(b) where the matter was heard by a member sitting alone or by two members, by that member or those members, as the case may be.

(2) Every order, certificate, report or recommendation to which subsection 1 does not apply is effective upon being signed by two members of the Board.

- Idem (3) Every document other than an order, certificate, report or recommendation issued by the Board shall be signed by a member of the Board.
- s. 18b (4), re-enacted **3.** Subsection 4 of section 18b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor:
- Members at hearing to participate in decision (4) No member of the Board shall be a party to a decision, order, certificate, report or recommendation made after a hearing unless he was present throughout the hearing and heard the evidence and arguments of the parties and, except with the consent of the parties, no decision, order, certificate, report or recommendation shall be made unless all members so present participate in the making of the decision, order, certificate, report or recommendation.
- Where no majority agreement (5) Where a majority of the members of the Board hearing a matter cannot agree on a decision, order, certificate, report or recommendation, the chairman shall notify all parties to the hearing of the failure of a majority to agree and, upon the consent of the parties, assign another member of the Board to participate in the making of the decision, order, certificate, report or recommendation upon such terms as the parties may agree.
- Idem (6) Where the consent required under subsection 5 cannot be obtained, the matter shall be reheard under section 17 before a member or members of the Board who did not participate in the initial hearing.
- Commencement **4.** This Act comes into force on the day it receives Royal Assent.
- Short title **5.** The short title of this Act is *The Ontario Highway Transport Board Amendment Act, 1979.*







An Act to amend  
The Ontario Highway Transport Board Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

June 5th, 1979

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Public Commercial Vehicles Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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#### EXPLANATORY NOTES

SECTION 1 The interpretation section is being amended with the main change being as follows:

1. A definition of commercial motor vehicle is added to permit a distinction between the power driven segment of a truck and the trailer segment.
2. The change in the definition of a public commercial vehicle is complementary to section 13 of the Bill.
3. A definition of licence plate is added
4. The concept of commercial cartage zones is introduced
5. Changes are made into metric measurements

BILL 89

1979

**An Act to amend  
The Public Commercial Vehicles Act**

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

- 1.—(1) Clause *ab* of section 1 of *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor: <sup>s. 1 (ab) re-enacted</sup>
- (*ab*) "commercial cartage zone" means an area designated as a commercial cartage zone by the regulations;
- (*ac*) "commercial motor vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act*; <sup>R.S.O. 1970 c. 202</sup>
- (*ad*) "commercial vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act* and includes a trailer as defined in that Act and a dual-purpose vehicle.
- (2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 1, is further amended by adding thereto the following clause: <sup>s. 1 amended</sup>
- (*ga*) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence.
- (3) Clause *k* of the said section 1, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor: <sup>s. 1 (k) re-enacted</sup>
- (*k*) "public commercial vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act* or a dual-purpose vehicle or the combination of a

commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence.

s. 1 (*m*),  
amended

(4) Clause *m* of the said section 1 is amended by striking out "500 gallons" in the seventh line and inserting in lieu thereof "2.3 kilolitres".

s. 1 (*p*),  
amended

(5) Clause *p* of the said section 1 is amended by striking out "three miles" in the third line and inserting in lieu thereof "five kilometres".

s. 2 (1) (*b*),  
re-enacted

**2.—**(1) Clause *b* of subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

(b) the commercial vehicle bears a licence plate issued to the operator; and

s. 2 (2),  
re-enacted

(2) Subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

Exceptions

(2) Subsection 1 does not apply to prohibit the transportation of,

(a) goods within a commercial cartage zone or an urban zone;

(b) fresh fruit or fresh vegetables grown in continental United States of America;

(c) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(d) ready mixed concrete; or

(e) domestic and municipal garbage, refuse and trash.

s. 2  
amended

(3) The said section 2, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 2, is further amended by adding thereto the following subsections:

Penalty

(3) Every person to whom subsection 1 applies who operates a commercial vehicle on a highway for the trans-

SECTION 2. Subsection 1. The change is complementary to section 13 of the Bill.

Subsection 2. Subsection 1 of section 2 of the Act prohibits the operation of a commercial vehicle for compensation without proper licences.

Subsection 2 of section 2 of the Act provides exceptions to the prohibition found in subsection 1 of section 2 of the Act. The list of goods that may be carried without licence is expanded.

Subsection 3. The new subsection 3 of section 2 of the Act provides a penalty different from the general penalty found in the Act where the contravention of subsection 1 of section 2 of the Act is in operating without an operating licence or in contravention of an operating licence. The fine is increased for subsequent offences by the new subsection 3a of section 2 of the Act.

SECTION 3 The provision makes it an offence for a person shipping goods to hire a transporter whom the shipper knows does not have the necessary licence.

SECTION 4 The changes are complementary to section 13 of the Bill.

SECTION 5 The new provisions permit the Minister to extend, for a period of up to seven days, the privileges in an operating licence under a special authority (see subsections 4-6 of section 5 of the Act).

Also, where there is a "North Bay Condition" in a certificate, that condition is deemed to be deleted (see subsection 7 of section 5 of the Act).

portation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on summary conviction is liable,

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

(3a) Where a person who has previously been convicted of an offence mentioned in subsection 3 is convicted of the same or any other offence mentioned in subsection 3 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause b of subsection 3.

3. The said Act is amended by adding thereto the following section: <sup>2a</sup> enacted

2a. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence.

4.—(1) Subsection 1 of section 4 of the said Act is amended by striking out "an owner of a public commercial vehicle" in the first and second lines and inserting in lieu thereof "a holder of an operating licence". <sup>s. 4(1)</sup> amended

(2) Subsection 2 of the said section 4 is amended by striking out "an owner of a public commercial vehicle" in the first and second lines and inserting in lieu thereof "a holder of an operating licence". <sup>s. 4(2)</sup> amended

5. Section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 1, is further amended by adding thereto the following subsections: <sup>s. 5</sup> amended

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth

in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,  
continues  
to apply

(5) The provisions of this Act, except sections 6 and 12j, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation  
by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection 4.

Condition  
deleted

(7) Every operating licence issued by the Minister under this section, every certificate issued by the Board under section 6 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is hereby amended by the deletion of the condition.

s. 6 (1, 2),  
re-enacted;  
s. 6 (4),  
repealed

6.—(1) Subsections 1 and 2 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, and subsection 4 of the said section, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, are repealed and the following substituted therefor:

Approval  
of Board

(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has after a hearing of the application as required by *The Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

R.S.O. 1970,  
c. 316

Certificate

(2) Subject to subsections 3, 10 and 13, the Board may in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

(a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;

(b) approve the conferring by the licence of special exclusive or limited rights with respect to the operation of public commercial vehicles and with



SECTION 6.—Subsection 1. The changes are partly housekeeping and partly for the purposes of clarification. The clarification being to the effect that the Board has authority to stipulate in its certificate the term for which a licence is issued.

Subsections 2, 3 and 4. The purposes of several subsections to section 6 of the Bill is to permit different commencement dates.

The new subsections being added to section 6 of the Act provide for the issuance of a probationary operating licence to persons who have been operating without a licence between September 30, 1974 and October 1, 1976 and are also so operating at the time the application is made.

This privilege would be available to those who apply within 120 days after these provisions come into force.

The probationary licence would be valid for one year after which time the Board would review the matter and either revoke the certificate or issue a new certificate approving a regular operating licence.

Furthermore, provision is made for issuing a licence for "corridor" transporting without the necessity of proving provincial public necessity and convenience. The term "corridor" refers to the transporting of goods through Ontario without picking up or delivering the goods in Ontario (see subsection 9 of section 6 of the Act).

Also, special provisions are made in respect of certificates issued pertaining to the transportation of lumber products (see subsection 10 of section 6 of the Act).



respect to any highway or highways or portions thereof described in the certificate; and

(c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

(2) The said section 6, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2 and 1976, chapter 22, section 1, is further amended by adding thereto the following subsection: <sup>s. 6. amended</sup>

(9) Where the application referred to in subsection 1 is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate. <sup>Meaning of public necessity and convenience for purposes of subs. 1</sup>

(3) The said section 6 is further amended by adding thereto the following subsection: <sup>s. 6. amended</sup>

(10) The Board shall, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience, <sup>Lumber products</sup>

(a) approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,

(i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and

(ii) the maximum number of vehicles which may be operated; and

(b) not limit the rights conferred by the licence to the operation of public commercial vehicles to the transportation of materials of specific consignors or consignees.

s. 6,  
amended

(4) The said section 6 is further amended by adding thereto the following subsections:

Applicants  
who operated  
between  
September 30,  
1974 and  
October 1,  
1976

(11) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976.

Evidence in  
support of  
application

(12) In support of an application made under subsection 11, the person making the application shall submit to the Board evidence showing,

- (a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;
- (b) the number of commercial vehicles operated by the applicant;
- (c) a description of goods carried and names of the consignors of the goods;
- (d) the points of origin and destination of the goods described under clause c;
- (e) that persons named in clause c support the application;
- (f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause e; and
- (g) that the applicant was on the date of the application carrying on the business of transporting for compensation goods of another person where the operation was not restricted to urban zones.

Issuance of  
certificate

(13) The Board, upon hearing an application made under subsection 11 and being satisfied with regard only to the evidence submitted under subsection 12, shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

(14) Notwithstanding subsection 1 and subject to subsection 17, where the Board has issued a certificate or certificates under subsection 13, the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates.

Issuance of licence

(15) An application under subsection 11 shall be made not later than 120 days after that subsection comes into force.

Time limit for application under subs 11

(16) An applicant under subsection 11 shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Applicant to file tariff

(17) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection 13, the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under *The Highway Traffic Act* not more than thirty days before the date of filing.

Requirements prior to issue of licence

R.S.O. 1970, c. 202

(18) A probationary operating licence issued under subsection 14 expires,

Validity of probationary operating licence

(a) upon the Board revoking its certificate under subsection 14; or

(b) where the Board issues a new certificate under subsection 19,

(i) upon the Minister issuing an operating licence under subsection 1 pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(19) The Board shall, not less than one year after the date of issue of a probationary operating licence issued under subsection 14 and as soon after the expiration of the one year as is convenient to the Board, review under section 19 of *The Ontario Highway Transport Board Act* the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence.

Review by Board

R.S.O. 1970, c. 316

s. 6a.  
enacted

7. The said Act is further amended by adding thereto the following section:

Where  
certificate  
revoked or  
amended

6a. Where a certificate issued by the Board under section 6 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly.

s. 7 (1),  
amended

- 8.—(1) Subsection 1 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 7,  
amended

- (2) The said section 7 is amended by adding thereto the following subsection:

Probationary  
licence not  
transferable

(1a) No probationary operating licence issued pursuant to an application under subsection 11 of section 6 is transferable.

s. 7 (2),  
amended

- (3) Subsection 2 of the said section 7 is amended by inserting after "hearing" in the third line "as required by *The Ontario Highway Transport Board Act*".

s. 9 (1),  
re-enacted

- 9.—(1) Subsection 1 of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Expiry of  
licence

(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be.

s. 9,  
amended

- (2) The said section 9 is amended by adding thereto the following subsection:

Where  
subs. 1 and  
2 do not  
apply

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

s. 10,  
amended

- 10.—(1) Section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following clause:

SECTION 7. The provision added clarifies that an operating licence is dependent on a certificate issued by the Board.

SECTION 8.—Subsections 1 and 3. Housekeeping amendments

Subsection 2. Subsection 1 of section 7 of the Act provides that an operating licence shall not be transferred without the approval of the Minister. The new subsection 1a of section 7 of the Act provides that an operating licence issued pursuant to an application under the new subsection 11 of section 6 of the Act cannot be transferred

SECTION 9. The recasting of subsection 1 of section 9 of the Act is complementary to section 13 of the Bill.

The new subsection 3 of section 9 of the Act is complementary to the new clause c of subsection 2 of section 6 of the Act which clarifies that a licence may be issued for a specific term. Where there is a specific expiry time in the licence then the July 1st expiry date set out in the Act does not apply.

SECTION 10.—Subsection 1. Section 10 of the Act empowers the Minister to suspend or cancel an operating licence for any of the causes set out in that section. The amendment adds a further cause for suspending or cancelling an operating licence.

Subsection 2. The added clause has the effect of permitting the Minister to cancel an operating licence for corridor transportation where the holder of the licence ceases to hold the necessary licences outside Ontario.

SECTION 11. The concept of a commercial cartage zone is introduced. The Act will not apply to transportation of goods within a commercial cartage zone.

SECTION 12. The amendments are partly housekeeping and partly complementary to section 13 of the Bill



(ba) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

(2) The said section 10 is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* and by adding thereto the following clause:

(e) where the licence was issued under subsection 1 of section 6, as a result of the application of subsection 9 of section 6, and the licensee ceases to hold any appropriate operating licence referred to in subsection 18 of section 6.

11. The said Act is further amended by adding thereto the following section: s 11, enacted

11.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board. Designation of commercial cartage zones

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations. Referral to Board

(3) The Minister may, following receipt of the report and recommendations of the Board under subsection 2, require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations. Idem

(4) A commercial cartage zone shall not exceed one regional municipality, county or district. Limitation

(5) For the purposes of this section, The District Municipality of Muskoka is deemed to be a regional municipality. District Municipality of Muskoka

12.—(1) Subsection 1 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, and amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor: s 12 (1), re-enacted

(1) Subject to section 12c, the holder of an operating licence is entitled, upon application to the Minister on the Issue of vehicle licence

form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister.

s. 12 (2),  
re-enacted

(2) Subsection 2 of the said section 12, as amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Limit  
on vehicle  
licences

(2) Notwithstanding subsection 1, the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations.

s. 12a,  
re-enacted

**13.** Section 12a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle  
licence

12a.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of  
vehicle  
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of  
licence  
plate

(3) Subject to subsection 4, a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where  
subs. 3 does  
not apply

(4) Subsection 3 does not apply if,

(a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;

(b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or

(c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

Regulations

(5) For the purposes of subsection 4, the Lieutenant Governor in Council may make regulations prescribing,

(a) classes of holders of operating licences;

(b) classes of commercial motor vehicles;

(c) classes of operating licences.

**SECTION 13** At present, vehicle licences are issued only for specific commercial vehicles. The proposed changes to the Act permit the concept of a "floating" vehicle licence. This means the issuing of a vehicle licence that is not tied to a specific commercial vehicle

Such classes of licences or vehicles as are prescribed by the regulations may operate or be operated under floating vehicle licences

SECTION 14. The amended subsection 2 of section 12*b* of the Act serves to clarify the wording and is complementary to section 13 of the Bill.

The new subsection 3 of section 12*b* of the Act establishes the person who is the operator of a vehicle and the new subsection 4 of section 12*b* of the Act provides that the operator shall employ only vehicles that he owns or leases.

SECTIONS 15 AND 16. The amendments are complementary to section 13 of the Bill.

SECTION 17. This is a housekeeping amendment.

SECTION 18. The section repealed deals with the expiry of filed tariff tolls.

14. Subsection 2 of section 12*b* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

s. 12*b* (2).  
re-enacted

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year.

Licence  
plate

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee.

Holder of  
operating  
licence  
deemed  
to be  
operator

(4) The holder of an operating licence shall not operate a public commercial vehicle unless he is the registered owner of the vehicle under *The Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations.

Ownership  
of vehicle

R.S.O. 1970,  
c. 202

15. Section 12*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

s. 12*c*.  
re-enacted

12*c*. Subject to section 12*i*, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 2 of section 12.

Refusal to  
issue or  
cancellation  
of vehicle  
licence

16. Section 12*f* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 7, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 12*f*.  
amended

17. Section 12*k* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

s. 12*k*.  
re-enacted

12*k*. A tariff of tolls shall be filed in a form provided by the Board and published and maintained available to the public.

Form and  
publication  
of tariff

18. Section 12*m* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed.

s. 12*m*.  
repealed

s. 12n (2-6),  
re-enacted

- 19.** Subsections 2 to 6 of section 12n of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed and the following substituted therefor:

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgment of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed  
copy to be  
retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of  
bill of  
lading to  
be carried  
by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's  
waybill  
carried in  
lieu of  
bill of  
lading

(6) Notwithstanding subsections 4 and 5, a carrier's waybill, containing such information as may be prescribed by regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's  
responsibility

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection 6.

s. 15a,  
re-enacted

- 20.** Section 15a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle  
licence, etc.,  
to be  
carried by  
driver

15a. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in

SECTION 19. The reference to Schedules A and B is being deleted. This is complementary to section 26 of the Bill.

Added to the matters which are to be part of a bill of lading is a statement by the carrier or freight forwarder as to the state of the goods when he received them.

Where a driver or carrier is required to produce a copy of a bill of lading, a memorandum of the bill will no longer suffice, but a "carrier's waybill" may be produced instead.

Where a shipment is carried by more than one vehicle, the carrier must ensure that a bill of lading or a waybill is in each vehicle.

SECTION 20. The amendment is a change of wording complementary to section 13 of the Bill.

SECTION 21 The amendment is complementary to section 19 of the Bill.

SECTION 22 Subsection 1 of section 15c of the Act now gives an officer of the Ministry authority to examine business records and documents of a holder of an operating licence in respect of a public commercial vehicle business. The amendment extends this authority to include the holder of a freight forwarder's licence.

SECTION 23. The minimum and maximum general penalties are increased from \$50 and \$1,000, respectively, to \$150 and \$1,500.

SECTION 24. Section 18 of the Act refers to the authority to make regulations. The clauses added expand the matters that may be dealt with by regulation. The amended clause *a* incorporates a change of a house-keeping nature.



the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry.

- 21.** Clause *d* of subsection 3 of section 15*b* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 10, is repealed and the following substituted therefor: s. 15*b* (3) (*d*), re-enacted

(*d*) copies of any bills of lading or waybills,

- 22.** Subsection 1 of section 15*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after "vehicles" in the fourth line "or of the holder of a freight forwarder's licence relating to his business as a freight forwarder". s. 15*c* (1), amended

- 23.** Section 16 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 166, section 12, is repealed and the following substituted therefor: s. 16, re-enacted

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500. Penalty

- 24.—**(1) Clause *a* of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 18 (*a*), re-enacted

(*a*) prescribing classes of licences and the forms of licences.

- (2) the said section 18, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, 1973, chapter 166, section 13 and 1975 (2nd Session), chapter 7, section 3, is further amended by adding thereto the following clauses: s. 18, amended

(*j*) prescribing the form and contents of a waybill;

(*t*) governing the issue and renewal of operating licences and classes of operating licences;

- (u) prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;
- (v) exempting holders of any class or classes of operating licences from any of the provisions of section 12j or 12n;
- (w) prescribing terms which shall be incorporated into all leases referred to in subsection 4 of section 12b;
- (x) prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 4 of section 12b.

ss. 19, 20,  
enacted

**25.** The said Act is further amended by adding thereto the following sections:

Policy  
statements

19.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection 1 shall be published in *The Ontario Gazette*.

Investigation  
directed by  
Minister

20.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

Hearings  
by Board

(2) For the purposes of subsection 1, the Board may hold such hearings as it considers necessary.

Schedules  
A B,  
repealed

**26.** Schedules A and B to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed.

Commence-  
ment

**27.** (1) This Act, except section 3, subsections 3 and 4 of section 6, subsection 2 of section 8 and sections 19, 21 and 26, comes into force on the day it receives Royal Assent.

Idem

(2) Section 3 comes into force on the 1st day of August, 1979.

SECTION 25. Self-explanatory.

SECTION 26. Schedules A and B set out conditions deemed to be part of contracts for transportation of goods for compensation. These are being removed.



(3) Subsections 3 and 4 of section 6, subsection 2 of section <sup>idem</sup> 8 and sections 19, 21 and 26 come into force on a day to be named by proclamation of the Lieutenant Governor.

**28.** The short title of this Act is *The Public Commercial Vehicles* <sup>Short title</sup> *Amendment Act, 1979.*





An Act to amend  
The Public Commercial Vehicles Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Public Commercial Vehicles Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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

#### EXPLANATORY NOTES

SECTION 1. The interpretation section is being amended with the main changes being as follows :

1. A definition of commercial motor vehicle is added to permit a distinction between the power driven segment of a truck and the trailer segment.
2. The change in the definition of a public commercial vehicle is complementary to section 13 of the Bill.
3. A definition of licence plate is added.
4. The concept of commercial cartage zones is introduced.
5. Changes are made into metric measurements.

BILL 89

1979

## An Act to amend The Public Commercial Vehicles Act

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

1.—(1) Clause *ab* of section 1 of *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor: s. 1 (ab).  
re-enacted

(ab) "commercial cartage zone" means an area designated as a commercial cartage zone by the regulations;

(ac) "commercial motor vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act*; R.S.O. 1970,  
c. 202

(ad) "commercial vehicle" means,

(i) a commercial motor vehicle or a combination of a commercial motor vehicle and trailers as defined in *The Highway Traffic Act*,

(ii) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in *The Highway Traffic Act*,

(iii) any other motor vehicle as defined in *The Highway Traffic Act* while drawing a trailer as defined in that Act, the combination of the motor vehicle and trailer constituting the commercial vehicle.

(2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 1, is further amended by adding thereto the following clause: s. 1,  
amended

(ga) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence.

s. 1 (k),  
re-enacted

(3) Clause *k* of the said section 1, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:

(k) "public commercial vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act* or a dual-purpose vehicle or the combination of a commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence.

s. 1 (m),  
amended

(4) Clause *m* of the said section 1 is amended by striking out "500 gallons" in the seventh line and inserting in lieu thereof "2.3 kilolitres".

s. 1 (p),  
amended

(5) Clause *p* of the said section 1 is amended by striking out "three miles" in the third line and inserting in lieu thereof "five kilometres".

s. 2 (1) (b),  
re-enacted

**2.**—(1) Clause *b* of subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

(b) the commercial vehicle bears a licence plate issued to the operator; and

s. 2 (2),  
re-enacted

(2) Subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

Exceptions

(2) Subsection 1 does not apply to prohibit the transportation of,

(a) goods within a commercial cartage zone or an urban zone;

(b) fresh fruit or fresh vegetables grown in continental United States of America;

(c) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(d) ready mixed concrete; or

SECTION 2. — Subsection 1. The change is complementary to section 13 of the Bill.

Subsection 2. Subsection 1 of section 2 of the Act prohibits the operation of a commercial vehicle for compensation without proper licences.

Subsection 2 of section 2 of the Act provides exceptions to the prohibition found in subsection 1 of section 2 of the Act. The list of goods that may be carried without licence is expanded.

Subsection 3. The new subsection 3 of section 2 of the Act provides a penalty different from the general penalty found in the Act where the contravention of subsection 1 of section 2 of the Act is in operating without an operating licence or in contravention of an operating licence. The fine is increased for subsequent offences by the new subsection 3a of section 2 of the Act.

SECTION 3. The provision makes it an offence for a person shipping goods to hire a transporter whom the shipper knows does not have the necessary licence.

SECTION 4. The changes are complementary to section 13 of the Bill.

SECTION 5. The new provisions permit the Minister to extend, for a period of up to seven days, the privileges in an operating licence under a special authority (see subsections 4-6 of section 5 of the Act).

Also, where there is a "North Bay Condition" in a certificate, that condition is deemed to be deleted (see subsection 7 of section 5 of the Act).

(e) domestic and municipal garbage, refuse and trash.

- (3) The said section 2, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 2, is further amended by adding thereto the following subsections: s. 2. amended

(3) Every person to whom subsection 1 applies who operates a commercial vehicle on a highway for the transportation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on summary conviction is liable. Penalty

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

(3a) Where a person who has previously been convicted of an offence mentioned in subsection 3 is convicted of the same or any other offence mentioned in subsection 3 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause b of subsection 3. Subsequent offences

3. The said Act is amended by adding thereto the following section: s. 2a. enacted

2a. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. Hiring of unlicensed commercial vehicle

- 4.—(1) Subsection 1 of section 4 of the said Act is amended by striking out "an owner of a public commercial vehicle" in the first and second lines and inserting in lieu thereof "a holder of an operating licence". s. 4 (1). amended

(2) Subsection 2 of the said section 4 is amended by striking out "an owner of a public commercial vehicle" in the first and second lines and inserting in lieu thereof "a holder of an operating licence". s. 4 (2). amended

5. Section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the s. 5. amended

Statutes of Ontario, 1975 (2nd Session), chapter 7, section 1, is further amended by adding thereto the following subsections:

Special  
authority

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,  
continues  
to apply

(5) The provisions of this Act, except sections 6 and 12j, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation  
by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection 4.

Condition  
deleted

(7) Every operating licence issued by the Minister under this section, every certificate issued by the Board under section 6 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is hereby amended by the deletion of the condition.

s. 6 (1, 2),  
re-enacted,  
s. 6 (4),  
repealed

**6.—**(1) Subsections 1 and 2 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, and subsection 4 of the said section, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, are repealed and the following substituted therefor:

Approval  
of Board

(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by *The Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

R.S.O. 1970,  
c. 316

Certificate

(2) Subject to subsections 3, 10 and 13, the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,



SECTION 6.—Subsection 1. The changes are partly housekeeping and partly for the purposes of clarification. The clarification being to the effect that the Board has authority to stipulate in its certificate the term for which a licence is issued.

Subsections 2, 3 and 4. The purposes of several subsections to section 6 of the Bill is to permit different commencement dates.

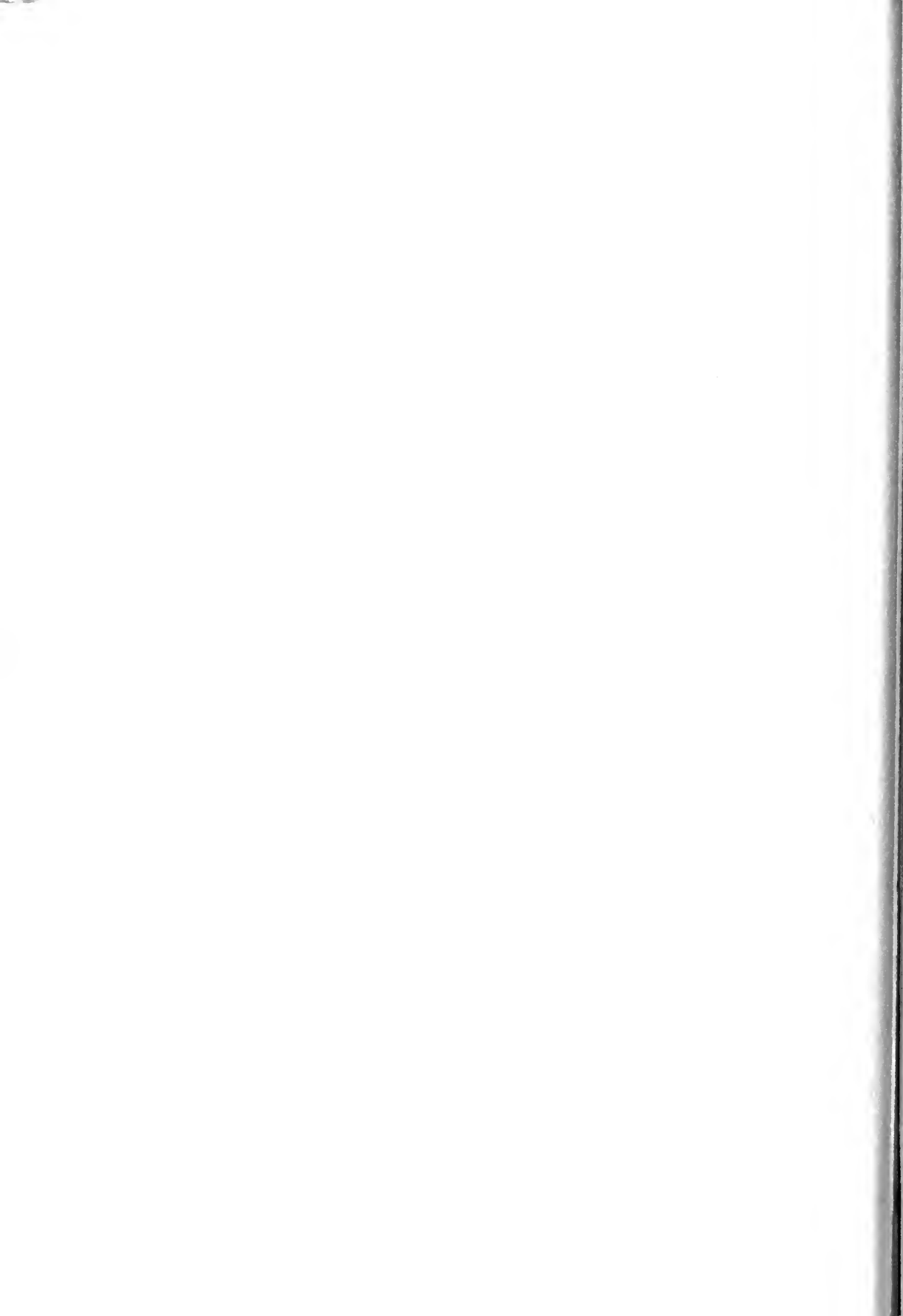
The new subsections being added to section 6 of the Act provide for the issuance of a probationary operating licence to persons who have been operating without a licence between September 30, 1974 and October 1, 1976 and are also so operating at the time the application is made.

This privilege would be available to those who apply within 120 days after these provisions come into force.

The probationary licence would be valid for one year after which time the Board would review the matter and either revoke the certificate or issue a new certificate approving a regular operating licence.

Furthermore, provision is made for issuing a licence for "corridor" transporting without the necessity of proving provincial public necessity and convenience. The term "corridor" refers to the transporting of goods through Ontario without picking up or delivering the goods in Ontario (see subsection 9 of section 6 of the Act).

Also, special provisions are made in respect of certificates issued pertaining to the transportation of lumber products (see subsection 10 of section 6 of the Act).



- (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;
- (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate; and
- (c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

(2) The said section 6, as amended by the Statutes of Ontario, <sup>s. 6. amended</sup> 1975 (2nd Session), chapter 7, section 2 and 1976, chapter 22, section 1, is further amended by adding thereto the following subsection:

(9) Where the application referred to in subsection 1 is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate. <sup>Meaning of public necessity and convenience for purposes of subs. 1</sup>

(3) The said section 6 is further amended by adding thereto <sup>s. 6. amended</sup> the following subsection:

(10) The Board shall, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience, <sup>Lumber products</sup>

- (a) approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,
  - (i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and
  - (ii) the maximum number of vehicles which may be operated; and

(b) not limit the rights conferred by the licence to the operation of public commercial vehicles to the transportation of materials of specific consignors or consignees.

s. 6,  
amended

(4) The said section 6 is further amended by adding thereto the following subsections:

Applicants  
who operated  
between  
September 30,  
1974 and  
October 1,  
1976

(11) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976.

Evidence in  
support of  
application

(12) In support of an application made under subsection 11, the person making the application shall submit to the Board evidence showing,

(a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;

(b) the number of commercial vehicles operated by the applicant;

(c) a description of goods carried and names of the consignors of the goods;

(d) the points of origin and destination of the goods described under clause c;

(e) that persons named in clause c support the application;

(f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause e; and

(g) that the applicant was on the date of the application carrying on the business of transporting for compensation goods of another person where the operation was not restricted to urban zones.

Issuance of  
certificate

(13) The Board, upon hearing an application made under subsection 11 and being satisfied with regard only to the

evidence submitted under subsection 12, shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

(14) Notwithstanding subsection 1 and subject to subsection 17, where the Board has issued a certificate or certificates under subsection 13, the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates.

Issuance of licence

(15) An application under subsection 11 shall be made not later than 120 days after that subsection comes into force.

Time limit for application under subs- 11

(16) An applicant under subsection 11 shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Applicant to file tariff

(17) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection 13, the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under *The Highway Traffic Act* not more than thirty days before the date of filing.

Requirements prior to issue of licence

R.S.O. 1970, c. 202

(18) A probationary operating licence issued under subsection 14 expires,

Validity of probationary operating licence

- (a) upon the Board revoking its certificate under subsection 19; or
- (b) where the Board issues a new certificate under subsection 19,
  - (i) upon the Minister issuing an operating licence under subsection 1 pursuant to the certificate, or
  - (ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(19) The Board shall, not less than one year after the date of issue of a probationary operating licence issued

Review by Board

R.S.O. 1970,  
c. 316

under subsection 14 and as soon after the expiration of the one year as is convenient to the Board, review under section 19 of *The Ontario Highway Transport Board Act* the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence.

s. 6a,  
enacted

7. The said Act is further amended by adding thereto the following section:

Where  
certificate  
revoked or  
amended

6a. Where a certificate issued by the Board under section 6 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address.

s. 7 (1),  
amended

8.—(1) Subsection 1 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 7,  
amended

(2) The said section 7 is amended by adding thereto the following subsection:

Probationary  
licence not  
transferable

(1a) No probationary operating licence issued pursuant to an application under subsection 11 of section 6 is transferable.

s. 7 (2),  
amended

(3) Subsection 2 of the said section 7 is amended by inserting after "hearing" in the third line "as required by *The Ontario Highway Transport Board Act*".

s. 9 (1),  
re-enacted

9.—(1) Subsection 1 of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Expiry of  
licence

(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be.

s. 9,  
amended

(2) The said section 9 is amended by adding thereto the following subsection:

SECTION 7. The provision added clarifies that an operating licence is dependent on a certificate issued by the Board.

SECTION 8.—Subsections 1 and 3. Housekeeping amendments

Subsection 2. Subsection 1 of section 7 of the Act provides that an operating licence shall not be transferred without the approval of the Minister. The new subsection 1a of section 7 of the Act provides that an operating licence issued pursuant to an application under the new subsection 11 of section 6 of the Act cannot be transferred.

SECTION 9. The recasting of subsection 1 of section 9 of the Act is complementary to section 13 of the Bill.

The new subsection 3 of section 9 of the Act is complementary to the new clause c of subsection 2 of section 6 of the Act which clarifies that a licence may be issued for a specific term. Where there is a specific expiry time in the licence then the July 1st expiry date set out in the Act does not apply.

SECTION 10.—Subsection 1. Section 10 of the Act empowers the Minister to suspend or cancel an operating licence for any of the causes set out in that section. The amendment adds a further cause for suspending or cancelling an operating licence.

Subsection 2. The added clause has the effect of permitting the Minister to cancel an operating licence for corridor transportation where the holder of the licence ceases to hold the necessary licences outside Ontario.

SECTION 11. The concept of a commercial cartage zone is introduced. The Act will not apply to transportation of goods within a commercial cartage zone.



(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. Where subss. 1 and 2 do not apply

10.—(1) Section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following clause: s. 10. amended

(ba) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

(2) The said section 10 is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* and by adding thereto the following clause: s. 10. amended

(e) where the licence was issued under subsection 1 of section 6, as a result of the application of subsection 9 of section 6, and the licensee ceases to hold any appropriate operating licence referred to in subsection 9 of section 6.

11. The said Act is further amended by adding thereto the following section: s. 11. enacted

11.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board. Designation of commercial cartage zones

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations. Referral to Board

(3) The Minister may, following receipt of the report and recommendations of the Board, under subsection 2, require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations. Idem

(4) A commercial cartage zone shall not exceed one regional municipality, county or district. Limitation

(5) In determining whether to recommend the designation of a commercial cartage zone, the Board shall consider Matters for Board to consider

whether public necessity and convenience will be served thereby by taking into account the impact thereof on the users of for hire transportation services within the area under consideration and on the providers of such services and, in considering the impact on the providers of such services, the Board will take into account the impact on those operating exclusively within areas of the proposed zone to which this Act does not apply and those holding operating licences under this Act who would be affected thereby.

s. 12 (1),  
re-enacted

**12.**—(1) Subsection 1 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, and amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Issue of  
vehicle  
licence

(1) Subject to section 12*c*, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister.

s. 12 (2),  
re-enacted

(2) Subsection 2 of the said section 12, as amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Limit  
on vehicle  
licences

(2) Notwithstanding subsection 1, the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations.

s. 12*a*,  
re-enacted

**13.** Section 12*a* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle  
licence

12*a*.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of  
vehicle  
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of  
licence  
plate

(3) Subject to subsection 4, a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where  
subs. 3 does  
not apply

(4) Subsection 3 does not apply if,

(a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;

**SECTION 12.** The amendments are partly housekeeping and partly complementary to section 13 of the Bill.

**SECTION 13.** At present, vehicle licences are issued only for specific commercial vehicles. The proposed changes to the Act permit the concept of a "floating" vehicle licence. This means the issuing of a vehicle licence that is not tied to a specific commercial vehicle.

Such classes of licences or vehicles as are prescribed by the regulations may operate or be operated under floating vehicle licences.

**SECTION 14.** The amended subsection 2 of section 12*b* of the Act serves to clarify the wording and is complementary to section 13 of the Bill.

The new subsection 3 of section 12*b* of the Act establishes the person who is the operator of a vehicle and the new subsection 4 of section 12*b* of the Act provides that the operator shall employ only vehicles that he owns or leases.

**SECTIONS 15 AND 16.** The amendments are complementary to section 13 of the Bill.

- (b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or
- (c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

(5) For the purposes of subsection 4, the Lieutenant Governor in Council may make regulations prescribing,

- (a) classes of holders of operating licences;
- (b) classes of commercial motor vehicles;
- (c) classes of operating licences.

14. Subsection 2 of section 12b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s 12b (2), re-enacted

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year. Licence plate

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee. Holder of operating licence deemed to be operator

(4) The holder of an operating licence shall not operate a public commercial vehicle unless he is the registered owner of the vehicle under *The Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations. Ownership of vehicle  
R S O 1970.  
c 202

15. Section 12c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s 12c, re-enacted

12c. Subject to section 12i, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 2 of section 12. Refusal to issue or cancellation of vehicle licence

s. 12*f*,  
amended

16. Section 12*f* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 7, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 12*k*,  
re-enacted

17. Section 12*k* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Form and  
publication  
of tariff

12*k*. A tariff of tolls shall be filed in a form satisfactory to the Board and published and maintained available to the public.

s. 12*m*,  
repealed

18. Section 12*m* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed.

s. 12*n* (2-6),  
re-enacted

19. Subsections 2 to 6 of section 12*n* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed and the following substituted therefor:

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgement of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed  
copy to be  
retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of  
bill of  
lading to  
be carried  
by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's  
waybill  
carried in  
lien of  
bill of  
lading

(6) Notwithstanding subsections 4 and 5, a carrier's waybill, containing such information as may be prescribed by regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a

SECTION 17. This is a housekeeping amendment.

SECTION 18. The section repealed deals with the expiry of filed tariff tolls.

SECTION 19. The reference to Schedules A and B is being deleted. This is complementary to section 26 of the Bill

Added to the matters which are to be part of a bill of lading is a statement by the carrier or freight forwarder as to the state of the goods when he received them.

Where a driver or carrier is required to produce a copy of a bill of lading, a memorandum of the bill will no longer suffice, but a "carrier's waybill" may be produced instead.

Where a shipment is carried by more than one vehicle, the carrier must ensure that a bill of lading or a waybill is in each vehicle.

SECTION 20. The amendment is a change of wording complementary to section 13 of the Bill.

SECTION 21. The amendment is complementary to section 19 of the Bill.

SECTION 22. Subsection 1 of section 15c of the Act now gives an officer of the Ministry authority to examine business records and documents of a holder of an operating licence in respect of a public commercial vehicle business. The amendment extends this authority to include the holder of a freight forwarder's licence.

SECTION 23. The minimum and maximum general penalties are increased from \$50 and \$1,000, respectively, to \$150 and \$1,500.

SECTION 24. Section 18 of the Act refers to the authority to make regulations. The clauses added expand the matters that may be dealt with by regulation. The amended clause *a* incorporates a change of a house-keeping nature.



freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection 6. Carrier's responsibility

- 20.** Section 15a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 15a  
re-enacted

15a. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. Vehicle licence, etc. to be carried by driver

- 21.** Clause *d* of subsection 3 of section 15b of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 10, is repealed and the following substituted therefor: s. 15b (3) (d).  
re-enacted

(d) copies of any bills of lading or waybills,

. . . . .

- 22.** Subsection 1 of section 15c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after "vehicles" in the fourth line "or of the holder of a freight forwarder's licence relating to his business as a freight forwarder". s. 15c (1).  
amended

- 23.** Section 16 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 166, section 12, is repealed and the following substituted therefor: s. 16.  
re-enacted

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500. Penalty

- 24.—(1)** Clause *a* of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 18 (a).  
re-enacted

(a) prescribing classes of licences and the forms of licences.

s. 18,  
amended

(2) the said section 18, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, 1973, chapter 166, section 13 and 1975 (2nd Session), chapter 7, section 3, is further amended by adding thereto the following clauses:

(j) prescribing the form and contents of a waybill;

(l) governing the issue and renewal of operating licences and classes of operating licences;

(u) prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;

(v) exempting holders of any class or classes of operating licences from any of the provisions of section 12j or 12n;

(w) prescribing terms which shall be incorporated into all leases referred to in subsection 4 of section 12b;

(x) prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 4 of section 12b.

ss. 19, 20,  
enacted

**25.** The said Act is further amended by adding thereto the following sections:

Policy  
statements

19.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection 1 shall be published in *The Ontario Gazette*.

Investigation  
directed by  
Minister

20.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation

SECTION 25. Self-explanatory.

SECTION 26. Schedules A and B set out conditions deemed to be part of contracts for transportation of goods for compensation. These are being removed.

policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

(2) For the purposes of subsection 1, the Board may hold such hearings as it considers necessary. Hearings by Board

**26.** Schedules A and B to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed. Schedules A, B, repealed

**27.**—(1) This Act, except section 3, subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10 and sections 19, 21 and 26, comes into force on the day it receives Royal Assent. Commencement

(2) Section 3 comes into force on the 1st day of August, 1979. Idem

(3) Subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10, and sections 19, 21 and 26 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**28.** The short title of this Act is *The Public Commercial Vehicles Amendment Act, 1979*. Short title





An Act to amend  
The Public Commercial Vehicles Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

June 18th, 1979

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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



**BILL 89**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Public Commercial Vehicles Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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**An Act to amend  
The Public Commercial Vehicles Act**

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

1.—(1) Clause *ab* of section 1 of *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor: <sup>s. 1 (ab), re-enacted</sup>

(*ab*) "commercial cartage zone" means an area designated as a commercial cartage zone by the regulations;

(*ac*) "commercial motor vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act*; <sup>R.S.O. 1970 c. 202</sup>

(*ad*) "commercial vehicle" means,

(i) a commercial motor vehicle or a combination of a commercial motor vehicle and trailers as defined in *The Highway Traffic Act*,

(ii) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in *The Highway Traffic Act*,

(iii) any other motor vehicle as defined in *The Highway Traffic Act* while drawing a trailer as defined in that Act, the combination of the motor vehicle and trailer constituting the commercial vehicle.

(2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 1, is further amended by adding thereto the following clause: <sup>s. 1, amended</sup>

(ga) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence.

s. 1 (k),  
re-enacted

(3) Clause *k* of the said section 1, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:

(k) "public commercial vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act* or a dual-purpose vehicle or the combination of a commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence.

s. 1 (m),  
amended

(4) Clause *m* of the said section 1 is amended by striking out "500 gallons" in the seventh line and inserting in lieu thereof "2.3 kilolitres".

s. 1 (p),  
amended

(5) Clause *p* of the said section 1 is amended by striking out "three miles" in the third line and inserting in lieu thereof "five kilometres".

s. 2 (1) (b),  
re-enacted

2.—(1) Clause *b* of subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

(b) the commercial vehicle bears a licence plate issued to the operator; and

s. 2 (2),  
re-enacted

(2) Subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

Exceptions

(2) Subsection 1 does not apply to prohibit the transportation of,

(a) goods within a commercial cartage zone or an urban zone;

(b) fresh fruit or fresh vegetables grown in continental United States of America;

(c) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(d) ready mixed concrete; or

(e) domestic and municipal garbage, refuse and trash.

- (3) The said section 2, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 2, is further amended by adding thereto the following subsections: <sup>s. 2, amended</sup>

(3) Every person to whom subsection 1 applies who operates a commercial vehicle on a highway for the transportation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on summary conviction is liable, <sup>Penalty</sup>

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

(3a) Where a person who has previously been convicted of an offence mentioned in subsection 3 is convicted of the same or any other offence mentioned in subsection 3 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause b of subsection 3. <sup>Subsequent offences</sup>

3. The said Act is amended by adding thereto the following section: <sup>s. 2a, enacted</sup>

2a. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. <sup>Hiring of unlicensed commercial vehicle</sup>

- 4.—(1) Subsection 1 of section 4 of the said Act is amended by striking out "an owner of a public commercial vehicle", in the first and second lines and inserting in lieu thereof "a holder of an operating licence". <sup>s. 4 (1), amended</sup>

(2) Subsection 2 of the said section 4 is amended by striking out "an owner of a public commercial vehicle" in the first and second lines and inserting in lieu thereof "a holder of an operating licence". <sup>s. 4 (2), amended</sup>

5. Section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the <sup>s. 5, amended</sup>

Statutes of Ontario, 1975 (2nd Session), chapter 7, section 1, is further amended by adding thereto the following subsections:

Special  
authority

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,  
continues  
to apply

(5) The provisions of this Act, except sections 6 and 12j, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation  
by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection 4.

Condition  
deleted

(7) Every operating licence issued by the Minister under this section, every certificate issued by the Board under section 6 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is hereby amended by the deletion of the condition.

s. 6 (1, 2),  
re-enacted;  
s. 6 (4),  
repealed

6.—(1) Subsections 1 and 2 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, and subsection 4 of the said section, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, are repealed and the following substituted therefor:

Approval  
of Board

(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by *The Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

R.S.O. 1970,  
c. 316

Certificate

(2) Subject to subsections 3, 10 and 13, the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

- (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;
- (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate; and
- (c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

(2) The said section 6, as amended by the Statutes of Ontario, <sup>s. 6,</sup> amended 1975 (2nd Session), chapter 7, section 2 and 1976, chapter 22, section 1, is further amended by adding thereto the following subsection:

(9) Where the application referred to in subsection 1 is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate.

Meaning of public necessity and convenience for purposes of subs. 1

(3) The said section 6 is further amended by adding thereto the following subsection: <sup>s. 6,</sup> amended

(10) The Board shall, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience,

Lumber products

- (a) approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,
  - (i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and
  - (ii) the maximum number of vehicles which may be operated; and

(b) not limit the rights conferred by the licence to the operation of public commercial vehicles to the transportation of materials of specific consignors or consignees.

s. 6.  
amended

(4) The said section 6 is further amended by adding thereto the following subsections:

Applicants  
who operated  
between  
September 30,  
1974 and  
October 1,  
1976

(11) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976.

Evidence in  
support of  
application

(12) In support of an application made under subsection 11, the person making the application shall submit to the Board evidence showing,

(a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;

(b) the number of commercial vehicles operated by the applicant;

(c) a description of goods carried and names of the consignors of the goods;

(d) the points of origin and destination of the goods described under clause c;

(e) that persons named in clause c support the application;

(f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause e; and

(g) that the applicant was on the date of the application carrying on the business of transporting for compensation goods of another person where the operation was not restricted to urban zones.

Issuance of  
certificate

(13) The Board, upon hearing an application made under subsection 11 and being satisfied with regard only to the



evidence submitted under subsection 12, shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

(14) Notwithstanding subsection 1 and subject to subsection 17, where the Board has issued a certificate or certificates under subsection 13, the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates.

Issuance of licence

(15) An application under subsection 11 shall be made not later than 120 days after that subsection comes into force.

Time limit for application under subs 11

(16) An applicant under subsection 11 shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Applicant to file tariff

(17) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection 13, the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under *The Highway Traffic Act* not more than thirty days before the date of filing.

Requirements prior to issue of licence

R.S.O. 1970, c. 202

(18) A probationary operating licence issued under subsection 14 expires,

Validity of probationary operating licence

(a) upon the Board revoking its certificate under subsection 19; or

(b) where the Board issues a new certificate under subsection 19,

(i) upon the Minister issuing an operating licence under subsection 1 pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(19) The Board shall, not less than one year after the date of issue of a probationary operating licence issued

Review by Board

R.S.O. 1970,  
c. 316

under subsection 14 and as soon after the expiration of the one year as is convenient to the Board, review under section 19 of *The Ontario Highway Transport Board Act* the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence.

s. 6a,  
enacted

7. The said Act is further amended by adding thereto the following section:

Where  
certificate  
revoked or  
amended

6a. Where a certificate issued by the Board under section 6 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address.

s. 7 (1),  
amended

8.—(1) Subsection 1 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 7,  
amended

(2) The said section 7 is amended by adding thereto the following subsection:

Probationary  
licence not  
transferable

(1a) No probationary operating licence issued pursuant to an application under subsection 11 of section 6 is transferable.

s. 7 (2),  
amended

(3) Subsection 2 of the said section 7 is amended by inserting after "hearing" in the third line "as required by *The Ontario Highway Transport Board Act*".

s. 9 (1),  
re-enacted

9.—(1) Subsection 1 of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Expiry of  
licence

(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be.

s. 9,  
amended

(2) The said section 9 is amended by adding thereto the following subsection:

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. Where subss. 1 and 2 do not apply

10.—(1) Section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following clause: s. 10, amended

(ba) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

(2) The said section 10 is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* and by adding thereto the following clause: s. 10, amended

(e) where the licence was issued under subsection 1 of section 6, as a result of the application of subsection 9 of section 6, and the licensee ceases to hold any appropriate operating licence referred to in subsection 9 of section 6.

11. The said Act is further amended by adding thereto the following section: s. 11, enacted

11.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board. Designation of commercial cartage zones

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations. Referral to Board

(3) The Minister may, following receipt of the report and recommendations of the Board, under subsection 2, require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations. Idem

(4) A commercial cartage zone shall not exceed one regional municipality, county or district. Limitation

(5) In determining whether to recommend the designation of a commercial cartage zone, the Board shall consider Matters for Board to consider

whether public necessity and convenience will be served thereby by taking into account the impact thereof on the users of for hire transportation services within the area under consideration and on the providers of such services and, in considering the impact on the providers of such services, the Board will take into account the impact on those operating exclusively within areas of the proposed zone to which this Act does not apply and those holding operating licences under this Act who would be affected thereby.

s. 12 (1),  
re-enacted

**12.**—(1) Subsection 1 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, and amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Issue of  
vehicle  
licence

(1) Subject to section 12c, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister.

s. 12 (2),  
re-enacted

(2) Subsection 2 of the said section 12, as amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Limit  
on vehicle  
licences

(2) Notwithstanding subsection 1, the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations.

s. 12a,  
re-enacted

**13.** Section 12a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle  
licence

12a.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of  
vehicle  
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of  
licence  
plate

(3) Subject to subsection 4, a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where  
subs. 3 does  
not apply

(4) Subsection 3 does not apply if,

(a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;

- (b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or
- (c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

(5) For the purposes of subsection 4, the Lieutenant Governor in Council may make regulations prescribing,

- (a) classes of holders of operating licences;
- (b) classes of commercial motor vehicles;
- (c) classes of operating licences.

14. Subsection 2 of section 12b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s 12b (2), re-enacted

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year. Licence plate

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee. Holder of operating licence deemed to be operator

(4) The holder of an operating licence shall not operate a public commercial vehicle unless he is the registered owner of the vehicle under *The Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations. Ownership of vehicle  
R.S.O. 1970, c. 202

15. Section 12c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s 12c, re-enacted

12c. Subject to section 12i, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 2 of section 12. Refusal to issue or cancellation of vehicle licence

s. 12*f*,  
amended

- 16.** Section 12*f* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 7, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 12*k*,  
re-enacted

- 17.** Section 12*k* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Form and  
publication  
of tariff

12*k*. A tariff of tolls shall be filed in a form satisfactory to the Board and published and maintained available to the public.

s. 12*m*,  
repealed

- 18.** Section 12*m* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed.

s. 12*n* (2-6),  
re-enacted

- 19.** Subsections 2 to 6 of section 12*n* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed and the following substituted therefor:

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgment of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed  
copy to be  
retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of  
bill of  
lading to  
be carried  
by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's  
waybill  
carried in  
lien of  
bill of  
lading

(6) Notwithstanding subsections 4 and 5, a carrier's waybill, containing such information as may be prescribed by regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a

freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection 6. Carrier's responsibility

- 20.** Section 15a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 15a re-enacted

15a. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. Vehicle licence, etc. to be carried by driver

- 21.** Clause *d* of subsection 3 of section 15b of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 10, is repealed and the following substituted therefor: s. 15b (3) (d). re-enacted

(d) copies of any bills of lading or waybills,

- 22.** Subsection 1 of section 15c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after "vehicles" in the fourth line "or of the holder of a freight forwarder's licence relating to his business as a freight forwarder". s. 15c (1). amended

- 23.** Section 16 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 166, section 12, is repealed and the following substituted therefor: s. 16. re-enacted

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500. Penalty

- 24.—**(1) Clause *a* of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 18 (a). re-enacted

s. 18,  
amended

- (a) prescribing classes of licences and the forms of licences.
- (2) the said section 18, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, 1973, chapter 166, section 13 and 1975 (2nd Session), chapter 7, section 3, is further amended by adding thereto the following clauses:

(j) prescribing the form and contents of a waybill;

. . . . .

(t) governing the issue and renewal of operating licences and classes of operating licences;

(u) prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;

(v) exempting holders of any class or classes of operating licences from any of the provisions of section 12j or 12n;

(w) prescribing terms which shall be incorporated into all leases referred to in subsection 4 of section 12b;

(x) prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 4 of section 12b.

ss. 19, 20,  
enacted

- 25.** The said Act is further amended by adding thereto the following sections:

Policy  
statements

19.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection 1 shall be published in *The Ontario Gazette*.

Investigation  
directed by  
Minister

20.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation



policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

(2) For the purposes of subsection 1, the Board may hold such hearings as it considers necessary. Hearings by Board

**26.** Schedules A and B to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed. Schedules A B. repealed

**27.—**(1) This Act, except section 3, subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10 and sections 19, 21 and 26, comes into force on the day it receives Royal Assent. Commencement

(2) Section 3 comes into force on the 1st day of August, 1979. Idem

(3) Subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10, and sections 19, 21 and 26 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**28.** The short title of this Act is *The Public Commercial Vehicles Amendment Act, 1979*. Short title





An Act to amend  
The Public Commercial Vehicles Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

June 19th, 1979

*3rd Reading*

June 19th, 1979

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Highway Traffic Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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#### EXPLANATORY NOTES

SECTION 1.—Subsection 1 The definition of driver now reads as follows:

*7a. "driver" means a person who drives a motor vehicle on a highway.*

The word "motor" is being deleted.

Subsection 2. The definition of "road-building machine" is recast and in the new version specifies several kinds of vehicles that are included in the definition and specifically excludes commercial motor vehicles.

BILL 90

1979

## An Act to amend The Highway Traffic Act

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

- 1.—(1) Paragraph 7a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

7a. "driver" means a person who drives a vehicle on a highway.

- (2) Paragraph 26 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

26. "road-building machine" means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including but not limited to,

- i. asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
- ii. tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
- iii. power shovels on tracks and drag lines on tracks,

but not including a commercial motor vehicle.

s. 14 (1),  
re-enacted

- 2.**—(1) Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

As to  
carrying  
licences and  
production on  
demand

(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.

s. 14 (2),  
amended

- (2) Subsection 2 of the said section 14 is amended by striking out "produce" in the first line and inserting in lieu thereof "surrender".

s. 57a,  
amended

- 3.** Section 57a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, and amended by the Statutes of Ontario, 1976, chapter 37, section 6, is further amended by adding thereto the following subsection:

Where  
subs. 1  
does not  
apply

(1a) Subsection 1 does not apply to an operator of a vehicle of a class or type prescribed by the regulations who produces evidence that the vehicle has met the inspection requirements and performance standards of a reciprocating province or state designated by the regulations.

s. 57c,  
amended

- 4.** Section 57c of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, is amended by adding thereto the following clause:

(aa) designating reciprocating provinces and states and prescribing types and classes of vehicles for the purposes of subsection 1a of section 57a.

s. 65 (1) (b),  
amended

- 5.** Clause b of subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out "road maintenance" in the first line and inserting in lieu thereof "road-building".

s. 67 (2),  
amended

- 6.** Subsection 2 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out "commercial" in the second line and in the sixth line.

s. 74 (1),  
amended

- 7.**—(1) Subsection 1 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "the least of" in the fourth line.

s. 74 (2),  
amended

- (2) Subsection 2 of the said section 74 as amended by the Statutes of Ontario, 1978, chapter 4, section 16, is further amended by inserting after "least" in the second line "of the weights referred to in subsection 1".



SECTION 2. The amendments clarify the wording of the provisions to make clear that a driver's licence is to be handed to a constable for inspection.

SECTION 3. Section 57a of the Act requires that inspection stickers be displayed on certain classes of vehicles. The new provision provides that vehicles owned by persons not residing in Ontario but meeting inspection requirements of the state within which they reside are exempt from the requirement to display the sticker. This applies where the other state has a reciprocating exemption.

SECTION 4. This is complementary to section 3 of the Bill. The effect is to permit reciprocating states to be designated by regulation.

SECTION 5. Certain vehicles are exempt from the width restrictions imposed by the Act. The amendment clarifies that "road-building machines" are within the exempted vehicles. This is to be read with the new definition of "road-building machine" being re-enacted by subsection 2 of section 1 of the Bill.

SECTION 6. The provision of the Act now prohibits the driving of a commercial motor vehicle or a trailer on a highway that is not properly secured, loaded and covered. The amendment extends the prohibition to include an ordinary automobile.

SECTION 7. The amendment is of a housekeeping nature to clarify meaning.

SECTION 8. The Act has weight restrictions with respect to vehicles using the highways. The amendment excludes fire apparatus from these restrictions.

SECTION 9. The Act now permits a police officer to require an overloaded vehicle to be partly unloaded. The provision as recast permits an officer to require that a load be redistributed where axle weight restrictions are being contravened

SECTION 10. Section 96 of the Act sets out driving rules to be followed when encountering traffic signals. The new provision provides that emergency vehicles may proceed through a red light under certain specified conditions. "Emergency vehicle" is defined.

8. Subsection 8 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

s. 77 (8),  
amended

(c) fire apparatus.

9.—(1) Subsection 5 of section 78 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is repealed and the following substituted therefor:

s. 78 (5),  
re-enacted

(5) Where it is found that the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations, or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to redistribute or remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

Power of  
officer to  
require part  
of load  
removed or  
redistributed

(2) Clause *b* of subsection 6 of the said section 78 is repealed and the following substituted therefor:

s. 78 (6) (b),  
re-enacted

(b) when required, pursuant to subsection 5, to redistribute or remove part of a load refuses or fails to do so or to make arrangements to do so; or

. . . . .

10.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

s. 96 (1),  
re-enacted

(1) In this section,

Interpre-  
tation

(a) "emergency vehicle" means,

(i) a fire department vehicle while proceeding to a fire or answering, but not returning from, a fire alarm call, or

(ii) a vehicle while used by a person in the lawful performance of his duties as a police officer;

(b) "intersection" includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

s. 96,  
amended

(2) The said section 96, as amended by the Statutes of Ontario, 1974, chapter 123, section 25, 1977, chapter 54, section 13, 1978, chapter 90, section 11, is further amended by adding thereto the following subsection:

Exception  
to subs. 5

(5a) Notwithstanding subsection 5, where an emergency vehicle, upon which a siren is continuously sounding and upon which a lamp located on the roof of the vehicle is producing intermittent flashes of red light, is brought to a full stop at a red signal-light, the driver of the emergency vehicle may, after ascertaining that such movement can be made in safety, proceed through the intersection without waiting for a green signal-light to be shown.

s. 96a,  
enacted

**11.** The said Act is amended by adding thereto the following section:

Portable  
signal-  
lights

96a.—(1) Notwithstanding subsection 20 of section 96, during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway, or any person authorized by that authority.

Driver rules,  
on green

(2) Where a green signal-light is shown by a portable lane control signal system, the driver or operator of a vehicle or car of an electric railway that is approaching and facing the light may proceed.

red

(3) Where a red signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the red signal-light and shall not proceed until a green light is shown.

amber

(4) Where an amber signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the amber signal-light, provided that, where a vehicle or car cannot be brought to a stop at an amber signal-light in safety, it may proceed with caution.

**SECTION 11.** The new provisions provide for the use of portable traffic lights where there is construction on or by a highway that may interfere with ordinary traffic.

SECTION 12. The provisions being repealed require log books issued by the Ministry to be kept by operators of school buses. There was a fee charged for these books. With the recast provision, the type of book will be prescribed and it may be required that the log book for a vehicle be kept in the vehicle. There will no longer be a provision for a fee

SECTION 13. Self-explanatory

- (5) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing, etc. lane control device
- (6) The Lieutenant Governor in Council may make regulations, Regulations re portable lane control devices
- (a) prescribing the standards or specifications of portable lane control signal systems;
- (b) prescribing the location where portable lane control signal systems may be erected;
- (c) prescribing standards for maintaining portable lane control signal systems.
12. Clauses *h* and *i* of subsection 6 of section 120 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 54, section 14, are repealed and the following substituted therefor: s 120 (6) (h), re-enacted, s 120 (6) (i), repealed
- (h) requiring the retention of prescribed books within vehicles or any class or type thereof and prescribing the information to be contained and the entries to be recorded in the books.
13. The said Act is further amended by adding thereto the following section: s 124a enacted
- 124a. No person shall deposit snow or ice on a roadway without permission in writing so to do from the Ministry or the road authority responsible for the maintenance of the road. Deposit of snow on roadway
14. This Act comes into force on the day it receives Royal Assent. Commencement
15. The short title of this Act is *The Highway Traffic Amendment Act, 1979*. Short title

An Act to amend  
The Highway Traffic Act

*1st Reading*

May 15th. 1979

*2nd Reading*

*3rd Reading*

THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

*(Government Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Highway Traffic Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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

#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of driver now reads as follows:

*7a. "driver" means a person who drives a motor vehicle on a highway.*

The word "motor" is being deleted.

Subsection 2. The definition of "road-building machine" is recast and in the new version specifies several kinds of vehicles that are included in the definition and specifically excludes commercial motor vehicles.

BILL 90

1979

## An Act to amend The Highway Traffic Act

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

- 1.—(1) Paragraph 7a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor: <sup>s 1 (1) par 7a.  
re-enacted</sup>

7a. "driver" means a person who drives a vehicle on a highway.

- (2) Paragraph 26 of subsection 1 of the said section 1 is <sup>s 1 (1) par 26.  
re-enacted</sup> repealed and the following substituted therefor:

26. "road-building machine" means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including but not limited to,

- i. asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
- ii. tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
- iii. power shovels on tracks and drag lines on tracks,

but not including a commercial motor vehicle.

s. 14 (1),  
re-enacted

- 2.—(1) Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

As to  
carrying  
licences and  
production on  
demand

(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for reasonable inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.

s. 14 (2),  
amended

(2) Subsection 2 of the said section 14 is amended by striking out "produce" in the first line and inserting in lieu thereof "surrender".

s. 57a,  
amended

3. Section 57a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, and amended by the Statutes of Ontario, 1976, chapter 37, section 6, is further amended by adding thereto the following subsection:

Where  
subs. 1  
does not  
apply

(1a) Subsection 1 does not apply to an operator of a vehicle of a class or type prescribed by the regulations who produces evidence that the vehicle has met the inspection requirements and performance standards of a reciprocating province or state designated by the regulations.

s. 57c,  
amended

4. Section 57c of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, is amended by adding thereto the following clause:

(aa) designating reciprocating provinces and states and prescribing types and classes of vehicles for the purposes of subsection 1a of section 57a.

s. 65 (1) (b),  
amended

5. Clause b of subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out "road maintenance" in the first line and inserting in lieu thereof "road-building".

s. 67 (2),  
amended

6. Subsection 2 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out "commercial" in the second line and in the sixth line.

s. 74 (1),  
amended

- 7.—(1) Subsection 1 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "the least of" in the fourth line.

s. 74 (2),  
amended

(2) Subsection 2 of the said section 74 as amended by the Statutes of Ontario, 1978, chapter 4, section 16, is further amended by inserting after "least" in the second line "of the weights referred to in subsection 1".

SECTION 2. The amendments clarify the wording of the provisions to make clear that a driver's licence is to be handed to a constable for inspection.

SECTION 3. Section 57a of the Act requires that inspection stickers be displayed on certain classes of vehicles. The new provision provides that vehicles owned by persons not residing in Ontario but meeting inspection requirements of the state within which they reside are exempt from the requirement to display the sticker. This applies where the other state has a reciprocating exemption.

SECTION 4. This is complementary to section 3 of the Bill. The effect is to permit reciprocating states to be designated by regulation.

SECTION 5. Certain vehicles are exempt from the width restrictions imposed by the Act. The amendment clarifies that "road-building machines" are within the exempted vehicles. This is to be read with the new definition of "road-building machine" being re-enacted by subsection 2 of section 1 of the Bill.

SECTION 6. The provision of the Act now prohibits the driving of a commercial motor vehicle or a trailer on a highway that is not properly secured, loaded and covered. The amendment extends the prohibition to include an ordinary automobile.

SECTION 7. The amendment is of a housekeeping nature to clarify meaning.

SECTION 8. The Act has weight restrictions with respect to vehicles using the highways. The amendment excludes fire apparatus from these restrictions.

SECTION 9. The Act now permits a police officer to require an overloaded vehicle to be partly unloaded. The provision as recast permits an officer to require that a load be redistributed where axle weight restrictions are being contravened.

SECTION 10. Section 96 of the Act sets out driving rules to be followed when encountering traffic signals. The new provision provides that emergency vehicles may proceed through a red light under certain specified conditions. "Emergency vehicle" is defined.

8. Subsection 8 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

s. 77 (8),  
amended

(c) fire apparatus.

9.—(1) Subsection 5 of section 78 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is repealed and the following substituted therefor:

s. 78 (5),  
re-enacted

(5) Where it is found that the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations, or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to redistribute or remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

Power of  
officer to  
require part  
of load  
removed or  
redistributed

(2) Clause *b* of subsection 6 of the said section 78 is repealed and the following substituted therefor:

s. 78 (6) (b),  
re-enacted

(b) when required, pursuant to subsection 5, to redistribute or remove part of a load refuses or fails to do so or to make arrangements to do so; or

. . . . .

10.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

s. 96 (1),  
re-enacted

(1) In this section,

Interpre-  
tation

(a) "emergency vehicle" means,

(i) a fire department vehicle while proceeding to a fire or answering, but not returning from, a fire alarm call,

(ii) a vehicle while used by a person in the lawful performance of his duties as a police officer, or

(iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation;

(b) "intersection" includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

s. 96,  
amended

(2) The said section 96, as amended by the Statutes of Ontario, 1974, chapter 123, section 25, 1977, chapter 54, section 13, 1978, chapter 90, section 11, is further amended by adding thereto the following subsection:

Exception  
to subs. 5

(5a) Notwithstanding subsection 5, where an emergency vehicle, upon which a siren is continuously sounding and upon which a lamp is producing intermittent flashes of red light visible from all directions, is brought to a full stop at a red signal-light, the driver of the emergency vehicle may, after ascertaining that such movement can be made in safety, proceed through the intersection without waiting for a green signal-light to be shown.

s. 96a,  
enacted

11. The said Act is amended by adding thereto the following section:

Portable  
signal-  
lights

96a.—(1) Notwithstanding subsection 20 of section 96, during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway, or any person authorized by that authority.

Driver rules,  
on green

(2) Where a green signal-light is shown by a portable lane control signal system, the driver or operator of a vehicle or car of an electric railway that is approaching and facing the light may proceed.

red

(3) Where a red signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the red signal-light and shall not proceed until a green light is shown.

amber

(4) Where an amber signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and



**SECTION 11.** The new provisions provide for the use of portable traffic lights where there is construction on or by a highway that may interfere with ordinary traffic.

SECTION 12. The provisions being repealed require log books issued by the Ministry to be kept by operators of school buses. There was a fee charged for these books. With the recast provision, the type of book will be prescribed and it may be required that the log book for a vehicle be kept in the vehicle. There will no longer be a provision for a fee.

In the provisions of the Act being amended, the effect will be to provide that school buses may be used to transport mentally retarded adults and many of the features that apply to those buses while transporting children will apply to them while transporting the adults.

facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the amber signal-light, provided that, where a vehicle or car cannot be brought to a stop at an amber signal-light in safety, it may proceed with caution.

(5) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing, etc., lane control device

(6) The Lieutenant Governor in Council may make regulations, Regulations re portable lane control devices

- (a) prescribing the standards or specifications of portable lane control signal systems;
- (b) prescribing the location where portable lane control signal systems may be erected;
- (c) prescribing standards for maintaining portable lane control signal systems.

**12.**—(1) Subsection 1 of section 120 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 123, section 29, is amended by inserting after "children" in the second line "or mentally retarded adults" and by inserting after "school" in the second line "or a training centre". s 120 (1). amended

(2) Subsection 3 of the said section 120, as re-enacted by the Statutes of Ontario, 1975, chapter 64, section 1, is amended by inserting after "children" in the third line "or mentally retarded adults" and by inserting after "children" in the eighth line "or mentally retarded adults". s 120 (3). amended

(3) Subsection 5 of the said section 120 is amended by inserting after "children" in the fourth line "or mentally retarded adults" and by adding at the end thereof "or a training centre". s 120 (5). amended

(4) Subsection 6 of the said section 120, as amended by the Statutes of Ontario, 1974, chapter 123, section 29, 1975, chapter 64, section 1 and 1977, chapter 54, section 14, is further amended by adding at the end of clause *a* "or for transporting mentally retarded adults to and from a training centre", and by striking out clauses *h* and *i* and inserting in lieu thereof the following clause: s 120 (6). amended

- (h) requiring the retention of prescribed books within vehicles or any class or type thereof and prescribing

the information to be contained and the entries to be recorded in the books.

s. 124a,  
enacted

- 13.** The said Act is further amended by adding thereto the following section:

Deposit  
of snow  
on roadway

124a. No person shall deposit snow or ice on a roadway without permission in writing so to do from the Ministry or the road authority responsible for the maintenance of the road.

Commence-  
ment

- 14.** This Act comes into force on the day it receives Royal Assent.

Short title

- 15.** The short title of this Act is *The Highway Traffic Amendment Act, 1979*.

SECTION 13. Self-explanatory.





An Act to amend  
The Highway Traffic Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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



**BILL 90**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Highway Traffic Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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**An Act to amend  
The Highway Traffic Act**

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

- 1.—(1) Paragraph 7a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

7a. "driver" means a person who drives a vehicle on a highway.

- (2) Paragraph 26 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

26. "road-building machine" means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including but not limited to,

- i. asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
- ii. tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
- iii. power shovels on tracks and drag lines on tracks,

but not including a commercial motor vehicle.

s. 14 (1),  
re-enacted

- 2.—(1) Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

As to  
carrying  
licences and  
production on  
demand

(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for reasonable inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.

s. 14 (2),  
amended

(2) Subsection 2 of the said section 14 is amended by striking out "produce" in the first line and inserting in lieu thereof "surrender".

s. 57a,  
amended

3. Section 57a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, and amended by the Statutes of Ontario, 1976, chapter 37, section 6, is further amended by adding thereto the following subsection:

Where  
subs. 1  
does not  
apply

(1a) Subsection 1 does not apply to an operator of a vehicle of a class or type prescribed by the regulations who produces evidence that the vehicle has met the inspection requirements and performance standards of a reciprocating province or state designated by the regulations.

s. 57c,  
amended

4. Section 57c of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, is amended by adding thereto the following clause:

(aa) designating reciprocating provinces and states and prescribing types and classes of vehicles for the purposes of subsection 1a of section 57a.

s. 65 (1) (b),  
amended

5. Clause b of subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out "road maintenance" in the first line and inserting in lieu thereof "road-building".

s. 67 (2),  
amended

6. Subsection 2 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out "commercial" in the second line and in the sixth line.

s. 74 (1),  
amended

- 7.—(1) Subsection 1 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "the least of" in the fourth line.

s. 74 (2),  
amended

(2) Subsection 2 of the said section 74 as amended by the Statutes of Ontario, 1978, chapter 4, section 16, is further amended by inserting after "least" in the second line "of the weights referred to in subsection 1".

8. Subsection 8 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

s. 77 (8),  
amended

(c) fire apparatus.

9.—(1) Subsection 5 of section 78 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is repealed and the following substituted therefor:

s. 78 (5),  
re-enacted

(5) Where it is found that the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations, or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to redistribute or remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

Power of  
officer to  
require part  
of load  
removed or  
redistributed

(2) Clause *b* of subsection 6 of the said section 78 is repealed and the following substituted therefor:

s. 78 (6) (b),  
re-enacted

(b) when required, pursuant to subsection 5, to redistribute or remove part of a load refuses or fails to do so or to make arrangements to do so; or

. . . . .

10.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

s. 96 (1),  
re-enacted

(1) In this section,

Interpre-  
tation

(a) "emergency vehicle" means,

- (i) a fire department vehicle while proceeding to a fire or answering, but not returning from, a fire alarm call,
- (ii) a vehicle while used by a person in the lawful performance of his duties as a police officer, or
- (iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation;

(b) "intersection" includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

s. 96,  
amended

(2) The said section 96, as amended by the Statutes of Ontario, 1974, chapter 123, section 25, 1977, chapter 54, section 13, 1978, chapter 90, section 11, is further amended by adding thereto the following subsection:

Exception  
to subs. 5

(5a) Notwithstanding subsection 5, where an emergency vehicle, upon which a siren is continuously sounding and upon which a lamp is producing intermittent flashes of red light visible from all directions, is brought to a full stop at a red signal-light, the driver of the emergency vehicle may, after ascertaining that such movement can be made in safety, proceed through the intersection without waiting for a green signal-light to be shown.

s. 96a,  
enacted

11. The said Act is amended by adding thereto the following section:

Portable  
signal-  
lights

96a.—(1) Notwithstanding subsection 20 of section 96, during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway, or any person authorized by that authority.

Driver rules,  
on green

(2) Where a green signal-light is shown by a portable lane control signal system, the driver or operator of a vehicle or car of an electric railway that is approaching and facing the light may proceed.

red

(3) Where a red signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the red signal-light and shall not proceed until a green light is shown.

amber

(4) Where an amber signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and

facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the amber signal-light, provided that, where a vehicle or car cannot be brought to a stop at an amber signal-light in safety, it may proceed with caution.

(5) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing, etc., lane control device

(6) The Lieutenant Governor in Council may make regulations, Regulations re portable lane control devices

- (a) prescribing the standards or specifications of portable lane control signal systems;
- (b) prescribing the location where portable lane control signal systems may be erected;
- (c) prescribing standards for maintaining portable lane control signal systems.

**12.**—(1) Subsection 1 of section 120 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 123, section 29, is amended by inserting after "children" in the second line "or mentally retarded adults" and by inserting after "school" in the second line "or a training centre". s. 120 (1), amended

(2) Subsection 3 of the said section 120, as re-enacted by the Statutes of Ontario, 1975, chapter 64, section 1, is amended by inserting after "children" in the third line "or mentally retarded adults" and by inserting after "children" in the eighth line "or mentally retarded adults". s. 120 (3), amended

(3) Subsection 5 of the said section 120 is amended by inserting after "children" in the fourth line "or mentally retarded adults" and by adding at the end thereof "or a training centre". s. 120 (5), amended

(4) Subsection 6 of the said section 120, as amended by the Statutes of Ontario, 1974, chapter 123, section 29, 1975, chapter 64, section 1 and 1977, chapter 54, section 14, is further amended by adding at the end of clause *a* "or for transporting mentally retarded adults to and from a training centre", and by striking out clauses *h* and *i* and inserting in lieu thereof the following clause: s. 120 (6), amended

- (h) requiring the retention of prescribed books within vehicles or any class or type thereof and prescribing

the information to be contained and the entries to be recorded in the books.

s. 124a,  
enacted

- 13.** The said Act is further amended by adding thereto the following section:

Deposit  
of snow  
on roadway

124a. No person shall deposit snow or ice on a roadway without permission in writing so to do from the Ministry or the road authority responsible for the maintenance of the road.

Commence-  
ment

- 14.** This Act comes into force on the day it receives Royal Assent.

Short title

- 15.** The short title of this Act is *The Highway Traffic Amendment Act, 1979*.









An Act to amend  
The Highway Traffic Act

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*1st Reading*

May 15th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

June 19th, 1979

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
The Haldimand Board of Education and Teachers Dispute**

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**MR. MILLER**  
(Haldimand-Norfolk)

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#### EXPLANATORY NOTE

The purpose of this Bill is to resolve the dispute between The Haldimand Board of Education and the secondary school teachers who are employees of the board. The Bill orders an end to the strike that commenced on the 29th day of March, 1979 and establishes a final offer selection procedure as a means of settling the matters in dispute between the parties.

BILL 91

1979

**An Act respecting  
The Haldimand Board of Education  
and Teachers Dispute**

**W**HEREAS The Haldimand Board of Education and its <sup>Preamble</sup> secondary school teachers have been negotiating terms and conditions of employment; and whereas a state of strike by the teachers against the board of education has been in effect since the 29th day of March, 1979; and whereas the board of education and its secondary school teachers have been unable to make an agreement as to terms and conditions of employment; and whereas the public interest requires that means be found for the settlement of the matters in dispute between the board of education and its secondary school teachers;

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

**1.** In this Act,

Interpreta-  
tion

- (a) "arbitrator" means the arbitrator appointed under this Act;
- (b) "board" means The Haldimand Board of Education;
- (c) "branch affiliate" means the organization composed of all the teachers employed by the board who are members of The Ontario Secondary School Teachers' Federation;
- (d) "Commission" means the Education Relations Commission established under *The School Boards and Teachers Collective Negotiations Act, 1975*; <sup>1975, c 72</sup>
- (e) "lock-out" has the same meaning as in *The School Boards and Teachers Collective Negotiations Act, 1975*; <sup>1975, c 72</sup>

- (f) "parties" means the board and the branch affiliate;
- (g) "strike" has the same meaning as in *The School Boards and Teachers Collective Negotiations Act, 1975*;
- (h) "teachers" means the secondary school teachers employed on permanent or probationary contracts by the board.

Resumption  
of employ-  
ment and  
operation  
of schools

**2.**—(1) The teachers who are on strike against the board shall, on the first Tuesday following the day this Act comes into force, return to and resume their duties in accordance with their contracts of employment and written collective understandings in effect on the 31st day of August, 1978 with the board and the board shall, on the first Tuesday following the day this Act comes into force, resume the employment of such teachers in accordance with such contracts and written collective understandings and resume the normal operation of the schools in which the teachers are employed.

Strike or  
lock-out

(2) During the period from and including the first Tuesday following the day this Act comes into force until the day an agreement that is made between the parties or that includes the decision of the arbitrator comes into effect, no teacher shall take part in a strike against the board and the board shall not lock out a teacher.

Exception

(3) Nothing in this Act precludes a teacher from not returning to and resuming his duties with the board for reasons of health or by mutual consent in writing of the teacher and the board.

Final offer  
selection

**3.**—(1) The parties shall be deemed to have agreed,

(a) to refer all matters remaining in dispute between them that may be provided for in an agreement under *The School Boards and Teachers Collective Negotiations Act, 1975* to a selector for determination under and in accordance with Part V of that Act; and

(b) to not withdraw from the proceedings.

Notice of  
appointment  
of selector

(2) The parties, within seven days after the day this Act comes into force, shall jointly give written notice to the Commission stating,

(a) the date of appointment and the name and address of the selector; or

1975, c 72



(b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(3) Where the parties fail to give a notice to the Commission in accordance with subsection 2 or where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. Appointment of selector by Commission

(4) Except as otherwise provided in this Act, *The School Boards and Teachers Collective Negotiations Act, 1975* applies to the selector, to the proceedings conducted before him, to the parties and to the teachers. Application of 1975 c. 72

**4.**—(1) Notwithstanding subsection 1 of section 51 of *The School Boards and Teachers Collective Negotiations Act, 1975*, the agreement giving effect to all matters agreed upon by the parties and the decision of the selector shall be for the period commencing on the 1st day of September, 1978 and expiring on the 31st day of August, 1979. Term of agreement 1975, c. 72

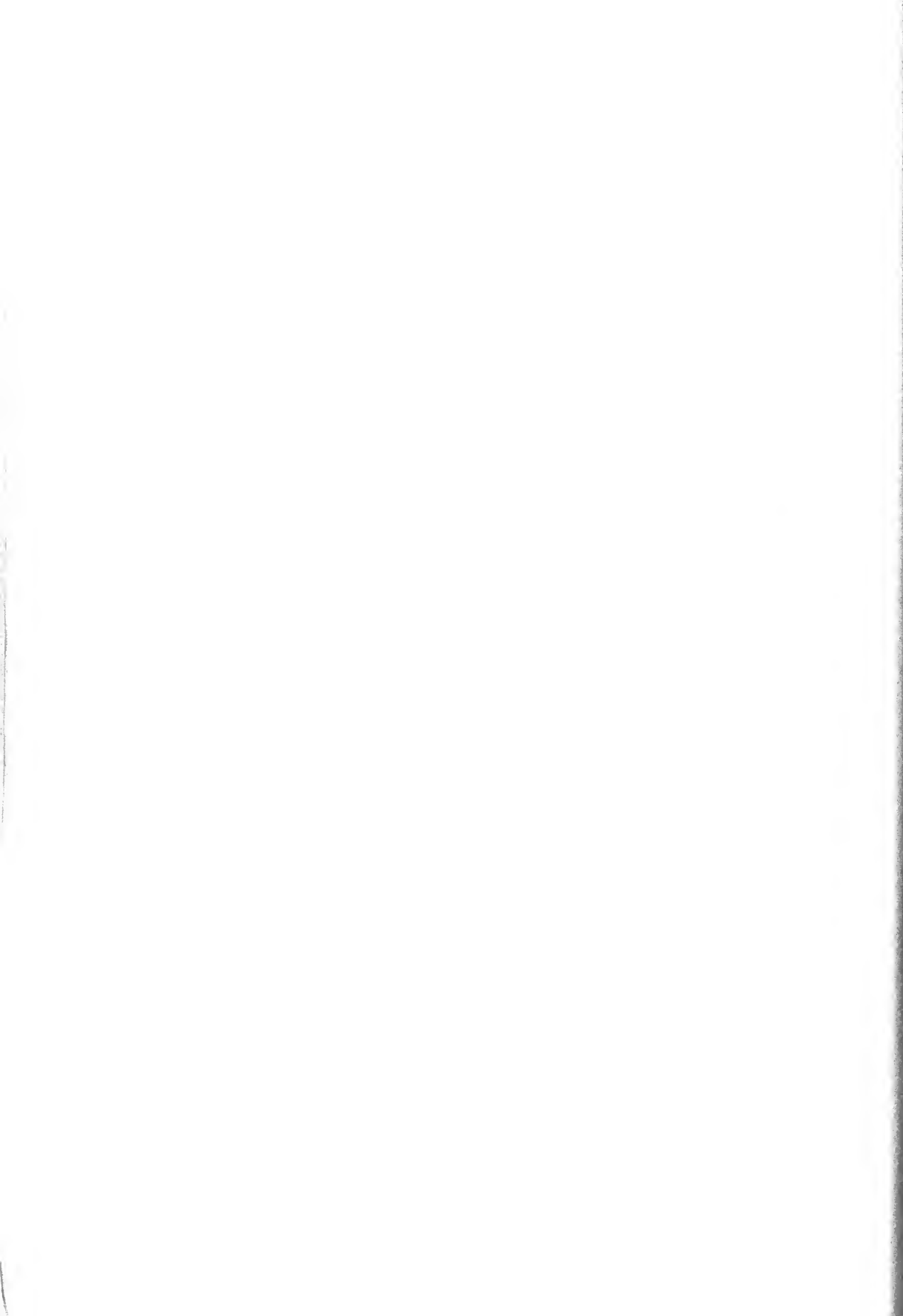
(2) The Commission may, with the concurrence of the selector and the parties, reduce any period of time referred to in section 41, 42, 44, 45 or 48 of *The School Boards and Teachers Collective Negotiations Act, 1975*. Reduction of time period

**5.**—(1) Every person or party that contravenes any of the provisions of this Act is guilty of an offence. Offences

(2) The provisions of *The School Boards and Teachers Collective Negotiations Act, 1975* respecting offences and penalties and the procedures relating thereto apply in respect of a contravention of any provision of this Act. Idem

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

**7.** The short title of this Act is *The Haldimand Board of Education and Teachers Dispute Resolution Act, 1979*. Short title





An Act respecting  
The Haldimand Board of Education  
and Teachers Dispute

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*1st Reading*

May 15th, 1979

*2nd Reading*

*3rd Reading*

---

MR. MILLER  
(Haldimand-Norfolk)

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Railways Act**

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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#### EXPLANATORY NOTES

SECTION 1. A company, as defined in the Act, may prescribe a penalty for contravention of its by-laws, rules or regulations. The maximum penalty is being increased from \$25 to \$500.

SECTION 2. The Act provides that where a company does not prescribe a penalty for contravention of its by-laws, rules or regulations, the penalty shall be not more than \$20. This penalty is being increased to \$500 to coincide with the amendment made in section 1 of the Bill.

BILL 92

1979

## An Act to amend The Railways Act

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

1. Section 164 of *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, is amended by striking out "\$25" in the third line and inserting in lieu thereof "\$500". s 164 amended
2. Section 293 of the said Act is amended by striking out "\$20" in the sixth line and inserting in lieu thereof "\$500". s 293 amended
3. This Act comes into force on the day it receives Royal Assent. Commencement
4. The short title of this Act is *The Railways Amendment Act, 1979*. Short title 1979.

An Act to amend  
The Railways Act

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*1st Reading*

May 17th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

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*(Government Bill)*

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# BILL 92

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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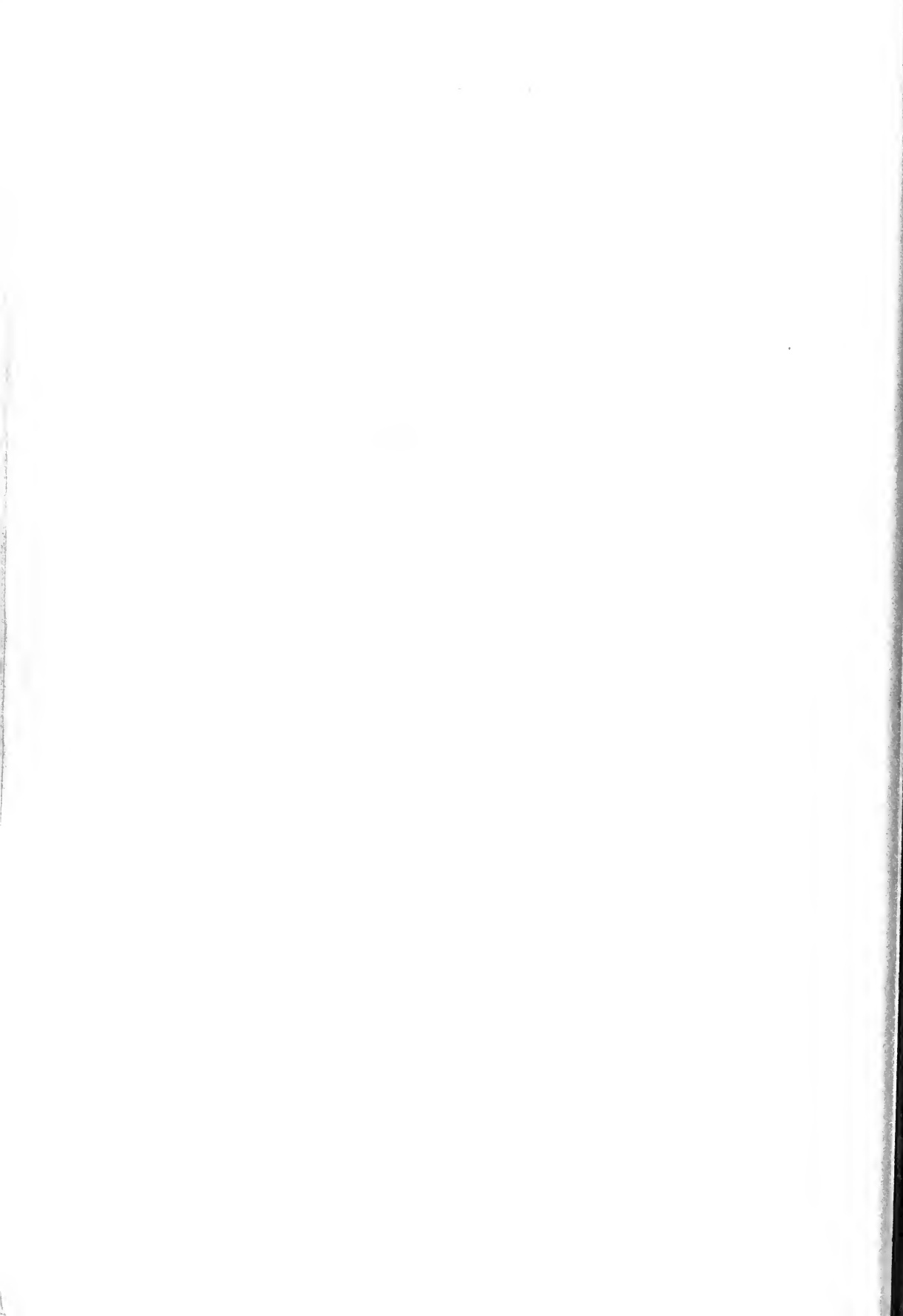
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## An Act to amend The Railways Act

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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BILL 92

1979

## An Act to amend The Railways Act

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An Act to amend  
The Railways Act

---

*1st Reading*

May 17th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

June 5th, 1979

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THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for the holding  
of Land by Religious Organizations**

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THE HON. R. McMURTRY  
Attorney General

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#### EXPLANATORY NOTE

The Bill is a revision of *The Religious Institutions Act* and implements the recommendations of the Ontario Law Reform Commission concerning religious institutions contained in its Report on Mortmain, Charitable Uses and Religious Institutions.

The principal changes include:

1. widening the institutions to include all religious denominations;
2. the removal of obsolete provisions and modernization of the language and procedures.

## An Act to provide for the holding of Land by Religious Organizations

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

1. —(1) In this Act,

Interpre-  
tation

- (a) "meeting" means a meeting of the members of a religious organization that has been called by notice in accordance with section 17;
- (b) "religious organization" means an association of persons,
  - (i) that is charitable according to the law of Ontario,
  - (ii) that is organized for the advancement of religion and for the conduct of religious worship, services or rites, and
  - (iii) that is permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices,

and includes an association of persons that is charitable according to the law of Ontario and that is organized for the advancement of and for the conduct of worship, services or rites of the Buddhist, Christian, Hindu, Islamic, Jewish, Baha'i, Longhouse Indian, Sikh, Unitarian or Zoroastrian faith, or a subdivision or denomination thereof;

- (c) "trustees" means the trustees appointed by a religious organization to acquire, hold and possess land for its benefit, and includes their successors.

(2) In interpreting subclause i of clause b of subsection 1, <sup>Idem</sup> an organization does not cease to be charitable for the

reason only that activities that are not charitable but are merely ancillary to a charitable purpose are carried on in conjunction with a charitable purpose.

Derivative organizations

(3) Where a separate religious organization is formed out of an existing religious organization, whether voluntarily or otherwise, and the new organization meets the requirements of subclauses i and ii of clause b of subsection 1, it shall nevertheless be considered to be a religious organization for the purposes of this Act. *New.*

Acquisition and holding of land

**2.** A religious organization may acquire and hold land for the purpose of,

- (a) a place of worship;
- (b) a residence for its religious leader;
- (c) a burial or cremation ground;
- (d) a bookstore or a printing or publishing office;
- (e) a theological seminary or similar institution of religious instruction;
- (f) a religious camp retreat or training centre; or
- (g) any other religious purpose,

in the name of trustees, individually or by collective designation, and their successors in perpetual succession for the benefit of the religious organization. R.S.O. 1970, c. 411, s. 1 (1), *amended.*

Appointment and tenure of trustees

**3.—(1)** A religious organization may by resolution adopted at a meeting of the organization,

- (a) appoint trustees and fill any vacancy in the office of trustee;
- (b) provide for the retirement or removal of trustees and for the appointment of their successors;
- (c) remove any trustee from office;
- (d) decrease or increase the number of trustees;
- (e) confer upon trustees the power to acquire, hold and possess land for one or more of the purposes set out in section 2.



(2) Unless the constitution or a resolution of the religious organization otherwise provides, a trustee holds office until he dies, resigns or ceases to be a member of the organization. Termination of office

(3) Where a vacancy occurs in the number of the trustees of a religious organization, until the vacancy is filled, the remaining trustees then in office have all the estate in and title to the land of the organization and have all the powers conferred by this Act with respect thereto as were originally vested in the whole number. Powers of trustees where vacancy

(4) A trustee appointed to fill a vacancy together with the trustees originally appointed or subsequently appointed and who remain in office have all the estate, title and powers vested in the original trustees. Powers of successor trustees

(5) Where no trustees of a religious organization remain in office, the land to which the organization is entitled vests automatically in trustees subsequently appointed by the organization and their successors without the necessity of any conveyance. Vesting of land in successor trustees

(6) Where a religious organization is entitled to land and the manner of appointing trustees or their successors is not set out in the instrument granting or devising the land, it vests automatically in the trustees appointed under subsection 1 and their successors to be held in trust for the organization without the necessity of any conveyance. *New.* Where successor trustees not provided for

4. Where, under the constitution, customs or practices of a religious organization, its property is vested in one person, the person shall be deemed to be a trustee and has the powers and duties of trustees under this Act. *New.* Property vested in one person

5.—(1) Each of two or more religious organizations may by resolution appoint joint trustees and provide for the appointment of their successors and may enter into agreements respecting the holding of land for their joint benefit by such joint trustees for any of the purposes enumerated in section 2 and all the provisions of this Act apply with necessary modifications to such joint trustees. Joint trustees

(2) Where land referred to in subsection 1 was, before the agreement, held by different bodies of trustees, the religious organizations may direct them in the agreement or otherwise to convey or transfer the land to the joint trustees appointed in accordance with subsection 1 and their successors. R.S.O. 1970, c. 411, ss. 14, 18 (1), *amended.* Conveyance to joint trustees

Authorization  
required to  
exercise of  
powers

**6.**—(1) The trustees of a religious organization shall not exercise any of the powers conferred upon them by this Act until they are authorized to do so by resolution of the organization, and the organization may attach such terms or conditions to any such authorization as it considers expedient.

Authorization  
in case of  
joint  
trustees

(2) In the case of joint trustees for two or more religious organizations, the authorization shall be obtained by resolutions adopted by each religious organization for whose benefit land is or is to be held. *New.*

Power to  
enter into  
agreements  
to purchase  
land

**7.** The trustees of a religious organization may enter into agreements to purchase land for the benefit of the organization for any of the purposes of this Act. *New.*

Power to  
conduct  
actions

**8.** The trustees of a religious organization may, individually or by collective designation, maintain and defend actions for the protection of the land and of the interest of the religious organization therein. *New.*

Power to  
mortgage  
land

**9.**—(1) The trustees of a religious organization may secure any debt contracted for the acquisition or improvement of land under this Act, or for the building, repairing, extending or improving of any buildings thereon, by a mortgage or charge on all or any part of the land of the organization. R.S.O. 1970, c. 411, s. 4, *amended.*

Power to  
release  
equity of  
redemption

(2) If a mortgage or charge on land held by the trustees of a religious organization for the benefit of the organization is in arrears as to principal or interest, or both, the trustees may release, transfer or convey to the mortgagee or chargee or his assigns the equity of redemption in the land, or any part thereof, in satisfaction of the whole or any part of the debt. *New.*

Power to  
lease

**10.**—(1) The trustees of a religious organization may lease, for one term of forty years or for more than one term of not more than forty years in all, any land held by them for the benefit of the organization which is no longer required by it for any of the purposes enumerated in section 2, at such rent and upon such terms and conditions as they consider expedient.

Power to  
agree to  
renewal  
terms

(2) In any such lease, the trustees,

(a) may, subject to the forty year maximum period specified in subsection 1, agree for the renewal thereof at the expiration of any or every term of

years for a further term or terms at such rent and on such terms and conditions as may be agreed; or

- (b) may agree to pay to the lessee, his heirs, executors, administrators, successors or assigns a sum equal to the value of any buildings or other improvements that may at the expiration of any term be on the demised land.

(3) The method of ascertaining the amount of the rent during any renewal term or the value of the buildings or other improvements to be paid at the end of any term may be specified in the original or in any subsequent lease. R.S.O. 1970, c. 411, s. 6 (1, 2), *amended*. Method of ascertaining rent

(4) The trustees may take all proceedings for the recovery of rent or arrears of rent and of the demised land that landlords are entitled by law to take. R.S.O. 1970, c. 411, s. 6 (4), *amended*. Recovery of rent and the land

(5) A religious organization may by resolution give its trustees a general authorization to lease any land held by them for terms not exceeding three years per term and when so authorized the trustees may, without further authorization, lease the land from time to time for a term or terms not exceeding three years per term. *New*. Power to enter into short term leases

**11.**—(1) The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, sell or exchange at any time land held by them if the organization has by resolution determined that the land is no longer necessary for its purposes. Power to sell

(2) When land of a religious organization is not required for its actual occupation for a purpose set out in section 2 and is not leased under section 10, *The Mortmain and Charitable Uses Act* applies in the same manner as if the land were then assured to the religious organization for charitable purposes. Surplus land subject to R.S.O. 1970, c. 280, s. 7

(3) Subsection 1 does not affect any special powers or trusts for sale contained in any instrument inconsistent therewith. R.S.O. 1970, c. 411, s. 7, *amended*. Special powers not affected

**12.** The trustees of a religious organization out of which a separate religious organization is formed may convey or transfer to the trustees of the separate organization such part of the land held by them as is appropriate. R.S.O. 1970, c. 411, s. 9, *amended*. Conveyance to trustees of new religious organization

Conveyance  
where  
religious  
organizations  
unite

**13.** Where a religious organization desires to unite with another religious organization, the trustees of either organization may convey or transfer any land held by them to the trustees of the other religious organization or to the trustees of the united religious organization. R.S.O. 1970, c. 411, s. 10, *amended*.

Conveyance  
to denomi-  
national  
board or  
trustees

**14.** The trustees of a religious organization may convey or transfer any land held by them for the benefit of the organization to an incorporated board or to trustees of the denomination or subdivision thereof of which the organization forms a part. R.S.O. 1970, c. 411, s. 11, *amended*.

Duty to account

**15.** The trustees of a religious organization selling or leasing land under the authority of this Act shall on the first Monday in June in each year have ready and open for the inspection of the members of the organization a detailed statement showing the rents that accrued during the preceding year and all sums in their hands for the use and benefit of the organization that were in any manner derived from land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the organization. R.S.O. 1970, c. 411, s. 16, *amended*.

Resolutions

**16.** A resolution respecting any of the purposes of this Act is adopted if the majority of those present at the meeting called for that purpose and entitled to vote thereat vote in favour of the resolution. *New*.

Notice of  
meeting

**17.—(1)** A notice calling a meeting of a religious organization for any of the purposes of this Act,

(a) shall specify the purpose of the meeting; and

(b) shall be given in accordance with the constitution, practice or custom of the religious organization.

Idem

(2) Where the constitution, practice or custom of a religious organization has no provision for the giving of notice calling a meeting, at least two weeks notice shall be given personally or by mail, or notice may be given by announcement at an open service at least once in each of the two weeks immediately preceding the week in which the meeting is proposed to be held. R.S.O. 1970, c. 411, ss. 3 (2), 8 (2), *amended*.

Keeping of  
records

**18.—(1)** A copy of a resolution adopted under this Act shall be signed by the chairman and the secretary of the meeting at which it was adopted and shall be entered in

the minute book or other record kept for that purpose. R.S.O. 1970, c. 411, s. 15 (1), *part, amended*.

(2) A copy of a resolution adopted under this Act, <sup>Evidence</sup> certified as being a true copy by an officer of the organization, is *prima facie* proof of the matters therein stated. R.S.O. 1970, c. 411, s. 15 (3), *amended*.

(3) Failure to comply with subsection 1 does not invalidate <sup>Omissions</sup> the resolution or anything done under it. *New*.

**19.** Any instrument affecting land made by or to trustees <sup>Instruments made pursuant to Act</sup> under this Act shall be expressed to be made under this Act, but failure to do so does not render the instrument void. *New*.

**20.**—(1) Where letters patent from the Crown or a grant, <sup>Former conveyance</sup> conveyance or devise made before this Act comes into force is made to persons described as trustees for a religious organization and to their successors, this Act applies to them and to the religious organization in the same manner as if the persons were duly appointed as trustees under this Act.

(2) Where more than one letters patent from the Crown, <sup>Use of several names</sup> grant, conveyance or devise have been made for the benefit of a religious organization under different names, the organization may at a meeting by resolution adopt one of the names or another name as the name in which its trustees shall hold the land thereafter. *New*.

**21.** A change in the name of a religious organization <sup>Change of name</sup> or manner in which the trustees are described does not affect the title to land held by the organization or its trustees in the former name. R.S.O. 1970, c. 411, s. 1 (3), *amended*.

**22.**—(1) Where a religious organization has ceased to <sup>Application to court for directions where religious organization has ceased to exist</sup> exist, or where the authorization required under section 6 cannot be obtained for any reason other than a dispute among the members of the organization concerning the organization's property, the persons in whom the land of the organization is vested as trustees or, upon their failure to do so or where no trustees remain in office, any interested person or the Public Trustee may apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land or any part thereof is situate for directions, and the court may authorize the trustees or may appoint and authorize any other person to exercise any of the powers conferred by this Act.

Power of  
court to  
direct sale

(2) Upon such an application, the court may direct that the land or any part thereof be disposed of or that it or the proceeds of sale thereof be distributed in such manner as it considers proper, and the court may make such vesting orders as are expedient in the circumstances. *New.*

Applications  
to court as to  
applicability  
of Act

**23.**—(1) Any organization or other body that wishes to have determined whether or not it is entitled to acquire, hold and possess land under this Act may at any time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land in question or any part thereof is situate, and the court may determine the matter.

Applications  
to court by  
Public  
Trustee

(2) In like manner, the Public Trustee may apply to have determined whether any organization or other body that purports to hold and possess or that intends to acquire, hold and possess land under this Act is entitled to do so. *New.*

Removal of  
proceeding  
into Supreme  
Court

**24.**—(1) Where an application under subsection 1 of section 22 or under section 23 is made to a county or district court, any interested party may, by notice served on the applicant and on any other interested parties, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceeding to be removed into the Supreme Court.

Transmission  
of papers to  
Supreme  
Court

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers to the office of the Supreme Court in the county or district in which the application was made.

Proceedings  
in Supreme  
Court

(3) The proceeding is removed to the Supreme Court when the papers are received at the office of the Supreme Court. *New.*

Notice to  
Public  
Trustee

**25.**—(1) Notice of an application under subsection 1 of section 22 or subsection 1 of section 23 shall be given by the applicant to the Public Trustee.

Idem

(2) In any other proceeding in which the application of this Act is in issue, the court may direct that notice be given to the Public Trustee. *New.*

Subject to  
special Acts

**26.**—(1) This Act is subject to any special Act applying to a religious organization.

(2) This Act is subject to any trusts or powers of trustees <sup>Subject to trust instruments</sup> in any deed, conveyance or other instrument. R.S.O. 1970, c. 411, s. 17, *amended*.

**27.** *The Religious Institutions Act*, being chapter 411 of <sup>Repeal</sup> the Revised Statutes of Ontario, 1970, is repealed.

**28.** Any land transaction that has been authorized but <sup>Transitional provisions</sup> not completed under the predecessor of this Act when this Act comes into force shall be completed under the predecessor of this Act as if this Act had not been passed.

**29.** This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sub>ment</sub>

**30.** The short title of this Act is *The Religious Organiza-* <sup>Short title</sup> *tions' Lands Act, 1979.*

An Act to provide for the  
holding of Land by Religious  
Organizations

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*1st Reading*

May 17th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. McMURTRY  
Attorney General

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*(Government Bill)*



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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for the holding  
of Land by Religious Organizations**

---

THE HON. R. McMURTRY  
Attorney General

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

#### EXPLANATORY NOTE

The Bill is a revision of *The Religious Institutions Act* and implements the recommendations of the Ontario Law Reform Commission concerning religious institutions contained in its Report on Mortmain, Charitable Uses and Religious Institutions.

The principal changes include:

1. widening the institutions to include all religious denominations;
2. the removal of obsolete provisions and modernization of the language and procedures.

BILL 93

1979

## An Act to provide for the holding of Land by Religious Organizations

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

1.—(1) In this Act,

Interpre-  
tation

- (a) "meeting" means a meeting of the members of a religious organization that has been called by notice in accordance with section 18;
- (b) "religious organization" means an association of persons,
  - (i) that is charitable according to the law of Ontario,
  - (ii) that is organized for the advancement of religion and for the conduct of religious worship, services or rites, and
  - (iii) that is permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices,

and includes an association of persons that is charitable according to the law of Ontario and that is organized for the advancement of and for the conduct of worship, services or rites of the Buddhist, Christian, Hindu, Islamic, Jewish, Baha'i, Longhouse Indian, Sikh, Unitarian or Zoroastrian faith, or a subdivision or denomination thereof;

- (c) "trustees" means the trustees appointed by a religious organization to acquire, hold and possess land for its benefit, and includes their successors.

(2) In interpreting subclause i of clause b of subsection 1, <sup>idem</sup> an organization does not cease to be charitable for the

reason only that activities that are not charitable but are merely ancillary to a charitable purpose are carried on in conjunction with a charitable purpose.

Derivative organizations

(3) Where a separate religious organization is formed out of an existing religious organization, whether voluntarily or otherwise, and the new organization meets the requirements of subclauses i and ii of clause *b* of subsection 1, it shall nevertheless be considered to be a religious organization for the purposes of this Act. *New.*

Acquisition and holding of land

**2.** A religious organization may acquire and hold land for the purpose of,

- (a) a place of worship;
- (b) a residence for its religious leader;
- (c) a burial or cremation ground;
- (d) a bookstore or a printing or publishing office;
- (e) a theological seminary or similar institution of religious instruction;
- (f) a religious camp, retreat or training centre; or
- (g) any other religious purpose,

in the name of trustees, individually or by collective designation, and their successors in perpetual succession for the benefit of the religious organization. R.S.O. 1970, c. 411, s. 1 (1), *amended.*

Appointment and tenure of trustees

**3.—(1)** A religious organization may by resolution adopted at a meeting of the organization,

- (a) appoint trustees and fill any vacancy in the office of trustee;
- (b) provide for the retirement or removal of trustees and for the appointment of their successors;
- (c) remove any trustee from office;
- (d) decrease or increase the number of trustees;
- (e) confer upon trustees the power to acquire, hold and possess land for one or more of the purposes set out in section 2.

(2) Unless the constitution or a resolution of the religious organization otherwise provides, a trustee holds office until he dies, resigns or ceases to be a member of the organization. Termination of office

(3) Where a vacancy occurs in the number of the trustees of a religious organization, until the vacancy is filled, the remaining trustees then in office have all the estate in and title to the land of the organization and have all the powers conferred by this Act with respect thereto as were originally vested in the whole number. Powers of trustees where vacancy

(4) A trustee appointed to fill a vacancy together with the trustees originally appointed or subsequently appointed and who remain in office have all the estate, title and powers vested in the original trustees. Powers of successor trustees

(5) Where no trustees of a religious organization remain in office, the land to which the organization is entitled vests automatically in trustees subsequently appointed by the organization and their successors without the necessity of any conveyance. Vesting of land in successor trustees

(6) Where a religious organization is entitled to land and the manner of appointing trustees or their successors is not set out in the instrument granting or devising the land, it vests automatically in the trustees appointed under subsection 1 and their successors to be held in trust for the organization without the necessity of any conveyance. *New.* Where successor trustees not provided for

4. Where, under the constitution, customs or practices of a religious organization, its property is vested in one person, the person shall be deemed to be a trustee and has the powers and duties of trustees under this Act. *New.* Property vested in one person

5.—(1) Each of two or more religious organizations may by resolution appoint joint trustees and provide for the appointment of their successors and may enter into agreements respecting the holding of land for their joint benefit by such joint trustees for any of the purposes enumerated in section 2 and all the provisions of this Act apply with necessary modifications to such joint trustees. Joint trustees

(2) Where land referred to in subsection 1 was, before the agreement, held by different bodies of trustees, the religious organizations may direct them in the agreement or otherwise to convey or transfer the land to the joint trustees appointed in accordance with subsection 1 and their successors. R.S.O. 1970, c. 411, ss. 14, 18 (1), *amended.* Conveyance to joint trustees

Authorization  
required to  
exercise of  
powers

**6.—(1)** The trustees of a religious organization shall not exercise any of the powers conferred upon them by this Act until they are authorized to do so by resolution of the organization, and the organization may attach such terms or conditions to any such authorization as it considers expedient.

Authorization  
in case of  
joint  
trustees

(2) In the case of joint trustees for two or more religious organizations, the authorization shall be obtained by resolutions adopted by each religious organization for whose benefit land is or is to be held. *New.*

Power to  
enter into  
agreements  
to purchase  
land

**7.** The trustees of a religious organization may enter into agreements to purchase land for the benefit of the organization for any of the purposes of this Act. *New.*

Power to  
conduct  
actions

**8.** The trustees of a religious organization may, individually or by collective designation, maintain and defend actions for the protection of the land and of the interest of the religious organization therein. *New.*

Power to  
mortgage  
land

**9.—(1)** The trustees of a religious organization may secure any debt contracted for the acquisition or improvement of land under this Act, or for the building, repairing, extending or improving of any buildings thereon, by a mortgage or charge on all or any part of the land of the organization. R.S.O. 1970, c. 411, s. 4, *amended.*

Power to  
release  
equity of  
redemption

(2) If a mortgage or charge on land held by the trustees of a religious organization for the benefit of the organization is in arrears as to principal or interest, or both, the trustees may release, transfer or convey to the mortgagee or chargee or his assigns the equity of redemption in the land, or any part thereof, in satisfaction of the whole or any part of the debt. *New.*

Power to  
lease

**10.—(1)** The trustees of a religious organization may lease, for one term of forty years or for more than one term of not more than forty years in all, any land held by them for the benefit of the organization which is no longer required by it for any of the purposes enumerated in section 2, at such rent and upon such terms and conditions as they consider expedient.

Power to  
agree to  
renewal  
terms

(2) In any such lease, the trustees,

(a) may, subject to the forty year maximum period specified in subsection 1, agree for the renewal thereof at the expiration of any or every term of

years for a further term or terms at such rent and on such terms and conditions as may be agreed; or

(b) may agree to pay to the lessee, his heirs, executors, administrators, successors or assigns a sum equal to the value of any buildings or other improvements that may at the expiration of any term be on the demised land.

(3) The method of ascertaining the amount of the rent during any renewal term or the value of the buildings or other improvements to be paid at the end of any term may be specified in the original or in any subsequent lease. Method of ascertaining rent R.S.O. 1970, c. 411, s. 6 (1, 2), *amended*.

(4) The trustees may take all proceedings for the recovery of rent or arrears of rent and of the demised land that landlords are entitled by law to take. Recovery of rent and the land R.S.O. 1970, c. 411, s. 6 (4), *amended*.

(5) A religious organization may by resolution give its trustees a general authorization to lease any land held by them for terms not exceeding three years per term and when so authorized the trustees may, without further authorization, lease the land from time to time for a term or terms not exceeding three years per term. Power to enter into short term leases *New*.

11. The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, grant easements or enter into covenants in respect of land held by them. Easements *New*.

12.—(1) The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, sell or exchange at any time land held by them if the organization has by resolution determined that the land is no longer necessary for its purposes. Power to sell

(2) When land of a religious organization is not required for its actual occupation for a purpose set out in section 2 and is not leased under section 10, *The Mortmain and Charitable Uses Act* applies in the same manner as if the land were then assured to the religious organization for charitable purposes. Surplus land subject to R.S.O. 1970 c. 280 s. 7

(3) Subsection 1 does not affect any special powers or trusts for sale contained in any instrument inconsistent therewith. Special powers not affected R.S.O. 1970, c. 411, s. 7, *amended*.

Conveyance  
to trustees  
of new  
religious  
organization

**13.** The trustees of a religious organization out of which a separate religious organization is formed may convey or transfer to the trustees of the separate organization such part of the land held by them as is appropriate. R.S.O. 1970, c. 411, s. 9, *amended*.

Conveyance  
where  
religious  
organizations  
unite

**14.** Where a religious organization desires to unite with another religious organization, the trustees of either organization may convey or transfer any land held by them to the trustees of the other religious organization or to the trustees of the united religious organization. R.S.O. 1970, c. 411, s. 10, *amended*.

Conveyance  
to denomi-  
national  
board or  
trustees

**15.** The trustees of a religious organization may convey or transfer any land held by them for the benefit of the organization to an incorporated board or to trustees of the denomination or subdivision thereof of which the organization forms a part. R.S.O. 1970, c. 411, s. 11, *amended*.

Duty to account

**16.** The trustees of a religious organization selling or leasing land under the authority of this Act shall on the first Monday in June in each year have ready and open for the inspection of the members of the organization a detailed statement showing the rents that accrued during the preceding year and all sums in their hands for the use and benefit of the organization that were in any manner derived from land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the organization. R.S.O. 1970, c. 411, s. 16, *amended*.

Resolutions

**17.** A resolution respecting any of the purposes of this Act is adopted if the majority of those present at the meeting called for that purpose and entitled to vote thereat vote in favour of the resolution. *New*.

Notice of  
meeting

**18.**—(1) A notice calling a meeting of a religious organization for any of the purposes of this Act,

(a) shall specify the purpose of the meeting; and

(b) shall be given in accordance with the constitution, practice or custom of the religious organization.

Idem

(2) Where the constitution, practice or custom of a religious organization has no provision for the giving of notice calling a meeting, at least two weeks notice shall be given personally or by mail, or notice may be given by announcement at an open service at least once in each of the two weeks immediately preceding the week in which the meeting



is proposed to be held. R.S.O. 1970, c. 411, ss. 3 (2), 8 (2), *amended*.

**19.**—(1) A copy of a resolution adopted under this Act shall be signed by the chairman and the secretary of the meeting at which it was adopted and shall be entered in the minute book or other record kept for that purpose. R.S.O. 1970, c. 411, s. 15 (1), *part, amended*. Keeping of records

(2) A copy of a resolution adopted under this Act, certified as being a true copy by an officer of the organization, is *prima facie* proof of the matters therein stated. R.S.O. 1970, c. 411, s. 15 (3), *amended*. Evidence

(3) Failure to comply with subsection 1 does not invalidate the resolution or anything done under it. *New*. Omissions

**20.** Any instrument affecting land made by or to trustees under this Act shall be expressed to be made under this Act, but failure to do so does not render the instrument void. *New*. Instruments made pursuant to Act

**21.**—(1) Where letters patent from the Crown or a grant, conveyance or devise made before this Act comes into force is made to persons described as trustees for a religious organization and to their successors, this Act applies to them and to the religious organization in the same manner as if the persons were duly appointed as trustees under this Act. Former conveyance

(2) Where more than one letters patent from the Crown, grant, conveyance or devise have been made for the benefit of a religious organization under different names, the organization may at a meeting by resolution adopt one of the names or another name as the name in which its trustees shall hold the land thereafter. *New*. Use of several names

**22.** A change in the name of a religious organization or manner in which the trustees are described does not affect the title to land held by the organization or its trustees in the former name. R.S.O. 1970, c. 411, s. 1 (3), *amended*. Change of name

**23.**—(1) Where a religious organization has ceased to exist, or where the authorization required under section 6 cannot be obtained for any reason other than a dispute among the members of the organization concerning the organization's property, the persons in whom the land of the organization is vested as trustees or, upon their failure to do so or where no trustees remain in office, any interested Application to court for directions where religious organization has ceased to exist

person or the Public Trustee may apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land or any part thereof is situate for directions, and the court may authorize the trustees or may appoint and authorize any other person to exercise any of the powers conferred by this Act.

Power of  
court to  
direct sale

(2) Upon such an application, the court may direct that the land or any part thereof be disposed of or that it or the proceeds of sale thereof be distributed in such manner as it considers proper, and the court may make such vesting orders as are expedient in the circumstances. *New.*

Applications  
to court as to  
applicability  
of Act

**24.**—(1) Any organization or other body that wishes to have determined whether or not it is entitled to acquire, hold and possess land under this Act may at any time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land in question or any part thereof is situate, and the court may determine the matter.

Applications  
to court by  
Public  
Trustee

(2) In like manner, the Public Trustee may apply to have determined whether any organization or other body that purports to hold and possess or that intends to acquire, hold and possess land under this Act is entitled to do so. *New.*

Removal of  
proceeding  
into Supreme  
Court

**25.**—(1) Where an application under subsection 1 of section 23 or under section 24 is made to a county or district court, any interested party may, by notice served on the applicant and on any other interested parties, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceeding to be removed into the Supreme Court.

Transmission  
of papers to  
Supreme  
Court

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers to the office of the Supreme Court in the county or district in which the application was made.

Proceedings  
in Supreme  
Court

(3) The proceeding is removed to the Supreme Court when the papers are received at the office of the Supreme Court. *New.*

Notice to  
Public  
Trustee

**26.**—(1) Notice of an application under subsection 1 of section 23 or subsection 1 of section 24 shall be given by the applicant to the Public Trustee.

(2) In any other proceeding in which the application of this Act is in issue, the court may direct that notice be given to the Public Trustee. *New.* Idem

**27.**—(1) This Act is subject to any special Act applying to a religious organization. Subject to special Acts

(2) This Act is subject to any trusts or powers of trustees in any deed, conveyance or other instrument. R.S.O. 1970, c. 411, s. 17, *amended.* Subject to trust instruments

**28.** *The Religious Institutions Act*, being chapter 411 of the Revised Statutes of Ontario, 1970, is repealed. Repeal

**29.** Any land transaction that has been authorized but not completed under the predecessor of this Act when this Act comes into force shall be completed under the predecessor of this Act as if this Act had not been passed. Transitional provisions

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

**31.** The short title of this Act is *The Religious Organizations' Lands Act, 1979.* Short title

An Act to provide for the  
holding of Land by Religious  
Organizations

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*1st Reading*

May 17th, 1979

*2nd Reading*

May 31st, 1979

*3rd Reading*

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THE HON. R. McMURTRY  
Attorney General

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

**BILL 93**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for the holding  
of Land by Religious Organizations**

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THE HON. R. MCMURTRY  
Attorney General

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## An Act to provide for the holding of Land by Religious Organizations

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

1.—(1) In this Act,

Interpre-  
tation

- (a) "meeting" means a meeting of the members of a religious organization that has been called by notice in accordance with section 18;
- (b) "religious organization" means an association of persons,
  - (i) that is charitable according to the law of Ontario,
  - (ii) that is organized for the advancement of religion and for the conduct of religious worship, services or rites, and
  - (iii) that is permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices,
 and includes an association of persons that is charitable according to the law of Ontario and that is organized for the advancement of and for the conduct of worship, services or rites of the Buddhist, Christian, Hindu, Islamic, Jewish, Baha'i, Longhouse Indian, Sikh, Unitarian or Zoroastrian faith, or a subdivision or denomination thereof;
- (c) "trustees" means the trustees appointed by a religious organization to acquire, hold and possess land for its benefit, and includes their successors.

(2) In interpreting subclause i of clause b of subsection 1, <sup>Idem</sup> an organization does not cease to be charitable for the

reason only that activities that are not charitable but are merely ancillary to a charitable purpose are carried on in conjunction with a charitable purpose.

Derivative  
organizations

(3) Where a separate religious organization is formed out of an existing religious organization, whether voluntarily or otherwise, and the new organization meets the requirements of subclauses i and ii of clause b of subsection 1, it shall nevertheless be considered to be a religious organization for the purposes of this Act. *New.*

Acquisition  
and holding  
of land

**2.** A religious organization may acquire and hold land for the purpose of,

- (a) a place of worship;
- (b) a residence for its religious leader;
- (c) a burial or cremation ground;
- (d) a bookstore or a printing or publishing office;
- (e) a theological seminary or similar institution of religious instruction;
- (f) a religious camp, retreat or training centre; or
- (g) any other religious purpose,

in the name of trustees, individually or by collective designation, and their successors in perpetual succession for the benefit of the religious organization. R.S.O. 1970, c. 411, s. 1 (1), *amended.*

Appointment  
and tenure  
of trustees

**3.—(1)** A religious organization may by resolution adopted at a meeting of the organization,

- (a) appoint trustees and fill any vacancy in the office of trustee;
- (b) provide for the retirement or removal of trustees and for the appointment of their successors;
- (c) remove any trustee from office;
- (d) decrease or increase the number of trustees;
- (e) confer upon trustees the power to acquire, hold and possess land for one or more of the purposes set out in section 2.



(2) Unless the constitution or a resolution of the religious organization otherwise provides, a trustee holds office until he dies, resigns or ceases to be a member of the organization. Termination of office

(3) Where a vacancy occurs in the number of the trustees of a religious organization, until the vacancy is filled, the remaining trustees then in office have all the estate in and title to the land of the organization and have all the powers conferred by this Act with respect thereto as were originally vested in the whole number. Powers of trustees where vacancy

(4) A trustee appointed to fill a vacancy together with the trustees originally appointed or subsequently appointed and who remain in office have all the estate, title and powers vested in the original trustees. Powers of successor trustees

(5) Where no trustees of a religious organization remain in office, the land to which the organization is entitled vests automatically in trustees subsequently appointed by the organization and their successors without the necessity of any conveyance. Vesting of land in successor trustees

(6) Where a religious organization is entitled to land and the manner of appointing trustees or their successors is not set out in the instrument granting or devising the land, it vests automatically in the trustees appointed under subsection 1 and their successors to be held in trust for the organization without the necessity of any conveyance. *New.* Where successor trustees not provided for

4. Where, under the constitution, customs or practices of a religious organization, its property is vested in one person, the person shall be deemed to be a trustee and has the powers and duties of trustees under this Act. *New.* Property vested in one person

5.—(1) Each of two or more religious organizations may by resolution appoint joint trustees and provide for the appointment of their successors and may enter into agreements respecting the holding of land for their joint benefit by such joint trustees for any of the purposes enumerated in section 2 and all the provisions of this Act apply with necessary modifications to such joint trustees. Joint trustees

(2) Where land referred to in subsection 1 was, before the agreement, held by different bodies of trustees, the religious organizations may direct them in the agreement or otherwise to convey or transfer the land to the joint trustees appointed in accordance with subsection 1 and their successors. R.S.O. 1970, c. 411, ss. 14, 18 (1), *amended.* Conveyance to joint trustees

Authorization  
required to  
exercise of  
powers

**6.**—(1) The trustees of a religious organization shall not exercise any of the powers conferred upon them by this Act until they are authorized to do so by resolution of the organization, and the organization may attach such terms or conditions to any such authorization as it considers expedient.

Authorization  
in case of  
joint  
trustees

(2) In the case of joint trustees for two or more religious organizations, the authorization shall be obtained by resolutions adopted by each religious organization for whose benefit land is or is to be held. *New.*

Power to  
enter into  
agreements  
to purchase  
land

**7.** The trustees of a religious organization may enter into agreements to purchase land for the benefit of the organization for any of the purposes of this Act. *New.*

Power to  
conduct  
actions

**8.** The trustees of a religious organization may, individually or by collective designation, maintain and defend actions for the protection of the land and of the interest of the religious organization therein. *New.*

Power to  
mortgage  
land

**9.**—(1) The trustees of a religious organization may secure any debt contracted for the acquisition or improvement of land under this Act, or for the building, repairing, extending or improving of any buildings thereon, by a mortgage or charge on all or any part of the land of the organization. R.S.O. 1970, c. 411, s. 4, *amended.*

Power to  
release  
equity of  
redemption

(2) If a mortgage or charge on land held by the trustees of a religious organization for the benefit of the organization is in arrears as to principal or interest, or both, the trustees may release, transfer or convey to the mortgagee or chargee or his assigns the equity of redemption in the land, or any part thereof, in satisfaction of the whole or any part of the debt. *New.*

Power to  
lease

**10.**—(1) The trustees of a religious organization may lease, for one term of forty years or for more than one term of not more than forty years in all, any land held by them for the benefit of the organization which is no longer required by it for any of the purposes enumerated in section 2, at such rent and upon such terms and conditions as they consider expedient.

Power to  
agree to  
renewal  
terms

(2) In any such lease, the trustees,

(a) may, subject to the forty year maximum period specified in subsection 1, agree for the renewal thereof at the expiration of any or every term of

years for a further term or terms at such rent and on such terms and conditions as may be agreed; or

- (b) may agree to pay to the lessee, his heirs, executors, administrators, successors or assigns a sum equal to the value of any buildings or other improvements that may at the expiration of any term be on the demised land.

(3) The method of ascertaining the amount of the rent during any renewal term or the value of the buildings or other improvements to be paid at the end of any term may be specified in the original or in any subsequent lease. R.S.O. 1970, c. 411, s. 6 (1, 2), *amended*. Method of ascertaining rent

(4) The trustees may take all proceedings for the recovery of rent or arrears of rent and of the demised land that landlords are entitled by law to take. R.S.O. 1970, c. 411, s. 6 (4), *amended*. Recovery of rent and the land

(5) A religious organization may by resolution give its trustees a general authorization to lease any land held by them for terms not exceeding three years per term and when so authorized the trustees may, without further authorization, lease the land from time to time for a term or terms not exceeding three years per term. *New*. Power to enter into short term leases

**11.** The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, grant easements or enter into covenants in respect of land held by them. *New*. Easements and covenants

**12.—(1)** The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, sell or exchange at any time land held by them if the organization has by resolution determined that the land is no longer necessary for its purposes. Power to sell

(2) When land of a religious organization is not required for its actual occupation for a purpose set out in section 2 and is not leased under section 10, *The Mortmain and Charitable Uses Act* applies in the same manner as if the land were then assured to the religious organization for charitable purposes. Surplus land subject to R.S.O. 1970, c. 280, s. 7

(3) Subsection 1 does not affect any special powers or trusts for sale contained in any instrument inconsistent therewith. R.S.O. 1970, c. 411, s. 7, *amended*. Special powers not affected

Conveyance  
to trustees  
of new  
religious  
organization

**13.** The trustees of a religious organization out of which a separate religious organization is formed may convey or transfer to the trustees of the separate organization such part of the land held by them as is appropriate. R.S.O. 1970, c. 411, s. 9, *amended*.

Conveyance  
where  
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unite

**14.** Where a religious organization desires to unite with another religious organization, the trustees of either organization may convey or transfer any land held by them to the trustees of the other religious organization or to the trustees of the united religious organization. R.S.O. 1970, c. 411, s. 10, *amended*.

Conveyance  
to denomi-  
national  
board or  
trustees

**15.** The trustees of a religious organization may convey or transfer any land held by them for the benefit of the organization to an incorporated board or to trustees of the denomination or subdivision thereof of which the organization forms a part. R.S.O. 1970, c. 411, s. 11, *amended*.

Duty to account

**16.** The trustees of a religious organization selling or leasing land under the authority of this Act shall on the first Monday in June in each year have ready and open for the inspection of the members of the organization a detailed statement showing the rents that accrued during the preceding year and all sums in their hands for the use and benefit of the organization that were in any manner derived from land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the organization. R.S.O. 1970, c. 411, s. 16, *amended*.

Resolutions

**17.** A resolution respecting any of the purposes of this Act is adopted if the majority of those present at the meeting called for that purpose and entitled to vote thereat vote in favour of the resolution. *New*.

Notice of  
meeting

**18.—(1)** A notice calling a meeting of a religious organization for any of the purposes of this Act,

(a) shall specify the purpose of the meeting; and

(b) shall be given in accordance with the constitution, practice or custom of the religious organization.

Idem

(2) Where the constitution, practice or custom of a religious organization has no provision for the giving of notice calling a meeting, at least two weeks notice shall be given personally or by mail, or notice may be given by announcement at an open service at least once in each of the two weeks immediately preceding the week in which the meeting

is proposed to be held. R.S.O. 1970, c. 411, ss. 3 (2), 8 (2), *amended*.

**19.**—(1) A copy of a resolution adopted under this Act shall be signed by the chairman and the secretary of the meeting at which it was adopted and shall be entered in the minute book or other record kept for that purpose. R.S.O. 1970, c. 411, s. 15 (1), *part, amended*. Keeping of records

(2) A copy of a resolution adopted under this Act, certified as being a true copy by an officer of the organization, is *prima facie* proof of the matters therein stated. R.S.O. 1970, c. 411, s. 15 (3), *amended*. Evidence

(3) Failure to comply with subsection 1 does not invalidate the resolution or anything done under it. *New*. Omissions

**20.** Any instrument affecting land made by or to trustees under this Act shall be expressed to be made under this Act, but failure to do so does not render the instrument void. *New*. Instruments made pursuant to Act

**21.**—(1) Where letters patent from the Crown or a grant, conveyance or devise made before this Act comes into force is made to persons described as trustees for a religious organization and to their successors, this Act applies to them and to the religious organization in the same manner as if the persons were duly appointed as trustees under this Act. Former conveyance

(2) Where more than one letters patent from the Crown, grant, conveyance or devise have been made for the benefit of a religious organization under different names, the organization may at a meeting by resolution adopt one of the names or another name as the name in which its trustees shall hold the land thereafter. *New*. Use of several names

**22.** A change in the name of a religious organization or manner in which the trustees are described does not affect the title to land held by the organization or its trustees in the former name. R.S.O. 1970, c. 411, s. 1 (3), *amended*. Change of name

**23.**—(1) Where a religious organization has ceased to exist, or where the authorization required under section 6 cannot be obtained for any reason other than a dispute among the members of the organization concerning the organization's property, the persons in whom the land of the organization is vested as trustees or, upon their failure to do so or where no trustees remain in office, any interested Application to court for directions where religious organization has ceased to exist

person or the Public Trustee may apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land or any part thereof is situate for directions, and the court may authorize the trustees or may appoint and authorize any other person to exercise any of the powers conferred by this Act.

Power of  
court to  
direct sale

(2) Upon such an application, the court may direct that the land or any part thereof be disposed of or that it or the proceeds of sale thereof be distributed in such manner as it considers proper, and the court may make such vesting orders as are expedient in the circumstances. *New.*

Applications  
to court as to  
applicability  
of Act

**24.**—(1) Any organization or other body that wishes to have determined whether or not it is entitled to acquire, hold and possess land under this Act may at any time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land in question or any part thereof is situate, and the court may determine the matter.

Applications  
to court by  
Public  
Trustee

(2) In like manner, the Public Trustee may apply to have determined whether any organization or other body that purports to hold and possess or that intends to acquire, hold and possess land under this Act is entitled to do so. *New.*

Removal of  
proceeding  
into Supreme  
Court

**25.**—(1) Where an application under subsection 1 of section 23 or under section 24 is made to a county or district court, any interested party may, by notice served on the applicant and on any other interested parties, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceeding to be removed into the Supreme Court.

Transmission  
of papers to  
Supreme  
Court

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers to the office of the Supreme Court in the county or district in which the application was made.

Proceedings  
in Supreme  
Court

(3) The proceeding is removed to the Supreme Court when the papers are received at the office of the Supreme Court. *New.*

Notice to  
Public  
Trustee

**26.**—(1) Notice of an application under subsection 1 of section 23 or subsection 1 of section 24 shall be given by the applicant to the Public Trustee.

(2) In any other proceeding in which the application of this Act is in issue, the court may direct that notice be given to the Public Trustee. *New.*

**27.**—(1) This Act is subject to any special Act applying to a religious organization. Subject to special Acts

(2) This Act is subject to any trusts or powers of trustees in any deed, conveyance or other instrument. Subject to trust instruments R.S.O. 1970, c. 411, s. 17, *amended.*

**28.** *The Religious Institutions Act*, being chapter 411 of the Revised Statutes of Ontario, 1970, is repealed. Repeal

**29.** Any land transaction that has been authorized but not completed under the predecessor of this Act when this Act comes into force shall be completed under the predecessor of this Act as if this Act had not been passed. Transitional provisions

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

**31.** The short title of this Act is *The Religious Organizations' Lands Act, 1979.* Short title

An Act to provide for the  
holding of Land by Religious  
Organizations

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*1st Reading*

May 17th, 1979

*2nd Reading*

May 31st, 1979

*3rd Reading*

June 12th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
The Anglican Church of Canada**

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THE HON. R. MCMURTRY  
Attorney General

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#### EXPLANATORY NOTE

This Bill is complementary to the Bill for *The Religious Organizations' Lands Act, 1979*.

The content of the Bill now appears as section 19 of *The Religious Institutions Act*.

In view of the widened scope of *The Religious Organizations' Lands Act, 1979*, the special provisions for the Anglican Church are separated into a separate Act.

BILL 94

1979

## An Act respecting The Anglican Church of Canada

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

1.—(1) All the rights, powers and privileges conferred upon any religious organization by *The Religious Organizations' Lands Act, 1979* or any predecessor thereof extend and apply to The Anglican Church of Canada, formerly or otherwise called The Church of England in Canada, or the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

Rights  
extended to  
The Anglican  
Church of  
Canada  
1979, c. . .

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of *The Religious Organizations' Lands Act, 1979* be deemed to be trustees within the meaning thereof.

Incumbent  
and church-  
wardens to  
be trustees

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, parson, rector or incumbent or any successor or other person in whom the legal title or estate is vested, by, from or under any of them, shall also be deemed to be a trustee with the same powers and duties as trustees under *The Religious Organizations' Lands Act, 1979*.

Bishop, etc.,  
to be trustees  
under 3 V.,  
c. 74, s. 16

(4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee with the same powers as trustees under *The Religious Organizations' Lands Act, 1979*.

Property  
vested in  
the bishop  
in trust

Property  
vested in the  
synod in  
trust within  
7 V., c. 68  
and 32 V., c. 51

1979, c. . . .

How land  
may be  
sold or  
encumbered,  
consent  
requisite

Evidence of  
consent

Commence-  
ment

Short title

(5) In cases of property vested in the synod of any diocese within the Act passed in the seventh year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee with the same powers and duties as trustees under *The Religious Organizations' Lands Act, 1979* and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose. R.S.O. 1970, c. 411, s. 19 (1-5), *amended*.

**2.**—(1) Land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by *The Religious Organizations' Lands Act, 1979*, except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese, and the consent of the vestry given in accordance with the rules and canons of the church shall be deemed to be the consent of the congregation.

(2) The execution of a conveyance of land by the bishop, coadjutor bishop or a suffragan bishop of the diocese and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, is, in favour of the grantee, his heirs and assigns, conclusive evidence of the consent of the vestry, the bishop and the executive committee. R.S.O. 1970, c. 411, s. 19 (6), *amended*.

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

**4.** The short title of this Act is *The Anglican Church of Canada Act, 1979*.







An Act respecting  
The Anglican Church of Canada

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*1st Reading*

May 17th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. McMURTRY  
Attorney General

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*(Government Bill)*

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**BILL 94**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
The Anglican Church of Canada**

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THE HON. R. McMURTRY  
Attorney General

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BILL 94

1979

## An Act respecting The Anglican Church of Canada

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

1.—(1) All the rights, powers and privileges conferred upon any religious organization by *The Religious Organizations' Lands Act, 1979* or any predecessor thereof extend and apply to The Anglican Church of Canada, formerly or otherwise called The Church of England in Canada, or the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

Rights  
extended to  
The Anglican  
Church of  
Canada  
1979, c. ...

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of *The Religious Organizations' Lands Act, 1979* be deemed to be trustees within the meaning thereof.

Incumbent  
and church-  
wardens to  
be trustees

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, parson, rector or incumbent or any successor or other person in whom the legal title or estate is vested, by, from or under any of them, shall also be deemed to be a trustee with the same powers and duties as trustees under *The Religious Organizations' Lands Act, 1979*.

Bishop, etc.,  
to be trustees  
under 3 V.,  
c. 74, s. 16

(4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee with the same powers as trustees under *The Religious Organizations' Lands Act, 1979*.

Property  
vested in  
the bishop  
in trust

Property  
vested in the  
synod in  
trust within  
7 V., c. 68  
and 32 V., c. 51

1979, c. . . .

How land  
may be  
sold or  
encumbered,  
consent  
requisite

Evidence of  
consent

Commence-  
ment

Short title

(5) In cases of property vested in the synod of any diocese within the Act passed in the seventh year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee with the same powers and duties as trustees under *The Religious Organizations' Lands Act, 1979* and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose. R.S.O. 1970, c. 411, s. 19 (1-5), *amended*.

**2.**—(1) Land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by *The Religious Organizations' Lands Act, 1979*, except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese, and the consent of the vestry given in accordance with the rules and canons of the church shall be deemed to be the consent of the congregation.

(2) The execution of a conveyance of land by the bishop, coadjutor bishop or a suffragan bishop of the diocese and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, is, in favour of the grantee, his heirs and assigns, conclusive evidence of the consent of the vestry, the bishop and the executive committee. R.S.O. 1970, c. 411, s. 19 (6), *amended*.

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

**4.** The short title of this Act is *The Anglican Church of Canada Act, 1979*.







An Act respecting  
The Anglican Church of Canada

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*1st Reading*

May 17th, 1979

*2nd Reading*

May 31st, 1979

*3rd Reading*

May 31st, 1979

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THE HON. R. MCMURTRY  
Attorney General

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**BILL 95**

**Government Bill**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Regional Municipality of Haldimand-Norfolk Act, 1973**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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#### EXPLANATORY NOTE

The purpose of this Bill is to amend the quorum requirements for the Regional Council of The Regional Municipality of Haldimand-Norfolk. Under the proposed amendment, ten members of the Regional Council representing at least four area municipalities will be necessary to form a quorum. At present, ten members of the Regional Council representing all of the area municipalities are necessary to form a quorum.

BILL 95

1979

**An Act to amend  
The Regional Municipality of Haldimand-  
Norfolk Act, 1973**

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

1. Subsection 1 of section 11 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, is repealed and the following substituted therefor:
  - (1) Ten members of the Regional Council representing at least four area municipalities are necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Regional Municipality of Haldimand-Norfolk Amendment Act, 1979*.

s. 11 (1).  
re-enacted

Quorum,  
voting

Commence-  
ment

Short title

An Act to amend  
The Regional Municipality of  
Haldimand-Norfolk Act, 1973

---

*1st Reading*

May 17th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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**BILL 95**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Regional Municipality of Haldimand-Norfolk Act, 1973**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 95

1979

**An Act to amend  
The Regional Municipality of Haldimand-  
Norfolk Act, 1973**

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

1. Subsection 1 of section 11 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, is repealed and the following substituted therefor: <sup>s. 11 (1).  
re-enacted</sup>

(1) Ten members of the Regional Council representing at least four area municipalities are necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure. <sup>Quorum,  
voting</sup>

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>
3. The short title of this Act is *The Regional Municipality of Haldimand-Norfolk Amendment Act, 1979*. <sup>Short title</sup>

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An Act to amend  
The Regional Municipality of  
Halimand-Norfolk Act, 1973

---

*1st Reading*

May 17th, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Planning Act**

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THE HON. C. BENNETT  
Minister of Housing

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## EXPLANATORY NOTE

Section 35a of the Act now reads,

- 35a.—(1) *In this section and in section 35b, "redevelopment" means the removal of buildings or structures from land and the construction or erection of other buildings or structures thereon.*
- (2) *Where there is an official plan in effect in a municipality, the council of the municipality in a by-law passed under section 35 may, as a condition of development or redevelopment of land or buildings in the municipality or in any defined area or areas thereof, prohibit or require the provision, maintenance and use of the following facilities and matters or any of them and may regulate the maintenance and use of such facilities and matters:*
1. *Widenings of highways that abut on the land that is being developed or redeveloped.*
  2. *Subject to The Public Transportation and Highway Improvement Act, facilities to provide access to and from the land such as access ramps and curbing including the number, location and size of such facilities and the direction of traffic thereon.*
  3. *Off-street vehicular parking and loading areas and access driveways including the surfacing of such areas and driveways.*
  4. *Walkways and all other means of pedestrian access.*
  5. *Removal of snow from access ramps, driveways, parking areas and walkways.*
  6. *Grading or change in elevation or contour of the land and the disposal of storm, surface and waste water from the land and from any buildings or structures thereon.*
  7. *Conveyance to the municipality, without cost, of easements required for the construction, maintenance or improvement of any existing or newly required watercourses, ditches, land drainage works and sanitary sewerage facilities on the land.*
  8. *Floodlighting of the land or of any buildings or structures thereon.*
  9. *Walls, fences, hedges, trees, shrubs or other suitable groundcover to provide adequate landscaping of the land or protection to adjoining lands.*
  10. *Vaults, central storage and collection areas and other facilities and enclosures as may be required for the storage of garbage and other waste material.*
  11. *Plans showing the location of all buildings and structures to be erected on the land and the location of the other facilities required by the by-law.*
  12. *Perspective drawings and plans showing building elevations and cross sections of industrial and commercial buildings and residential buildings containing twenty-five or more dwelling units.*
- (3) *Nothing in paragraph 12 of subsection 2 shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.*
- (4) *A by-law that includes provisions authorized by subsection 2 may,*

- (a) *provide that facilities and matters required by the by-law shall be provided and maintained by the owner of the land at his sole risk and expense and to the satisfaction of the municipality, and that in default thereof the provisions of section 469 of The Municipal Act shall apply;*
  - (b) *require that the owner of the land enter into one or more agreements with the municipality dealing with the facilities and matters referred to in subsection 2; and*
  - (c) *prohibit the issuance of building permits until the plans referred to in paragraphs 11 and 12 of subsection 2 have been approved by the municipality and until the agreements referred to in clause b have been entered into.*
- (5) *Any agreement entered into, as referred to in clause b of subsection 4, may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.*
- (6) *Where the municipality fails to approve the plans referred to in paragraphs 11 and 12 of subsection 2 within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied as to the terms of the proposed agreement referred to in clause b of subsection 4 or where the municipality has refused to enter into such an agreement with the owner, the owner of the land may require the plans or agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the question as to the suitability of the plans or of the provisions of the agreement and the Board shall settle and determine the details of the plans and approve the same and settle and determine the provisions of the agreement and may require the municipality to enter into it, and the decision of the Board shall be final.*

Under the existing legislation, a municipality that wishes to exercise the development control powers set out in the section must do so within the framework of a zoning by-law passed under section 35. In a recent decision, the Supreme Court of Canada held to be *ultra vires* By-law 419-74 of the City of Toronto dealing with development control on the grounds that it was not a valid exercise of the power conferred under section 35a to, in essence, repeat in the by-law the language of the section. Other municipalities have passed by-laws similar in form to that of the City of Toronto. It is not however practicable to set out in a by-law what is required in respect of each of the enumerated matters in every circumstance in which development occurs. The section as re-enacted is designed to more explicitly confer on municipalities the power to exercise site plan control in respect of the matters enumerated in a way that permits taking into account the varying individual requirements of each proposed development of land.

Thus, under subsection 2, a municipality may by by-law designate areas within the municipality as site plan control areas. Thereupon no development of land within a designated area may take place unless the council of the municipality has approved plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith.

The other provisions of the existing section 35a providing for the entering into of agreements, the registration of such agreements against the land and appeals to the Municipal Board are basically unchanged in the section as proposed to be re-enacted.



## An Act to amend The Planning 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 Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 168, section 10, is repealed and the following substituted therefor:

35a.—(1) In this section, “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot.

(2) Where there is an official plan in effect in a municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council.

(3) A by-law passed under subsection 2 may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 35.

(4) No person shall undertake any development in an area designated under subsection 2 unless the council of the municipality or, where a referral has been made under subsection 10, the Municipal Board has approved plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause a of subsection 7.

(5) The council or the Municipal Board, as the case may be, in approving plans under subsection 4, may control the

s. 35a  
re-enacted

Interpre-  
tation

Establish-  
ment of  
site plan  
control by  
by-law

Designation  
of site plan  
control area

Approval  
of plans

Control of  
location and  
height of  
buildings,  
structures,  
etc.

location and height of any proposed building or structure or of any of the facilities and works required under clause *a* of subsection 7, provided the density of development permitted under any by-law passed under section 35 is not reduced without the concurrence of the owner of the land and provided the resulting development will meet all of the standards and requirements of any by-law passed under section 35.

Off-street  
loading  
and  
parking  
facilities

(6) Where the council of a municipality has passed a by-law under paragraph 5 of subsection 1 of section 35 that applies to the land on which the development is proposed, the municipality may not require the provision of any additional off-street vehicular loading and parking facilities under clause *a* of subsection 7 of this section.

Conditions  
to approval  
of plans

(7) As a condition to the approval of the plans referred to in subsection 4, a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widenings of highways that abut on the land.
2. Subject to *The Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs.
3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
4. Walkways, including the surfacing thereof, and all other means of pedestrian access.
5. Facilities for the lighting, including flood-lighting, of the land or of any buildings or structures thereon.
6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.

R.S.O. 1970,  
c. 201

8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewerage facilities on the land.

9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause *a*, including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with any or all of the facilities, works or matters mentioned in clause *a* or with the provision and approval of the plans referred to in subsection 4.

(8) Any agreement entered into under clause *c* of subsection 7 may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of *The Registry Act* and *The Land Titles Act*, any and all subsequent owners of the land.

Registration  
of  
agreements

R.S.O. 1970,  
c. 409, 234

(9) Section 469 of *The Municipal Act* applies to any requirements made under clauses *a* and *b* of subsection 7 and to any requirements made under an agreement entered into under clause *c* of subsection 7.

Application of  
R.S.O. 1970,  
c. 284

(10) Where the municipality fails to approve the plans referred to in subsection 4 within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection 7 or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans and approve the same and

Appeal to  
O.M.B.

settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Commence-  
ment

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

Short title

**3.** The short title of this Act is *The Planning Amendment Act, 1979*.









An Act to amend  
The Planning Act

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*1st Reading*

May 17th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. C. BENNETT  
Minister of Housing

*(Government Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Planning Act**

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THE HON. C. BENNETT  
Minister of Housing

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

## EXPLANATORY NOTE

Section 35a of the Act now reads,

35a.—(1) *In this section and in section 35b, "redevelopment" means the removal of buildings or structures from land and the construction or erection of other buildings or structures thereon.*

(2) *Where there is an official plan in effect in a municipality, the council of the municipality in a by-law passed under section 35 may, as a condition of development or redevelopment of land or buildings in the municipality or in any defined area or areas thereof, prohibit or require the provision, maintenance and use of the following facilities and matters or any of them and may regulate the maintenance and use of such facilities and matters:*

1. *Widenings of highways that abut on the land that is being developed or redeveloped.*
2. *Subject to The Public Transportation and Highway Improvement Act, facilities to provide access to and from the land such as access ramps and curbing including the number, location and size of such facilities and the direction of traffic thereon.*
3. *Off-street vehicular parking and loading areas and access driveways including the surfacing of such areas and driveways.*
4. *Walkways and all other means of pedestrian access.*
5. *Removal of snow from access ramps, driveways, parking areas and walkways.*
6. *Grading or change in elevation or contour of the land and the disposal of storm, surface and waste water from the land and from any buildings or structures thereon.*
7. *Conveyance to the municipality, without cost, of easements required for the construction, maintenance or improvement of any existing or newly required watercourses, ditches, land drainage works and sanitary sewerage facilities on the land.*
8. *Floodlighting of the land or of any buildings or structures thereon.*
9. *Walls, fences, hedges, trees, shrubs or other suitable groundcover to provide adequate landscaping of the land or protection to adjoining lands.*
10. *Vaults, central storage and collection areas and other facilities and enclosures as may be required for the storage of garbage and other waste material.*
11. *Plans showing the location of all buildings and structures to be erected on the land and the location of the other facilities required by the by-law.*
12. *Perspective drawings and plans showing building elevations and cross sections of industrial and commercial buildings and residential buildings containing twenty-five or more dwelling units.*

(3) *Nothing in paragraph 12 of subsection 2 shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.*

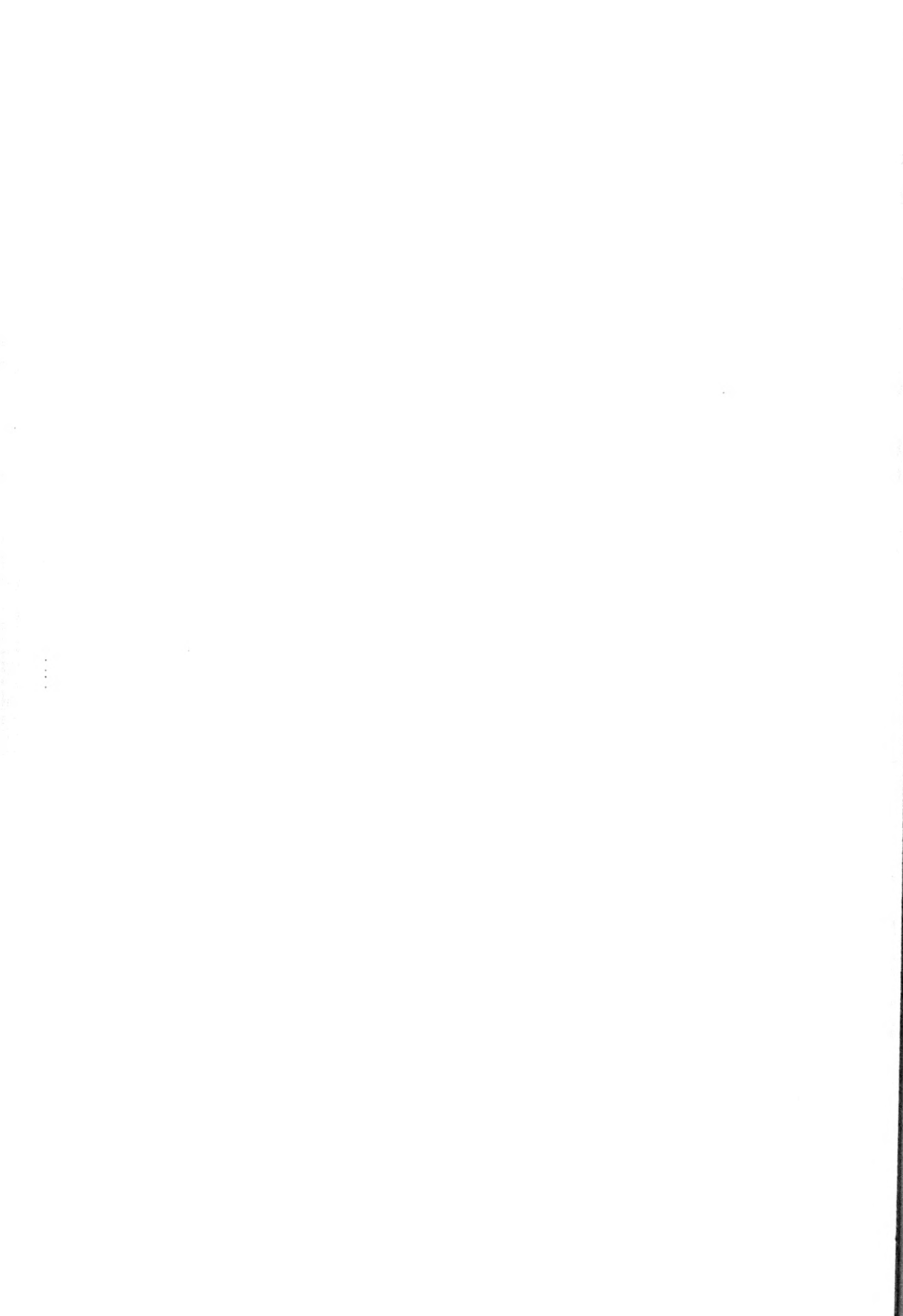
(4) *A by-law that includes provisions authorized by subsection 2 may,*

- (a) *provide that facilities and matters required by the by-law shall be provided and maintained by the owner of the land at his sole risk and expense and to the satisfaction of the municipality, and that in default thereof the provisions of section 469 of The Municipal Act shall apply;*
  - (b) *require that the owner of the land enter into one or more agreements with the municipality dealing with the facilities and matters referred to in subsection 2; and*
  - (c) *prohibit the issuance of building permits until the plans referred to in paragraphs 11 and 12 of subsection 2 have been approved by the municipality and until the agreements referred to in clause b have been entered into.*
- (5) *Any agreement entered into, as referred to in clause b of subsection 4, may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.*
- (6) *Where the municipality fails to approve the plans referred to in paragraphs 11 and 12 of subsection 2 within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied as to the terms of the proposed agreement referred to in clause b of subsection 4 or where the municipality has refused to enter into such an agreement with the owner, the owner of the land may require the plans or agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the question as to the suitability of the plans or of the provisions of the agreement and the Board shall settle and determine the details of the plans and approve the same and settle and determine the provisions of the agreement and may require the municipality to enter into it, and the decision of the Board shall be final.*

Under the existing legislation, a municipality that wishes to exercise the development control powers set out in the section must do so within the framework of a zoning by-law passed under section 35. In a recent decision, the Supreme Court of Canada held to be *ultra vires* By-law 419-74 of the City of Toronto dealing with development control on the grounds that it was not a valid exercise of the power conferred under section 35a to, in essence, repeat in the by-law the language of the section. Other municipalities have passed by-laws similar in form to that of the City of Toronto. It is not however practicable to set out in a by-law what is required in respect of each of the enumerated matters in every circumstance in which development occurs. The section as re-enacted is designed to more explicitly confer on municipalities the power to exercise site plan control in respect of the matters enumerated in a way that permits taking into account the varying individual requirements of each proposed development of land.

Thus, under subsection 2, a municipality may by by-law designate areas within the municipality as site plan control areas. Thereupon no development of land within a designated area may take place unless the council of the municipality has approved plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith.

The other provisions of the existing section 35a providing for the entering into of agreements, the registration of such agreements against the land and appeals to the Municipal Board are basically unchanged in the section as proposed to be re-enacted.





## An Act to amend The Planning 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 Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 168, section 10, is repealed and the following substituted therefor: s 35a. re-enacted

35a.—(1) In this section, “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot. Interpretation

(2) Where there is an official plan in effect in a municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council. Establishment of site plan control by by-law

(3) A by-law passed under subsection 2 may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 35. Designation of site plan control area

(4) No person shall undertake any development in an area designated under subsection 2 unless the council of the municipality or, where a referral has been made under subsection 10, the Municipal Board has approved one or both, as the council may determine, of the following: Approval of plans or drawings

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause a of subsection 7.

2. Drawings showing plan, elevation and cross-section views for each industrial and commercial building to be erected and for each residential building containing twenty-five or more dwelling units to be erected which are sufficient to display,

- (a) the massing and conceptual design of the proposed building;
- (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and
- (c) the provision of interior walkways, stairs and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause c, the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

Proviso

(5) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

Conditions to approval of plans

(6) As a condition to the approval of the plans and drawings referred to in subsection 4, a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widening of highways that abut on the land.
2. Subject to *The Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs.
3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
4. Walkways, including the surfacing thereof, and all other means of pedestrian access.

R.S.O. 1970,  
c. 201

5. Facilities for the lighting, including flood-lighting, of the land or of any buildings or structures thereon.
6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewerage facilities on the land.
9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause *a*, including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with any or all of the facilities, works or matters mentioned in clause *a* or with the provision and approval of the plans and drawings referred to in subsection 4.

(7) Any agreement entered into under clause *c* of subsection 6 may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of *The Registry Act* and *The Land Titles Act*, any and all subsequent owners of the land.

Registration  
of  
agreements

R.S.O. 1970,  
c. 409, 234

(8) Section 469 of *The Municipal Act* applies to any requirements made under clauses *a* and *b* of subsection 6 and to any requirements made under an agreement entered into under clause *c* of subsection 6.

Application of  
R.S.O. 1970,  
c. 284

Appeal to  
O.M.B.

(9) Where the municipality fails to approve the plans or drawings referred to in subsection 4 within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection 6 or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof of the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Classes of  
development,  
delegation

(10) Where the council of a municipality has designated a site plan control area under this section the council may, by by-law,

- (a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection 4; and
- (b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause a.

Proviso

2. Notwithstanding section 1 of this Act, section 35a of *The Planning Act*, as it exists on the day before this Act comes into force, shall be deemed to continue in force in respect of any by-law passed under that section prior to the day before this Act comes into force.

Certain  
agreements  
declared  
valid and  
binding

3. Every agreement entered into by a municipality after the 16th day of December, 1973 and before the day that section 35a of *The Planning Act*, as re-enacted by section 1 of this Act, comes into force, to the extent that the agreement deals with facilities and matters mentioned in subsection 2 of section 35a of *The Planning Act* as it exists on the day before this Act comes into force, is hereby declared to be valid and binding.

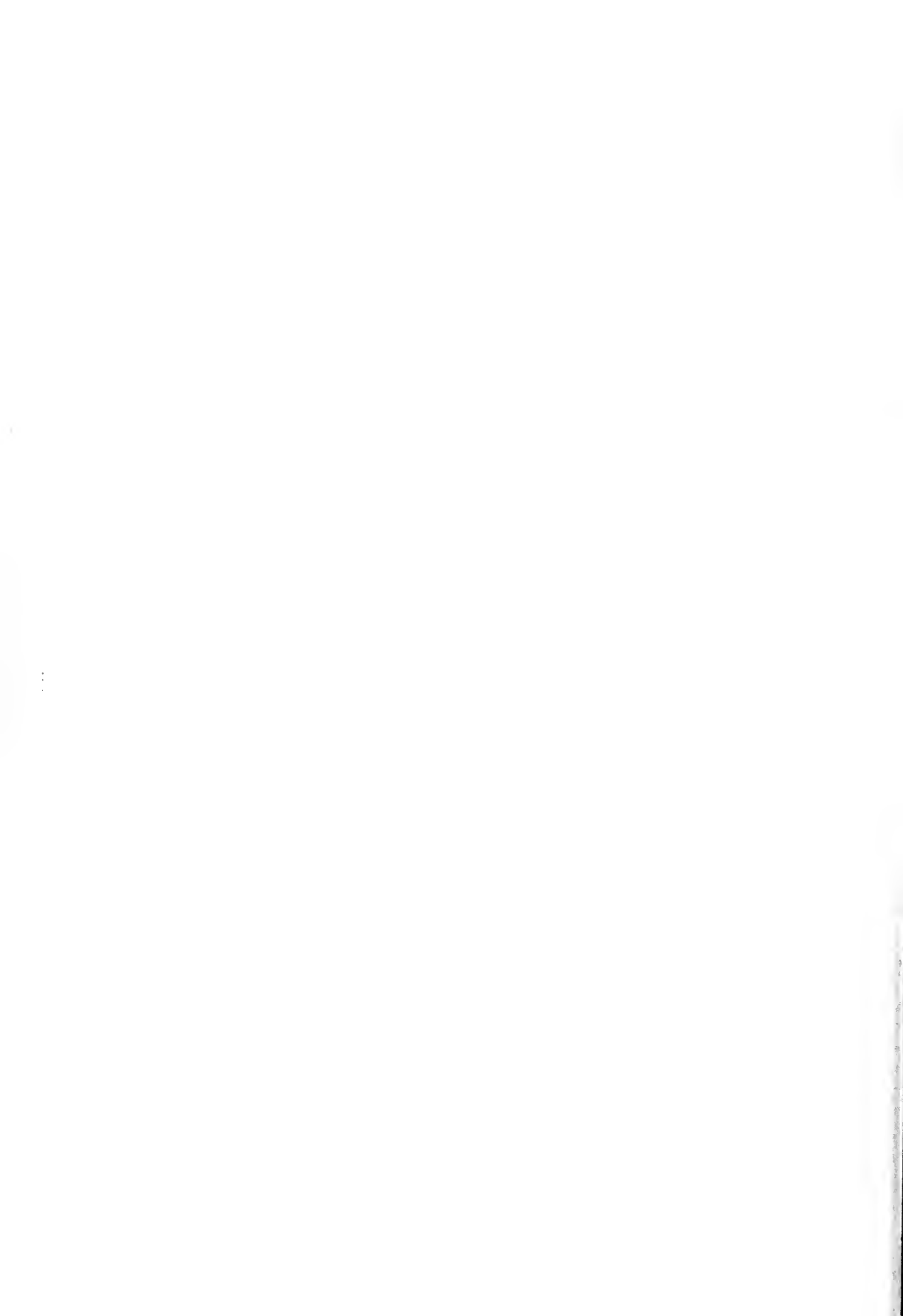
Commence-  
ment

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

Short title

5. The short title of this Act is *The Planning Amendment Act, 1979*.







An Act to amend  
The Planning Act

---

*1st Reading*

May 17th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

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THE HON. C. BENNETT  
Minister of Housing

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



**BILL 96**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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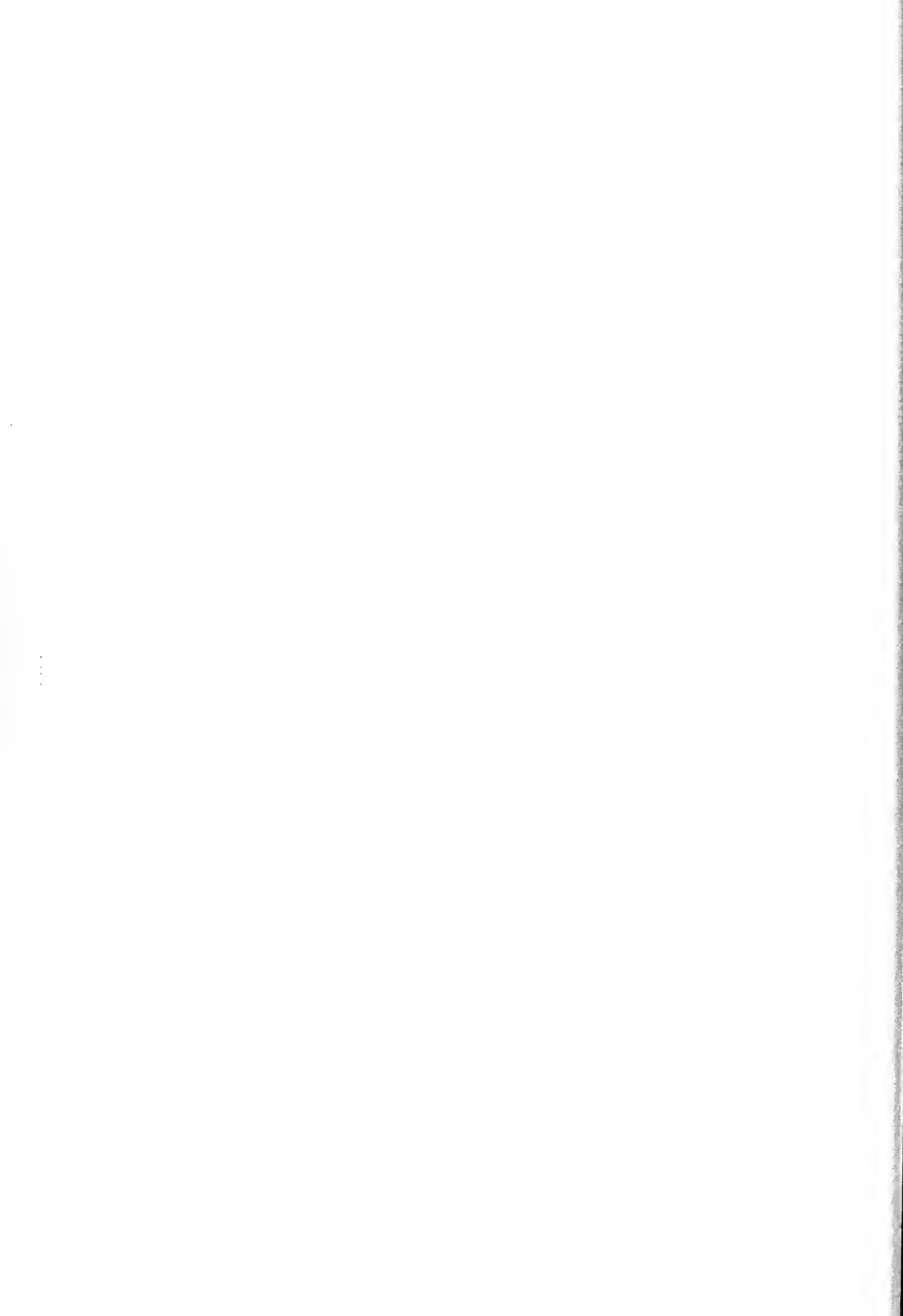
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**An Act to amend The Planning Act**

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THE HON. C. BENNETT  
Minister of Housing

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## An Act to amend The Planning 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 Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 168, section 10, is repealed and the following substituted therefor: s. 35a.  
re-enacted

35a.—(1) In this section, “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot. Interpretation

(2) Where there is an official plan in effect in a municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council. Establishment of site plan control by by-law

(3) A by-law passed under subsection 2 may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 35. Designation of site plan control area

(4) No person shall undertake any development in an area designated under subsection 2 unless the council of the municipality or, where a referral has been made under subsection 10, the Municipal Board has approved one or both, as the council may determine, of the following: Approval of plans or drawings

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause *a* of subsection 7.

2. Drawings showing plan, elevation and cross-section views for each industrial and commercial building to be erected and for each residential building containing twenty-five or more dwelling units to be erected which are sufficient to display,

- (a) the massing and conceptual design of the proposed building;
- (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and
- (c) the provision of interior walkways, stairs and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause c, the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

Proviso

(5) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

Conditions  
to approval  
of plans

(6) As a condition to the approval of the plans and drawings referred to in subsection 4, a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widenings of highways that abut on the land.
2. Subject to *The Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs.
3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
4. Walkways, including the surfacing thereof, and all other means of pedestrian access.

5. Facilities for the lighting, including flood-lighting, of the land or of any buildings or structures thereon.
6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewerage facilities on the land.
9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause *a*, including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with any or all of the facilities, works or matters mentioned in clause *a* or with the provision and approval of the plans and drawings referred to in subsection 4.

(7) Any agreement entered into under clause *c* of subsection 6 may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of *The Registry Act* and *The Land Titles Act*, any and all subsequent owners of the land.

Registration  
of  
agreements

R.S.O. 1970,  
cc. 409, 234

(8) Section 469 of *The Municipal Act* applies to any requirements made under clauses *a* and *b* of subsection 6 and to any requirements made under an agreement entered into under clause *c* of subsection 6.

Application of  
R.S.O. 1970,  
c. 284

Appeal to  
O.M.B.

(9) Where the municipality fails to approve the plans or drawings referred to in subsection 4 within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection 6 or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Classes of  
development,  
delegation

(10) Where the council of a municipality has designated a site plan control area under this section the council may, by by-law,

- (a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection 4; and
- (b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause a.

Proviso

2. Notwithstanding section 1 of this Act, section 35a of *The Planning Act*, as it exists on the day before this Act comes into force, shall be deemed to continue in force in respect of any by-law passed under that section prior to the day before this Act comes into force.

Certain  
agreements  
declared  
valid and  
binding

3. Every agreement entered into by a municipality after the 16th day of December, 1973 and before the day that section 35a of *The Planning Act*, as re-enacted by section 1 of this Act, comes into force, to the extent that the agreement deals with facilities and matters mentioned in subsection 2 of section 35a of *The Planning Act* as it exists on the day before this Act comes into force, is hereby declared to be valid and binding.

Commence-  
ment

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

Short title

5. The short title of this Act is *The Planning Amendment Act, 1979*.



An Act to amend  
The Planning Act

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*1st Reading*

May 17th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. C. BENNETT  
Minister of Housing

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**BILL 98**

**Private Member's Bill**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Employment Standards Act, 1974**

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MR. LUPSELLA

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#### EXPLANATORY NOTE

The purpose of this Bill is to establish a standard relating to the installation and operation of electronic surveillance systems in places of employment. The Bill permits the installation of these systems only where it is reasonably necessary for the protection of the health or safety of employees. The onus of establishing that the installation and operation of a surveillance system is reasonably necessary for this purpose is placed upon the employer.

**An Act to amend  
The Employment Standards Act, 1974**

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

1. *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following section. s. 15a,  
enacted

15a. No employer shall install or operate an electronic surveillance device or system in a place of employment to record or monitor the work and other activities of his employees unless the installation and operation of such device or system is reasonably necessary, the proof of which lies upon the employer, for the protection of the health and safety of the employees. Electronic  
surveillance

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Employment Standards Amendment Act, 1979*. Short title

An Act to amend  
The Employment Standards Act, 1974

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*1st Reading*

May 18th, 1979

*2nd Reading*

*3rd Reading*

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MR. LUPSELLA

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*(Private Member's Bill)*

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend  
The Public Transportation and Highway Improvement Act**

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**THE HON. J. W. SNOW  
Minister of Transportation and Communications**

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#### EXPLANATORY NOTES

**SECTION 1.** The Act now authorizes the closing of a highway that is under construction or while maintenance is carried out. The provision being recast now provides for the erection of flashing lights that are visible at 500 feet. The provision as recast omits the reference to flashing lights and requires, instead, erection of appropriate warning devices, lights or reflective material.

**SECTIONS 2 AND 3.** The only changes are conversions into metric measurements.

BILL 99

1979

**An Act to amend  
The Public Transportation and  
Highway Improvement Act**

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

1. Subsection 3 of section 25 of *The Public Transportation and Highway Improvement Act*, being chapter 201 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 25 (3),  
re-enacted

(3) While the King's Highway is closed to traffic under subsection 1, the Minister or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and, wherever an alternative route deviates from it, a barricade or other appropriate warning devices displaying lights or reflective material and, where applicable, detour signs indicating the alternative route. Barricades

2. Subsection 2 of section 31 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 41, section 2, is further amended by, s. 31 (2),  
amended

- (a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres" and by striking out "600 feet" in the third line and inserting in lieu thereof "180 metres";
- (b) in clause *b*, striking out "150 feet" in the first line and inserting in lieu thereof "45 metres" and by striking out "600 feet" in the second line and inserting in lieu thereof "180 metres";
- (c) in clause *c*, striking out "two feet by one foot" in the third line and inserting in lieu thereof "sixty centimetres by thirty centimetres" and by striking out "one-quarter mile" in the sixth line and inserting in lieu thereof "400 metres"; and
- (d) in clause *d*, striking out "one-half mile" in the first line and inserting in lieu thereof "800 metres".

s. 35 (2),  
amended

3. Subsection 2 of section 35 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 41, section 4, is further amended by,

(a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres" and by striking out "1300 feet" in the third line and inserting in lieu thereof "395 metres";

(b) in clause *b*, striking out "150 feet" in the first line and inserting in lieu thereof "45 metres" and by striking out "1,300 feet" in the second line and inserting in lieu thereof "395 metres";

(c) in clause *c*, striking out "150 feet" in the second and third lines and inserting in lieu thereof "45 metres" and by striking out "1,300 feet" in the fourth line and inserting in lieu thereof "395 metres";

(d) in clause *d*, striking out "one-quarter mile" in the second line and inserting in lieu thereof "400 metres";

(e) in clause *e*, striking out "two feet by one foot" in the third line and inserting in lieu thereof "sixty centimetres by thirty centimetres" and by striking out "one-quarter mile" in the sixth line and inserting in lieu thereof "400 metres"; and

(f) in clause *f*, striking out "one-half mile" in the first line and inserting in lieu thereof "800 metres".

s. 43 (1),  
amended

4. Subsection 1 of section 43 of the said Act is amended by striking out "registered as a civil engineer under" in the third and fourth lines and inserting in lieu thereof "as defined in".

s. 51 (1),  
amended

5.—(1) Subsection 1 of section 51 of the said Act is amended by striking out "twenty feet" in the second line and inserting in lieu thereof "six metres".

s. 51 (2),  
amended

(2) Subsection 2 of the said section 51 is amended by striking out "twenty feet" in the fourth and fifth lines and inserting in lieu thereof "six metres".

s. 51 (3),  
amended

(3) Subsection 3 of the said section 51 is amended by striking out "twenty feet" in the second line and inserting in lieu thereof "six metres".

s. 56 (6),  
amended

6.—(1) Subsection 6 of section 56 of the said Act is amended by striking out "twenty-two feet" in the first and second lines and inserting in lieu thereof "seven metres".



**SECTION 4.** This is a housekeeping change where the reference to a professional engineer registered as a civil engineer under *The Professional Engineers Act* is changed to a reference to a professional engineer as defined in that Act.

**SECTIONS 5, 6, 7 AND 8.** The only changes are conversions into metric measurements.

**SECTION 9.** The definition of "public transportation" is amended to include special transportation facilities for the physically disabled.

**SECTION 10.** The change is a conversion into a metric measurement.

**SECTION 11.** The amendment is similar to the one made by section 1 of the Bill. The provision recast by section 1 of the Bill referred to roads closed for work authorized under Part I of the Act. The provision in section 94 of the Act refers to roads closed for work authorized under the Act.

- (2) Subsection 7 of the said section 56 is amended by striking out <sup>s. 56 (7),</sup> amended  
“twenty-two feet” in the second line and in the fifth line and  
inserting in lieu thereof in each instance “seven metres”.
- (3) Subsection 8 of the said section 56 is amended by striking out <sup>s. 56 (8),</sup> amended  
“twenty-two feet” in the first line and in the seventh line and  
inserting in lieu thereof in each instance “seven metres”.
- (4) Subsection 10 of the said section 56 is amended by striking out <sup>s. 56 (10),</sup> amended  
“twenty-two feet” in the second line and inserting in lieu  
thereof “seven metres”.
- (5) Subsection 11 of the said section 56 is amended by striking out <sup>s. 56 (11),</sup> amended  
“twenty-two feet” in the second line and in the sixth line and  
inserting in lieu thereof in each instance “seven metres”.
7. Subsection 1 of section 60 of the said Act is amended by striking out <sup>s. 60 (1),</sup> amended  
“150 feet” in the second and third lines and inserting in lieu thereof  
“45 metres”.
8. Subsection 1 of section 61 of the said Act is amended by, <sup>s. 61 (1),</sup> amended
- (a) in clause *a*, striking out “150 feet” in the second line and  
inserting in lieu thereof “45 metres”; and
- (b) in clause *b*, striking out “one-quarter mile” in the second  
line and inserting in lieu thereof “400 metres”.
9. Clause *b* of subsection 1 of section 87*b* of the said Act, as enacted by <sup>s. 87*b* (1) (b),</sup> re-enacted  
the Statutes of Ontario, 1971, chapter 61, section 14, is repealed and  
the following substituted therefor:
- (b) “public transportation” means any service for which a  
fare is charged for transporting the public by vehicles  
operated by or on behalf of a municipality or a local  
board thereof, or under an agreement between a  
municipality and a person, firm or corporation and  
includes special transportation facilities for the physi-  
cally disabled, but does not include transportation by  
special purpose facilities such as school buses or ambul-  
ances.
10. Subsection 2 of section 93 of the said Act is amended by striking out <sup>s. 93 (2),</sup> amended  
“cubic yard or per acre” in the second line and inserting in lieu  
thereof “cubic metre or per hectare”.
11. Subsection 3 of section 94 of the said Act is repealed and the <sup>s. 94 (3),</sup> re-enacted  
following substituted therefor:

- Barricades (3) While a road is closed to traffic under subsection 1, the road superintendent or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and, wherever an alternative route deviates from it, a barricade or other appropriate warning devices displaying lights or reflective material and, where applicable, detour signs indicating the alternative route.
- Commencement **12.**—(1) This Act, except sections 2, 3, 5, 6, 7, 8 and 9, comes into force on the day it receives Royal Assent.
- Idem (2) Sections 2, 3, 5, 6, 7, 8 and 9 come into force on the 1st day of July, 1979.
- Short title **13.** The short title of this Act is *The Public Transportation and Highway Improvement Amendment Act, 1979*.







An Act to amend  
The Public Transportation and  
Highway Improvement Act

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*1st Reading*

May 25th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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An Act to amend  
The Public Transportation and Highway Improvement Act

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THE HON. J. W. SNOW  
Minister of Transportation and Communications

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

#### EXPLANATORY NOTES

SECTIONS 1 AND 2. The only changes are conversions into metric measurements.

BILL 99

1979

**An Act to amend  
The Public Transportation and  
Highway Improvement Act**

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

1. Subsection 2 of section 31 of *The Public Transportation and Highway Improvement Act*, being chapter 201 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1976, chapter 41, section 2, is further amended by, <sup>s. 31 (2), amended</sup>
  - (a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres" and by striking out "600 feet" in the third line and inserting in lieu thereof "180 metres";
  - (b) in clause *b*, striking out "150 feet" in the first line and inserting in lieu thereof "45 metres" and by striking out "600 feet" in the second line and inserting in lieu thereof "180 metres";
  - (c) in clause *c*, striking out "two feet by one foot" in the third line and inserting in lieu thereof "sixty centimetres by thirty centimetres" and by striking out "one-quarter mile" in the sixth line and inserting in lieu thereof "400 metres"; and
  - (d) in clause *d*, striking out "one-half mile" in the first line and inserting in lieu thereof "800 metres".
  
2. Subsection 2 of section 35 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 41, section 4, is further amended <sup>s. 35 (2), amended</sup> by,
  - (a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres" and by striking out "1300 feet" in the third line and inserting in lieu thereof "395 metres";

- (b) in clause *b*, striking out "150 feet" in the first line and inserting in lieu thereof "45 metres" and by striking out "1,300 feet" in the second line and inserting in lieu thereof "395 metres";
- (c) in clause *c*, striking out "150 feet" in the second and third lines and inserting in lieu thereof "45 metres" and by striking out "1,300 feet" in the fourth line and inserting in lieu thereof "395 metres";
- (d) in clause *d*, striking out "one-quarter mile" in the second line and inserting in lieu thereof "400 metres";
- (e) in clause *e*, striking out "two feet by one foot" in the third line and inserting in lieu thereof "sixty centimetres by thirty centimetres" and by striking out "one-quarter mile" in the sixth line and inserting in lieu thereof "400 metres"; and
- (f) in clause *f*, striking out "one-half mile" in the first line and inserting in lieu thereof "800 metres".

s. 43 (1),  
amended

- 3.** Subsection 1 of section 43 of the said Act is amended by striking out "registered as a civil engineer under" in the third and fourth lines and inserting in lieu thereof "as defined in".

s. 51 (1),  
amended

- 4.—(1)** Subsection 1 of section 51 of the said Act is amended by striking out "twenty feet" in the second line and inserting in lieu thereof "six metres".

s. 51 (2),  
amended

- (2) Subsection 2 of the said section 51 is amended by striking out "twenty feet" in the fourth and fifth lines and inserting in lieu thereof "six metres".

s. 51 (3),  
amended

- (3) Subsection 3 of the said section 51 is amended by striking out "twenty feet" in the second line and inserting in lieu thereof "six metres".

s. 56 (6),  
amended

- 5.—(1)** Subsection 6 of section 56 of the said Act is amended by striking out "twenty-two feet" in the first and second lines and inserting in lieu thereof "seven metres".

s. 56 (7),  
amended

- (2) Subsection 7 of the said section 56 is amended by striking out "twenty-two feet" in the second line and in the fifth line and inserting in lieu thereof in each instance "seven metres".

s. 56 (8),  
amended

- (3) Subsection 8 of the said section 56 is amended by striking out "twenty-two feet" in the first line and in the seventh line and inserting in lieu thereof in each instance "seven metres".

**SECTION 3.** This is a housekeeping change where the reference to a professional engineer registered as a civil engineer under *The Professional Engineers Act* is changed to a reference to a professional engineer as defined in that Act.

**SECTIONS 4, 5, 6 AND 7.** The only changes are conversions into metric measurements.

SECTION 8. The definition of "public transportation" is amended to include special transportation facilities for the physically disabled.

SECTION 9. The change is a conversion into a metric measurement.

- (4) Subsection 10 of the said section 56 is amended by striking out <sup>s. 56 (10),</sup> "twenty-two feet" in the second line and inserting in lieu <sup>amended</sup> thereof "seven metres".
- (5) Subsection 11 of the said section 56 is amended by striking out <sup>s. 56 (11),</sup> "twenty-two feet" in the second line and in the sixth line and <sup>amended</sup> inserting in lieu thereof in each instance "seven metres".
6. Subsection 1 of section 60 of the said Act is amended by striking out <sup>s. 60 (1),</sup> "150 feet" in the second and third lines and inserting in lieu thereof <sup>amended</sup> "45 metres".
7. Subsection 1 of section 61 of the said Act is amended by, <sup>s. 61 (1),</sup> <sup>amended</sup>
- (a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres"; and
- (b) in clause *b*, striking out "one-quarter mile" in the second line and inserting in lieu thereof "400 metres".
8. Clause *b* of subsection 1 of section 87*b* of the said Act, as enacted by <sup>s. 87*b* (1) (b),</sup> the Statutes of Ontario, 1971, chapter 61, section 14, is repealed and <sup>re-enacted</sup> the following substituted therefor:
- (b) "public transportation" means any service for which a fare is charged for transporting the public by vehicles operated by or on behalf of a municipality or a local board thereof, or under an agreement between a municipality and a person, firm or corporation and includes special transportation facilities for the physically disabled, but does not include transportation by special purpose facilities such as school buses or ambulances.
9. Subsection 2 of section 93 of the said Act is amended by striking out <sup>s. 93 (2),</sup> "cubic yard or per acre" in the second line and inserting in lieu <sup>amended</sup> thereof "cubic metre or per hectare".
10. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup> <sup>ment</sup>
11. The short title of this Act is *The Public Transportation and Highway Improvement Amendment Act, 1979*. <sup>Short title</sup>

An Act to amend  
The Public Transportation and  
Highway Improvement Act

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*1st Reading*

May 25th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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



**BILL 99**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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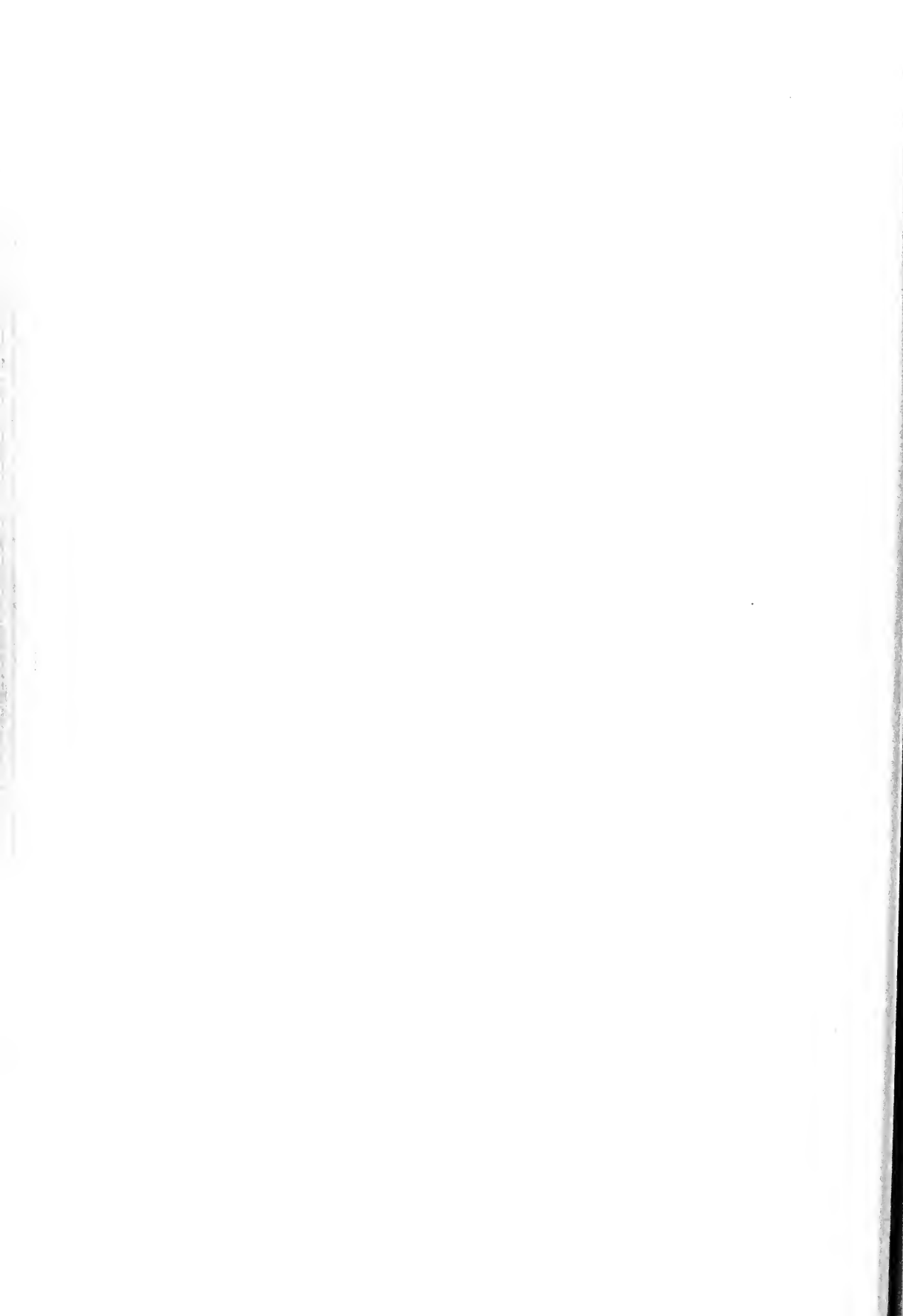
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**An Act to amend  
The Public Transportation and Highway Improvement Act**

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**THE HON. J. W. SNOW**  
Minister of Transportation and Communications

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**An Act to amend  
The Public Transportation and  
Highway Improvement Act**

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

1. Subsection 2 of section 31 of *The Public Transportation and Highway Improvement Act*, being chapter 201 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1976, chapter 41, section 2, is further amended by, s. 31 (2),  
amended
  - (a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres" and by striking out "600 feet" in the third line and inserting in lieu thereof "180 metres";
  - (b) in clause *b*, striking out "150 feet" in the first line and inserting in lieu thereof "45 metres" and by striking out "600 feet" in the second line and inserting in lieu thereof "180 metres";
  - (c) in clause *c*, striking out "two feet by one foot" in the third line and inserting in lieu thereof "sixty centimetres by thirty centimetres" and by striking out "one-quarter mile" in the sixth line and inserting in lieu thereof "400 metres"; and
  - (d) in clause *d*, striking out "one-half mile" in the first line and inserting in lieu thereof "800 metres".
  
2. Subsection 2 of section 35 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 41, section 4, is further amended by, s. 35 (2),  
amended
  - (a) in clause *a*, striking out "150 feet" in the second line and inserting in lieu thereof "45 metres" and by striking out "1300 feet" in the third line and inserting in lieu thereof "395 metres";

- (b) in clause *b*, striking out "150 feet" in the first line and inserting in lieu thereof "45 metres" and by striking out "1,300 feet" in the second line and inserting in lieu thereof "395 metres";
- (c) in clause *c*, striking out "150 feet" in the second and third lines and inserting in lieu thereof "45 metres" and by striking out "1,300 feet" in the fourth line and inserting in lieu thereof "395 metres";
- (d) in clause *d*, striking out "one-quarter mile" in the second line and inserting in lieu thereof "400 metres";
- (e) in clause *e*, striking out "two feet by one foot" in the third line and inserting in lieu thereof "sixty centimetres by thirty centimetres" and by striking out "one-quarter mile" in the sixth line and inserting in lieu thereof "400 metres"; and
- (f) in clause *f*, striking out "one-half mile" in the first line and inserting in lieu thereof "800 metres".

s. 43 (1),  
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3. Subsection 1 of section 43 of the said Act is amended by striking out "registered as a civil engineer under" in the third and fourth lines and inserting in lieu thereof "as defined in".

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- 4.—(1) Subsection 1 of section 51 of the said Act is amended by striking out "twenty feet" in the second line and inserting in lieu thereof "six metres".

s. 51 (2),  
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- (2) Subsection 2 of the said section 51 is amended by striking out "twenty feet" in the fourth and fifth lines and inserting in lieu thereof "six metres".

s. 51 (3),  
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- (3) Subsection 3 of the said section 51 is amended by striking out "twenty feet" in the second line and inserting in lieu thereof "six metres".

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- (2) Subsection 7 of the said section 56 is amended by striking out "twenty-two feet" in the second line and in the fifth line and inserting in lieu thereof in each instance "seven metres".

s. 56 (8),  
amended

- (3) Subsection 8 of the said section 56 is amended by striking out "twenty-two feet" in the first line and in the seventh line and inserting in lieu thereof in each instance "seven metres".

- (4) Subsection 10 of the said section 56 is amended by striking out <sup>s. 56 (10),</sup> amended  
“twenty-two feet” in the second line and inserting in lieu  
thereof “seven metres”.
- (5) Subsection 11 of the said section 56 is amended by striking out <sup>s. 56 (11),</sup> amended  
“twenty-two feet” in the second line and in the sixth line and  
inserting in lieu thereof in each instance “seven metres”.
6. Subsection 1 of section 60 of the said Act is amended by striking out <sup>s. 60 (1),</sup> amended  
“150 feet” in the second and third lines and inserting in lieu thereof  
“45 metres”.
7. Subsection 1 of section 61 of the said Act is amended by, <sup>s. 61 (1),</sup> amended
- (a) in clause *a*, striking out “150 feet” in the second line and  
inserting in lieu thereof “45 metres”; and
- (b) in clause *b*, striking out “one-quarter mile” in the second  
line and inserting in lieu thereof “400 metres”.
8. Clause *b* of subsection 1 of section 87*b* of the said Act, as enacted by <sup>s. 87*b* (1) (b),</sup> re-enacted  
the Statutes of Ontario, 1971, chapter 61, section 14, is repealed and  
the following substituted therefor:
- (b) “public transportation” means any service for which a  
fare is charged for transporting the public by vehicles  
operated by or on behalf of a municipality or a local  
board thereof, or under an agreement between a  
municipality and a person, firm or corporation and  
includes special transportation facilities for the physi-  
cally disabled, but does not include transportation by  
special purpose facilities such as school buses or ambul-  
ances.
9. Subsection 2 of section 93 of the said Act is amended by striking out <sup>s. 93 (2),</sup> amended  
“cubic yard or per acre” in the second line and inserting in lieu  
thereof “cubic metre or per hectare”.
10. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
<sup>ment</sup>
11. The short title of this Act is *The Public Transportation and* <sup>Short title</sup>  
*Highway Improvement Amendment Act, 1979.*





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An Act to amend  
The Public Transportation and  
Highway Improvement Act

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*1st Reading*

May 25th, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

June 19th, 1979

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THE HON. J. W. SNOW  
Minister of Transportation and  
Communications

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
Local Government in the District of Parry Sound**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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#### EXPLANATORY NOTES

This Bill is essentially in the same form as Bill 205 introduced late in the last Session.

The changes from Bill 205 are as follows :

1. The name of the new township is changed from "North Georgian Bay" to "Georgian Bay Archipelago" (section 3).
2. The new township council will be headed by a reeve, not a mayor, and the first reeve will be elected by the first council from among themselves (section 4 (1, 2) ).
3. The Minister may by order alleviate any hardships suffered by employees of the Town of Kearney as a result of the new territories added to the Town (section 12 (7) ).
4. The Townships of Humphrey and Foley have portions of Conger township annexed to them. (Parts IV and V of the Bill).
5. The start-up date for these reorganizations is January 1, 1980 rather than December 1, 1979, to coincide with the normal municipal fiscal year.
6. The Province is to pay the costs of school board elections in the Archipelago and Kearney in November, 1980, since there are no regular municipal elections in that year as a result of the special thirty-five month term for members of council.

The Bill incorporates certain unorganized portions of the west part of the District of Parry Sound into a municipality to be called the Township of Georgian Bay Archipelago. It also incorporates a new Town of Kearney and annexes certain lands to the Town of Parry Sound, the Township of Humphrey and the Township of Foley.

PART I of the Bill deals with the Township of Georgian Bay Archipelago. Sections 1 and 2 are definition sections, and section 3 refers to the lands being brought under municipal organization.

SECTION 4 provides for a council consisting of a reeve and ten councillors. The first election is to occur in 1979, and the Province is to bear the cost of this election. The section also provides that the Minister shall establish wards, and may allow a vote on a new name for the Township.

BILL 100

1979

## An Act respecting Local Government in the District of Parry Sound

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

1. In this Act, "Minister" means the Minister of Inter-governmental Affairs. Interpretation

### PART I

#### TOWNSHIP OF GEORGIAN BAY ARCHIPELAGO

2. In this Part, "Township" means the Township of Georgian Bay Archipelago as constituted under section 3. Idem

3. On the 1st day of January, 1980, the inhabitants of the geographic Township of Cowper and of those portions of the geographic townships of Conger, Shawanaga and Harrison, all of which lands are described in Schedule A hereto, are incorporated as a township municipality bearing the name "The Corporation of the Township of Georgian Bay Archipelago". Township of Georgian Bay Archipelago incorporated

4.—(1) The council of the Township shall consist of a reeve to be elected by general vote, and ten councillors. Composition of council

(2) Notwithstanding subsection 1, the first council elected shall consist of ten members, one of whom shall be selected from among themselves as reeve. First council

(3) The election of the first council shall be held in the year 1979 and, notwithstanding *The Municipal Elections Act, 1977*, the first council elected shall hold office for thirty-five months, commencing on the 1st day of January, 1980. Election of first council 1977, c 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, the Minister shall, by order, provide for the holding of the 1979 election Minister's powers

election in the year 1979 of the members of the first council of the Township, including nominations, polling days, polling places, the appointment of returning officers, preparation of polling lists, and any other matters considered necessary in respect of the first election.

Minister  
to divide  
Township  
into wards

(5) For the purposes of the election of the first council, the Minister shall by order divide the Township into wards and provide for the number of members of council other than the reeve to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Referendum  
re name

(6) If directed by order of the Minister, a vote of the electors of the Township shall be taken at the same time as the election of the first council to determine, from among the names designated by the Minister, which name the Township shall bear, and following the vote the Minister shall by order confirm the name of the Township as set out in section 3, or declare the name that the Township shall bear, and, where a declaration is made, all references to the Township shall be deemed to refer to the name of such Township as designated in the declaration.

Expenses  
for election  
of first  
council, etc.

(7) The expenses of the Township for the election of the first council and for the elections of The West Parry Sound Board of Education in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Place of  
meetings

5. The meetings of the council shall be held at such place in the District of Parry Sound as the council from time to time appoints.

General  
administrative  
head

6.—(1) The council of the Township may, by by-law, appoint a general administrative head, who,

- (a) shall have such general control and management of the administration of the government and affairs of the Township and perform such duties as the council by by-law describes;
- (b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;
- (c) shall hold office during the pleasure of council; and
- (d) shall receive such salary as the council by by-law determines.

SECTION 5 permits council meetings to be held anywhere in the District of Parry Sound, whether inside or outside the Township.

SECTION 6 provides that a person may be appointed to perform the same duties that a chief administrative officer appointed under *The Municipal Act* can perform.

SECTION 7 provides that local roads areas in the Township are dissolved and that decisions of local roads boards regarding road maintenance in the area are carried over to the new Township. The section also vests all assets and liabilities of the dissolved local roads boards in the Township, and permits the Township to agree with the Provincial Land Tax Collector as to the collection of arrears of that tax.

(2) Subsection 2 of section 238 of *The Municipal Act* applies to a general administrative head appointed under subsection 1.

Application of R.S.O 1970, c. 284, s. 238 (2)

7.—(1) Where an established local roads area is entirely within the Township, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Township.

Dissolution of local roads area and board

(2) Where only part of an established local roads area is within the Township, that part of the local roads area is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

Removal of part of local roads area

R.S.O 1970, c. 256

(3) All taxes and penalties assessed by a local roads board against any land in the Township which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Unpaid taxes, collection of by Township

(4) The Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Agreement respecting collection of land tax R.S.O 1970, c. 370

(5) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Local roads board program deemed adopted

(6) For purposes of subsection 5, the maintenance of the extension of the Pine Bay Road from Pine Bay to Woods Bay shall be deemed to be part of the road program of the South Conger Local Roads Board.

Extension of Pine Bay Road; maintenance deemed part of South Conger roads program

Appointment  
to fill  
vacancies

(7) Where part of a local roads area is removed from the local roads area under subsection 2, the remaining part is deemed to be a continuation of the original local roads area and the Minister of Transportation and Communications may, for the year 1980, by order, appoint persons to fill any vacancies on the board of trustees brought about as a result of this Act.

Territory  
detached from  
Parry Sound  
for purposes  
of  
1974, c. 109,  
s. 51 (2)

8.—(1) The territory without municipal organization that becomes part of the Township under section 3 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears  
deemed assets  
of Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in the Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Township to  
pay school tax  
arrears to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township has  
right to  
recover taxes  
under  
R.S.O. 1970,  
c. 118, Pt. III

(4) The Township has and shall be deemed always to have had the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Saving

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

Agreements  
for services

9. The Township and any municipality, including a district municipality, may enter into agreements for providing any services within the jurisdiction of the Township.

Township  
planning  
area under  
R.S.O. 1970,  
c. 349

10. On and after the 1st day of January, 1980, the Township shall be a planning area under *The Planning Act* to be known as The Georgian Bay Archipelago Planning Area and the Township council shall be the planning board



SECTION 8 deals with education matters; it removes the Town of Parry Sound from education tax collections and gives the Township the right to collect taxes, including arrears.

SECTION 9 permits the Township and another municipality to contract for services.

SECTION 10 establishes the Township as a planning area and deems the council to be the planning board.

PART II of the Bill deals with the incorporation of the new Town of Kearney. Section 12 provides for the incorporation, as well as defining the council to be elected in 1979. The costs of the first election are to be paid by the Province. The Town is deemed to be a township for highway subsidy purposes.

thereof, and where the Township council meets in respect of matters pertaining to planning, no separate meeting of the council as a planning board is required.

## PART II

### TOWN OF KEARNEY

11. In this Part, "Town" means the Town of Kearney as constituted under section 12. Interpretation

12.—(1) On the 1st day of January, 1980, the geographic townships of Bethune and Proudfoot and those portions of the geographic townships of Butt and McCraney described in Schedule B hereto, and the Town of Kearney as it existed on the 31st day of December, 1979, are incorporated as a town municipality bearing the name "The Corporation of the Town of Kearney". New Town of Kearney incorporated

(2) On and after the 1st day of January, 1980, the council of the Town shall consist of a mayor to be elected by general vote and six councillors. Composition of council

(3) Notwithstanding *The Municipal Elections Act, 1977*, the election of the first council shall be held in the year 1979 and for the purposes of that election the Minister shall, by order, divide the Town into wards and provide for the number of members of council, other than the mayor, to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board. Election of first council 1977, c. 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, on the 31st day of December, 1979, the existing council is dissolved, and the first council elected shall hold office for thirty-five months, commencing on the 1st day of January, 1980. Existing council dissolved, term of office of first council

(5) The expenses of the Town for the election of the first council and for the election of The East Parry Sound Board of Education, in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund. Expenses for election of first council, etc

(6) For the purposes of *The Public Transportation and Highway Improvement Act*, the Town shall be deemed to be a township municipality. Town deemed township for purposes of R.S.O. 1970, c. 201

Alleviation  
of hardship

(7) Where any employee of the Town of Kearney employed on the 28th day of May, 1979 experiences any difficulty or hardship with regard to his employment as a result of the incorporation under this section, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Dissolution  
of local  
roads area  
and board

**13.**—(1) Where an established local roads area is entirely within the Town, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Town.

Unpaid taxes,  
collection of  
by Town

(2) All taxes and penalties assessed by a local roads board against any land in the Town which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon such land to the Town, and the collector of the Town shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Town, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Town.

Agreement  
respecting  
collection  
of land tax  
R.S.O. 1970,  
c. 370

(3) The Town and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Town of arrears of land tax in respect of property within the Town.

Local roads  
program  
deemed  
adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Town under this section, shall be deemed to be adopted by by-law of the council of the Town on the 1st day of January, 1980.

Territory  
annexed to  
Town ceases  
to be deemed  
to be district  
municipality  
1977, c. 109

**14.**—(1) The territory without municipal organization that becomes part of the Town under section 12 of this Act and that was deemed to be a district municipality or part of a district municipality in respect of The East Parry Sound Board of Education under subsection 3 of section 50 of *The Education Act, 1974*, ceases to be so deemed on the 1st day of January, 1980.

School tax  
arrears  
deemed assets  
of Town

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in the Town and that are owing and uncollected as of the 1st day of January, 1980, shall be deemed to have become assets of the Town on the 1st day of January, 1980.

**SECTION 13** sets out the same provisions for local roads areas and collection of taxes as apply in the Township of Georgian Bay Archipelago.

**SECTION 14** contains provisions regarding education matters similar to those for the Township of Georgian Bay Archipelago.

PART III deals with the annexation of portions of the townships of McDougall and Foley to the Town of Parry Sound. Section 16 permits the Minister to alleviate any hardships suffered by McDougall employees as a result of this annexation.

PARTS IV AND V deal respectively with the annexation of portions of the Township of Conger to the Township of Humphrey and to the Township of Foley. Similar provisions are included with respect to local roads areas and the collection of taxes as are found in Part I dealing with the Township of Georgian Bay Archipelago.

(3) The Town shall pay, to the extent that such moneys have not already been paid, the full amount of such arrears and accumulated interest to The East Parry Sound Board of Education.

Town to pay school tax arrears to East Parry Sound Board of Education

(4) The Town has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Town has right to collect taxes under R.S.O. 1970, c. 118, Pt. III

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Town on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Town.

Saving

### PART III

#### TOWN OF PARRY SOUND

**15.** On the 1st day of January, 1980, the portions of the Township of McDougall and the Township of Foley described in Schedule C hereto are annexed to the Town of Parry Sound.

Part of McDougall Township and Foley Township annexed to Parry Sound

**16.** Where any employee of the Township of McDougall experiences any difficulty or hardship with regard to his employment as a result of the annexation under section 15, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Alleviation of hardship

### PART IV

#### TOWNSHIP OF HUMPHREY

**17.** On the 1st day of January, 1980 the portions of the geographic Township of Conger described in Schedule D hereto are annexed to the Township of Humphrey.

Part of Conger annexed to Humphrey

**18.—(1)** Where part of an established local roads area is within the Township, that part of the local roads area is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

Removal of part of local roads area

R.S.O. 1970, c. 256

Unpaid taxes,  
collection of  
by township

(2) All taxes and penalties assessed by a local roads board against any land in the Township, which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Agreement  
respecting  
collection of  
land tax  
R.S.O. 1970,  
c. 370

(3) The Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Local roads  
board program  
deemed  
adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Detachment  
of part of  
Conger from  
Parry Sound

1974, c. 109

**19.**—(1) That part of the geographic Township of Conger that becomes part of the Township under section 17 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears deemed  
assets of  
Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to land located in the Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Arrears to be  
paid to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township  
has right to  
collect taxes  
under  
R.S.O. 1970,  
c. 118, Part III

(4) The Township has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Saving

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures



under any Act for the sale for arrears of taxes for school purposes of land that is in the Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

## PART V

### TOWNSHIP OF FOLEY

**20.** On the 1st day of January, 1980 the portions of the geographic Township of Conger described in Schedule E hereto are annexed to the Township of Foley. Part of Conger annexed to Foley

**21.**—(1) Where part of an established local roads area is within the Township, that part of the local roads area is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area. Removal of part of local roads area  
R.S.O. 1970, c. 256

(2) All taxes and penalties assessed by a local roads board against any land in the Township, which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township. Unpaid taxes, collection of by Township

(3) The Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township. Agreement respecting collection of land tax  
R.S.O. 1970, c. 370

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980. Local roads program deemed adopted

**22.**—(1) That part of the geographic Township of Conger that becomes part of the Township under section 20 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education* Detachment of part of Conger from Parry Sound  
1974, c. 109

*Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears deemed  
assets of  
Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to land located in the Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Arrears to  
be paid to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township  
has right  
to collect  
taxes under  
R.S.O. 1970,  
c. 118, Part 111

(4) The Township has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Saving

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

## PART VI

### GENERAL

Incorporations  
and  
annexations  
deemed by  
Municipal  
Board orders  
R.S.O. 1970,  
cc. 323, 284

**23.** The incorporations and annexations provided for in this Act shall be deemed to have been effected by orders of the Ontario Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of that Act, made on the day the incorporations or annexations take effect under this Act, pursuant to applications made under sections 10 and 14 of *The Municipal Act*, and subject to the provisions of this Act, the Ontario Municipal Board, upon the application of the municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such incorporation and annexations and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

Conditional  
powers

**24.** The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the content and purpose of this Act.

PART VI sets out general provisions allowing questions arising out of these municipal reorganizations to be determined by the Ontario Municipal Board, permitting the Lieutenant Governor in Council to make general remedial orders, and ensuring that the boards of education elected in 1978 in these areas are not affected by the Act.



**25.** Notwithstanding subsections 12, 25 and 31 of section 57 of *The Education Act, 1974*, nothing in this Act shall, for the period commencing the 1st day of January, 1980 and ending on the 30th day of November, 1980, affect the representation on The West Parry Sound Board of Education or The East Parry Sound Board of Education of any municipality or territory without municipal organization as it exists on the day this Act comes into force.

Representation on boards of education not affected 1974, c. 109

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

Commencement

**27.** The short title of this Act is *The District of Parry Sound Local Government Act, 1979*.

Short title

## SCHEDULE A

FIRSTLY, part of the geographic township of Conger, commencing at the intersection of the northerly boundary of the Township of Conger and the centre line of the road allowance between lots 35 and 36 of the said Township;

THENCE southerly along the centre line of the said road allowance to the centre line of the road allowance between concessions VI and VII in the Township of Conger;

THENCE easterly along the centre line of the said road allowance between concessions VI and VII to the northerly prolongation of the easterly limit of Lot 10 in the said Concession VI;

THENCE southerly to and along the easterly limit of Lot 10 in concessions VI, V and IV in the Township of Conger to the northerly limit of Concession III of the Township of Conger;

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE southerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwesterly following the northwesterly limit of the said King's Highway to the southerly limit of the Township of Conger;

THENCE South 69° 08' 20" West along the southerly boundary of the Township of Conger to the easterly high water mark of Twelve Mile Bay of Georgian Bay;

THENCE South 69° 08' 20" West along the westerly prolongation in accordance with subsection 1 of section 11 of *The Territorial Division Act*, being chapter 458 of the Revised Statutes of Ontario, 1970 to the middle of Twelve Mile Bay of Georgian Bay;

THENCE westerly in a straight line to a point midway between Martin Island and Passage Island;

THENCE southwesterly in a straight line 11.75 miles to a point measured South  $20^{\circ} 51' 40''$  East one mile from the southerly point of Thumb Rock of the Western Islands, the said point being on the westerly prolongation of the southerly boundary of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the prolongation of the said southerly boundary 11 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.4 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.2 miles to a point distant 1,500 feet measured South  $69^{\circ} 08' 20''$  West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island;

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island;

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed Islands lying north of Anker Pint Islet;

THENCE easterly 1,000 feet to a point distant 200 feet measured Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island;

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the northerly boundary of the Township of Conger;

THENCE easterly and northeasterly following the middle of the said Bay to the northerly boundary of the Township of Conger;

THENCE easterly along the northerly boundary of the Township of Conger to the point of commencement;

SECONDLY, the geographic township of Cowper, commencing at the southeasterly angle of the Township of Cowper;

THENCE northerly along the easterly boundary of the Township of Cowper to the southerly high water mark of South Channel;

THENCE northerly along the northerly prolongation in accordance with subsection 2b of section 11 of *The Territorial Division Act*, to the southerly high water mark of Isabella Island;

THENCE easterly, northerly and westerly following the high water mark of Isabella Island to the said northerly prolongation of the easterly boundary of the Township of Cowper;

THENCE northerly along the northerly prolongation of the easterly boundary of the Township of Cowper to the boundary between the geographic townships of Cowper and McDougall;

THENCE westerly along the northerly boundary of the geographic township of Cowper in accordance with the said section 11 of *The Territorial Division Act* to the easterly high water mark of Georgian Bay on the westerly shore of Parry Island;

THENCE westerly following the southerly boundaries of the Township of Carling to the southwesterly angle of the Township of Carling in the middle of Georgian Bay;

THENCE South 36° East along the middle of Georgian Bay 10.3 miles to a point;

THENCE North 69° 08' 20" East 25.2 miles to a point distant 1,500 feet measured South 69° 08' 20" West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island;

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island;

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed islands lying north of Anker Pint Islet;

THENCE easterly 1,000 feet to a point measured 200 feet Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island;

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly and northeasterly following the middle of the Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly along the southerly boundary of the Township of Cowper to the point of commencement;

THIRDLY, part of the geographic township of Harrison, commencing at the intersection of the easterly high water mark of Georgian Bay and the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to the westerly limit of the Naiscoutaing Indian Reserve Number 17A;

THENCE easterly following the southerly limits of the said Indian Reserve to the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to a point distant 8,052 feet measured North  $69^{\circ} 08' 20''$  East therealong from the easterly limit of Lot 31 in Concession XIV of the Township of Harrison;

THENCE South  $20^{\circ} 51' 40''$  East 13,332 feet to a point;

THENCE North  $69^{\circ} 08' 20''$  East 32,000 feet to the easterly boundary of the Township of Harrison;

THENCE southerly along the easterly boundary of the Township of Harrison to its southeasterly angle;

THENCE westerly along the southerly boundary of the Township of Harrison to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwesterly to the northerly point of Osseo Island;

THENCE westerly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to northwesterly point of the said Island;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;



THENCE westerly along the northerly high water mark of Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.5 miles to the easterly boundary of the Territorial District of Manitoulin in accordance with paragraph 47 of section 1 of *The Territorial Division Act*;

THENCE Due North along the said easterly boundary 3.8 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.5 miles to a point midway between the Brother Islands and the Sister Islands;

THENCE easterly to the northerly point of Jarrad Island;

THENCE easterly following the middle of Charles Inlet being to and along the middle of the Middle Channel of the Naiscoot River to the headwaters of the South Channel of the Naiscoot River;

THENCE southerly along the middle of the South Channel of the Naiscoot River to the westerly prolongation of the northerly boundary of the Township of Harrison;

THENCE easterly along the prolongation of the Township of Harrison to the point of commencement;

FOURTHLY, part of the geographic township of Shawanaga, commencing at the intersection of the easterly high water mark of Georgian Bay and the southerly boundary of the Township of Shawanaga;

THENCE easterly along the southerly boundary of the Township of Shawanaga to a point distant 6,666 feet measured South  $69^{\circ} 08' 20''$  West therealong from the southwesterly angle of Lot 20 in Concession 1 in the Township of Shawanaga;

THENCE North  $20^{\circ} 51' 40''$  West to the southerly limit of the Shawanaga Indian Reserve Number 17;

THENCE westerly and northerly following the westerly limits of the Indian Reserve to the northerly limit of the said Indian Reserve;

THENCE easterly following the said northerly limit to the easterly limit of the said Indian Reserve;

THENCE southerly along the easterly limit of the said Indian Reserve to the northeasterly limit of the King's Highway Number 69;

THENCE North  $69^{\circ} 08' 20''$  East 3 miles to the easterly boundary of the Township of Shawanaga;

THENCE northerly along the easterly boundary of the Township of Shawanaga to its northeasterly angle;

THENCE westerly along the northerly boundary of the Township of Shawanaga to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwesterly to the northerly point of Osseo Island;

THENCE southwesterly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to its northwesterly point;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;

THENCE westerly along the northerly high water mark to the northwesterly Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE South  $36^{\circ}$  East along the middle of Georgian Bay 6.8 miles to the westerly angle of the Township of Carling;

THENCE easterly along the northerly boundary of the Township of Carling to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Naiscoutaing Indian Reserve Number 17B and the Parry Island Indian Reserve Number 16.

## SCHEDULE B

FIRSTLY, part of the geographic township of Butt, commencing at the southwesterly angle of the Township of Butt;

THENCE easterly along the southerly boundary of the Township of Butt to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly along the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of Butt;

THENCE westerly along the northerly boundary of the Township of Butt to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of Butt to the point of commencement;

SECONDLY, part of the geographic township of McCraney, commencing at the southwesterly angle of the Township of McCraney;

THENCE easterly along the southerly boundary of the Township of McCraney to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly following the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of McCraney;

THENCE westerly along the northerly boundary of the Township of McCraney to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of McCraney to the point of commencement.

### SCHEDULE C

FIRSTLY, part of the Township of McDougall, commencing at the intersection of the northerly boundary of the Town of Parry Sound and the high water mark of the easterly shore of Parry Sound;

THENCE easterly following the boundaries between the Town of Parry Sound and the Township of McDougall to the northeasterly angle of the said Town;

THENCE southerly following along the boundaries between the Town of Parry Sound and the Township of McDougall to the southerly boundary of the said Township;

THENCE easterly along the said Township boundary to the southerly prolongation of the easterly limit of Lot 25 in Concession I of the said Township of McDougall;

THENCE northerly to and along the easterly limit of Lot 25 in concessions I and II and the northerly prolongation thereof to a parallel line distant 200 feet measured southerly at right angles from the northerly high water mark of Mill Lake.

THENCE easterly and northerly parallel with the high water mark of Mill Lake to the easterly prolongation of southerly limit of Lot 24 in Concession IV of the Township of McDougall;

THENCE westerly to and along the southerly limit of lots 24 and 25 in Concession IV to the easterly limit of the road allowance between lots 25 and 26;

THENCE northerly along the said easterly limit to the northerly limit of the road allowance between concessions IV and V of the Township of McDougall;

THENCE westerly along the said northerly limit of road allowance to the easterly limit of the right-of-way of the Canadian Pacific Railways;

THENCE southerly along the easterly limit of the said right-of-way to the northerly limit of Lot 17 in Concession A of the Township of McDougall;

THENCE westerly along the northerly limit of the said Lot 17 to north-westerly angle of the said Lot;

THENCE westerly along the westerly prolongation of the northerly limit of the said Lot to the northerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE southerly to and along the easterly limit of the said Indian Reserve to the southerly boundary of the Township of McDougall;

THENCE easterly along the southerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE northerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

SECONDLY, part of the Township of Foley, commencing at the southwesterly angle of the Town of Parry Sound;

THENCE westerly along the prolongation of the southerly boundary of the said Town to the southerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE northerly to and along the easterly limit of the said Indian Reserve to the northerly boundary of the Township of Foley;

THENCE easterly along the northerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE southerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

## SCHEDULE D

FIRSTLY, part of the geographic township of Conger, commencing at the northeasterly angle of the Township of Conger;

THENCE westerly along the northerly boundary of the Township of Conger to the easterly limit of Lot 10 in Concession XII of the said Township;

THENCE southerly along the easterly limit of Lot 10 in concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger;

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the point of commencement;

SECONDLY, part of the geographic township of Conger, commencing at the southeasterly angle of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwesterly following the northwesterly limit of the said King's Highway to the southerly boundary of the Township of Conger;

THENCE easterly along the southerly boundary of the Township of Conger to the point of commencement.

## SCHEDULE E

FIRSTLY, part of the Township of Conger, commencing at the intersection of the northerly boundary of the Township of Conger and the centre line of the road allowance between lots 35 and 36 in the said Township;

THENCE southerly along the centre line of the said road allowance to the centre line of the road allowance between concessions VI and VII in the Township of Conger;

THENCE easterly along the centre line of the said road allowance between concessions VI and VII to the southerly prolongation of the easterly limit of Lot 10 in the said Concession VII;

THENCE northerly to and along the easterly limit of Lot 10 in concessions VII to XII in the Township of Conger to the northerly boundary of the Township;

THENCE westerly along the northerly boundary of the Township of Conger to the point of commencement.





An Act respecting  
Local Government in the District of  
Parry Sound

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*1st Reading*

May 28th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
Local Government in the District of Parry Sound**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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

## EXPLANATORY NOTES

This Bill is essentially in the same form as Bill 205 introduced late in the last Session.

The changes from Bill 205 are as follows:

1. Two new Townships are created bearing the names "Georgian Bay North Archipelago" and "Georgian Bay South Archipelago" (ss. 3, 4).
2. The new township councils will be headed by a reeve, not a mayor. (s. 5 (1)).
3. The Minister may by order alleviate any hardships suffered by employees of the Town of Kearney as a result of the new territories added to the Town (section 13 (7)).
4. The Township of Humphrey has portions of Conger township annexed to it. (Part IV of the Bill).
5. The start-up date for these reorganizations is January 1, 1980 rather than December 1, 1979, to coincide with the normal municipal fiscal year.
6. The Province is to pay the costs of school board elections in the Archipelago and Kearney in November, 1980, since there are no regular municipal elections in that year as a result of the special thirty-five month term for members of council.

The Bill incorporates certain unorganized portions of the west part of the District of Parry Sound into two municipalities to be called the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago. It also incorporates a new Town of Kearney and annexes certain lands to the Town of Parry Sound, the Township of Humphrey and the Township of Foley.

PART 1 of the Bill deals with the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago. Sections 1 and 2 are definition sections, and sections 3 and 4 refer to the lands being brought under municipal organization.

SECTION 5 provides for a council consisting of a reeve and four councillors. The first elections are to occur in 1979, and the Province is to bear the cost of these elections. The section also provides that the Minister shall establish wards, and may allow a vote on a new name for each Township.

BILL 100

1979

## An Act respecting Local Government in the District of Parry Sound

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

1. In this Act, "Minister" means the Minister of Inter-governmental Affairs. Interpretation

### PART I

#### TOWNSHIPS OF GEORGIAN BAY NORTH ARCHIPELAGO AND GEORGIAN BAY SOUTH ARCHIPELAGO

2. In this Part, "Township" means the Township of Georgian Bay North Archipelago as constituted under section 3 or the Township of Georgian Bay South Archipelago as constituted under section 4. Idem

3. On the 1st day of January, 1980, the inhabitants of those portions of the geographic townships of Shawanaga and Harrison, all of which lands are described in Schedule A hereto, are incorporated as a township municipality bearing the name "The Corporation of the Township of Georgian Bay North Archipelago". Township of Georgian Bay North Archipelago incorporated

4. On the 1st day of January, 1980, the inhabitants of the geographic Township of Cowper and of that portion of the geographic Township of Conger all of which lands are described in Schedule B hereto are incorporated as a township municipality bearing the name of "The Corporation of the Township of Georgian Bay South Archipelago". Township of Georgian Bay South Archipelago incorporated

5.—(1) The council of a Township shall consist of a reeve to be elected by general vote and four councillors. Composition of council

(2) The election of the first council shall be held in the year 1979 and, notwithstanding *The Municipal Elections Act*, Election of first council 1977, c 62

1977, the first council elected shall hold office for thirty-five months, commencing on the 1st day of January, 1980.

1979 election:  
Minister's  
powers

(3) Notwithstanding *The Municipal Elections Act, 1977*, the Minister shall, by order, provide for the holding of the election in the year 1979 of the members of the first council of a Township, including nominations, polling days, polling places, the appointment of returning officers, preparation of polling lists, and any other matters considered necessary in respect of the first election.

Minister  
to divide  
Township  
into wards

(4) For the purposes of the election of the first council, the Minister shall by order divide a Township into wards and provide for the number of members of council other than the reeve to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Referendum  
re name

(5) If directed by order of the Minister, a vote of the electors of a Township shall be taken at the same time as the election of the first council to determine, from among the names designated by the Minister, which name the Township shall bear, and following the vote the Minister shall by order confirm the name of the Township as set out in section 3 or 4, as the case may be, or declare the name that the Township shall bear, and, where a declaration is made, all references to the Township shall be deemed to refer to the name of such Township as designated in the declaration.

Expenses  
for election  
of first  
council, etc.

(6) The expenses of a Township for the election of the first council and for the elections of The West Parry Sound Board of Education in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Place of  
meetings

6. The meetings of a council shall be held at such place in the District of Parry Sound as the council from time to time appoints.

General  
administrative  
head

7.—(1) The council of a Township may, by by-law, appoint a general administrative head, who,

(a) shall have such general control and management of the administration of the government and affairs of the Township and perform such duties as the council by by-law describes;

(b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;

SECTION 6 permits council meetings to be held anywhere in the District of Parry Sound, whether inside or outside a Township.

SECTION 7 provides that a person may be appointed to perform the same duties that a chief administrative officer appointed under *The Municipal Act* can perform.

SECTION 8 provides that local roads areas in a Township are dissolved and that decisions of local roads boards regarding road maintenance in the area are carried over to the new Township. The section also vests all assets and liabilities of the dissolved local roads boards in the Township, and permits the Township to agree with the Provincial Land Tax Collector as to the collection of arrears of that tax.

(c) shall hold office during the pleasure of council; and

(d) shall receive such salary as the council by by-law determines.

(2) Subsection 2 of section 238 of *The Municipal Act* applies to a general administrative head appointed under subsection 1. Application of R.S.O. 1970, c. 284, s. 238 (2)

8.—(1) Where an established local roads area is entirely within a Township, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Township. Dissolution of local roads area and board

(2) Where only part of an established local roads area is within a Township, that part of the local roads area is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area. Removal of part of local roads area

(3) All taxes and penalties assessed by a local roads board against any land in a Township which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township. Unpaid taxes, collection of by Township

(4) A Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township. Agreement respecting collection of land tax R.S.O. 1970, c. 370

(5) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of a Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980. Local roads board program deemed adopted

Extension of Pine Bay Road; maintenance deemed part of South Conger roads program

(6) For purposes of subsection 5, the maintenance of the extension of the Pine Bay Road from Pine Bay to Woods Bay shall be deemed to be part of the road program of the South Conger Local Roads Board.

Appointment to fill vacancies

(7) Where part of a local roads area is removed from the local roads area under subsection 2, the remaining part is deemed to be a continuation of the original local roads area and the Minister of Transportation and Communications may, for the year 1980, by order, appoint persons to fill any vacancies on the board of trustees brought about as a result of this Act.

Territory detached from Parry Sound for purposes of 1974, c. 109, s 51 (2)

9.—(1) The territory without municipal organization that becomes part of a Township under section 3 or 4 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax arrears deemed assets of Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in a Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Township to pay school tax arrears to Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township has right to recover taxes under R.S.O 1970, c. 118, Pt. III

(4) A Township has and shall be deemed always to have had the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Saving

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in a Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

Agreements for services

10. A Township and any municipality, including a district municipality, may enter into agreements for providing any services within the jurisdiction of the Township.



SECTION 9 deals with education matters; it removes the Town of Parry Sound from education tax collections and gives the Townships the right to collect taxes, including arrears.

SECTION 10 permits a Township and another municipality to contract for services.

SECTION 11 establishes the Townships as planning areas and deems the council to be the planning board.

PART II of the Bill deals with the incorporation of the new Town of Kearney. Section 13 provides for the incorporation, as well as defining the council to be elected in 1979. The costs of the first election are to be paid by the Province. The Town is deemed to be a township for highway subsidy purposes.

11. On and after the 1st day of January, 1980, a Township shall be a planning area under *The Planning Act* to be known as The Georgian Bay North Archipelago Planning Area and The Georgian Bay South Archipelago Planning Area respectively and the Township council shall be the planning board thereof, and where the Township council meets in respect of matters pertaining to planning, no separate meeting of the council as a planning board is required.

Townships  
planning  
areas under  
R.S.O. 1970,  
c. 349

## PART II

### TOWN OF KEARNEY

12. In this Part, "Town" means the Town of Kearney as constituted under section 13.

Inter-  
pretation

13.—(1) On the 1st day of January, 1980, the geographic townships of Bethune and Proudfoot and those portions of the geographic townships of Butt and McCraney described in Schedule C hereto, and the Town of Kearney as it existed on the 31st day of December, 1979, are incorporated as a town municipality bearing the name "The Corporation of the Town of Kearney".

New Town  
of Kearney  
incorporated

(2) On and after the 1st day of January, 1980, the council of the Town shall consist of a mayor to be elected by general vote and six councillors.

Composition  
of council

(3) Notwithstanding *The Municipal Elections Act, 1977*, the election of the first council shall be held in the year 1979 and for the purposes of that election the Minister shall, by order, divide the Town into wards and provide for the number of members of council, other than the mayor, to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Election of  
first council  
1977, c. 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, on the 31st day of December, 1979, the existing council is dissolved, and the first council elected shall hold office for thirty-five months, commencing on the 1st day of January, 1980.

Existing  
council  
dissolved;  
term of  
office of  
first council

(5) The expenses of the Town for the election of the first council and for the election of The East Parry Sound Board of Education, in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Expenses for  
election of  
first council,  
etc

Town deemed township for purposes of R.S.O. 1970, c. 201

(6) For the purposes of *The Public Transportation and Highway Improvement Act*, the Town shall be deemed to be a township municipality.

Alleviation of hardship

(7) Where any employee of the Town of Kearney employed on the 28th day of May, 1979 experiences any difficulty or hardship with regard to his employment as a result of the incorporation under this section, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Dissolution of local roads area and board

**14.**—(1) Where an established local roads area is entirely within the Town, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Town.

Unpaid taxes, collection of by Town

(2) All taxes and penalties assessed by a local roads board against any land in the Town which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon such land to the Town, and the collector of the Town shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Town, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Town.

Agreement respecting collection of land tax R.S.O. 1970, c. 370

(3) The Town and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Town of arrears of land tax in respect of property within the Town.

Local roads program deemed adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Town under this section, shall be deemed to be adopted by by-law of the council of the Town on the 1st day of January, 1980.

Territory annexed to Town ceases to be deemed to be district municipality 1977, c. 109

**15.**—(1) The territory without municipal organization that becomes part of the Town under section 13 of this Act and that was deemed to be a district municipality or part of a district municipality in respect of The East Parry Sound Board of Education under subsection 3 of section 50 of *The Education Act, 1974*, ceases to be so deemed on the 1st day of January, 1980.

School tax arrears deemed assets of Town

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in the

SECTION 14 sets out the same provisions for local roads areas and collection of taxes as apply in the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago.

SECTION 15 contains provisions regarding education matters similar to those for the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago.

PART III deals with the annexation of portions of the townships of McDougall and Foley to the Town of Parry Sound. Section 17 permits the Minister to alleviate any hardships suffered by McDougall employees as a result of this annexation.

PART IV deals with the annexation of portions of the Township of Conger to the Township of Humphrey. Similar provisions are included with respect to local roads areas and the collection of taxes as are found in Part I dealing with the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago.

Town and that are owing and uncollected as of the 1st day of January, 1980, shall be deemed to have become assets of the Town on the 1st day of January, 1980.

(3) The Town shall pay, to the extent that such moneys have not already been paid, the full amount of such arrears and accumulated interest to The East Parry Sound Board of Education.

Town to pay school tax arrears to East Parry Sound Board of Education

(4) The Town has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Town has right to collect taxes under R.S.O. 1970, c. 118, Pt. III

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Town on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Town.

Saving

### PART III

#### TOWN OF PARRY SOUND

**16.** On the 1st day of January, 1980, the portions of the Township of McDougall and the Township of Foley described in Schedule D hereto are annexed to the Town of Parry Sound.

Part of McDougall Township and Foley Township annexed to Parry Sound

**17.** Where any employee of the Township of McDougall experiences any difficulty or hardship with regard to his employment as a result of the annexation under section 16, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Alleviation of hardship

### PART IV

#### TOWNSHIP OF HUMPHREY

**18.** On the 1st day of January, 1980, the portions of the geographic Township of Conger described in Schedule E hereto are annexed to the Township of Humphrey.

Part of Conger annexed to Humphrey

**19.**—(1) Where part of an established local roads area is within the Township, that part of the local roads area

Removal of part of local roads area

R.S.O. 1970,  
c. 256

is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

Unpaid taxes,  
collection of  
by township

(2) All taxes and penalties assessed by a local roads board against any land in the Township, which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Agreement  
respecting  
collection of  
land tax  
R.S.O. 1970,  
c. 370

(3) The Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Local roads  
board program  
deemed  
adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Detachment  
of part of  
Conger from  
Parry Sound

1974, c. 109

**20.—(1)** That part of the geographic Township of Conger that becomes part of the Township under section 18 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears deemed  
assets of  
Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to land located in the Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Arrears to be  
paid to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township  
has right to  
collect taxes  
under  
R S O 1970,  
c. 118, Part III

(4) The Township has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest





**PART V** sets out general provisions allowing questions arising out of these municipal reorganizations to be determined by the Ontario Municipal Board, permitting the Lieutenant Governor in Council to make general remedial orders, and ensuring that the boards of education elected in 1978 in these areas are not affected by the Act.

owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township. Saving

## PART V

### GENERAL

**21.** The incorporations and annexations provided for in this Act shall be deemed to have been effected by orders of the Ontario Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of that Act, made on the day the incorporations or annexations take effect under this Act, pursuant to applications made under sections 10 and 14 of *The Municipal Act*, and subject to the provisions of this Act, the Ontario Municipal Board, upon the application of the municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such incorporation and annexations and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers. Incorporations and annexations deemed by Municipal Board orders. R.S.O. 1970, c. 323, 284

**22.** The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the content and purpose of this Act. Conditional powers

**23.** Notwithstanding subsections 12, 25 and 31 of section 57 of *The Education Act, 1974*, nothing in this Act shall, for the period commencing the 1st day of January, 1980 and ending on the 30th day of November, 1980, affect the representation on The West Parry Sound Board of Education or The East Parry Sound Board of Education of any municipality or territory without municipal organization as it exists on the day this Act comes into force. Representation on boards of education not affected 1974, c. 109

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

Short title

**25.** The short title of this Act is *The District of Parry Sound Local Government Act, 1979.*

## SCHEDULE A

**FIRSTLY**, part of the geographic township of Harrison, commencing at the intersection of the easterly high water mark of Georgian Bay and the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to the westerly limit of the Naiscoutaing Indian Reserve Number 17A;

THENCE easterly following the southerly limits of the said Indian Reserve to the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to a point distant 8,052 feet measured North  $69^{\circ} 08' 20''$  East therealong from the easterly limit of Lot 31 in Concession XIV of the Township of Harrison;

THENCE South  $20^{\circ} 51' 40''$  East 13,332 feet to a point;

THENCE North  $69^{\circ} 08' 20''$  East 32,000 feet to the easterly boundary of the Township of Harrison;

THENCE southerly along the easterly boundary of the Township of Harrison to its southeasterly angle;

THENCE westerly along the southerly boundary of the Township of Harrison to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwestery to the northerly point of Osseo Island;

THENCE westerly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to northwesterly point of the said Island;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;

THENCE westerly along the northerly high water mark of Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.5 miles to the easterly boundary of the Territorial District of Manitoulin in accordance with paragraph 47 of section 1 of *The Territorial Division Act*;

THENCE Due North along the said easterly boundary 3.8 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.5 miles to a point midway between the Brother Islands and the Sister Islands;

THENCE easterly to the northerly point of Jarrad Island;

THENCE easterly following the middle of Charles Inlet being to and along the middle of the Middle Channel of the Naiscoot River to the headwaters of the South Channel of the Naiscoot River;

THENCE southerly along the middle of the South Channel of the Naiscoot River to the westerly prolongation of the northerly boundary of the Township of Harrison;

THENCE easterly along the prolongation of the Township of Harrison to the point of commencement;

SECONDLY, part of the geographic township of Shawanaga, commencing at the intersection of the easterly high water mark of Georgian Bay and the southerly boundary of the Township of Shawanaga;

THENCE easterly along the southerly boundary of the Township of Shawanaga to a point distant 6,666 feet measured South  $69^{\circ} 08' 20''$  West therealong from the southwestly angle of Lot 20 in Concession 1 in the Township of Shawanaga;

THENCE North  $20^{\circ} 51' 40''$  West to the southerly limit of the Shawanaga Indian Reserve Number 17;

THENCE westerly and northerly following the westerly limits of the Indian Reserve to the northerly limit of the said Indian Reserve;

THENCE easterly following the said northerly limit to the easterly limit of the said Indian Reserve;

THENCE southerly along the easterly limit of the said Indian Reserve to the northeasterly limit of the King's Highway Number 69;

THENCE North  $69^{\circ} 08' 20''$  East 3 miles to the easterly boundary of the Township of Shawanaga;

THENCE northerly along the easterly boundary of the Township of Shawanaga to its northeasterly angle;

THENCE westerly along the northerly boundary of the Township of Shawanaga to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwesterly to the northerly point of Osseo Island;

THENCE southwesterly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to its northwesterly point;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;

THENCE westerly along the northerly high water mark to the northwesterly Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE South  $36^{\circ}$  East along the middle of Georgian Bay 6.8 miles to the westerly angle of the Township of Carling;

THENCE easterly along the northerly boundary of the Township of Carling to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Naiscoutaing Indian Reserve Number 17B.

## SCHEDULE B

FIRSTLY, part of the geographic township of Conger, commencing at the intersection of the northly boundary of the Township of Conger and the easterly limit of Lot 10 in Concession XII of the Township of Conger;

THENCE southerly along the easterly limit of Lot 10 in Concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger.

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE southerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwesterly following the northwesterly limit of the said King's Highway to the southerly limit of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the southerly boundary of the Township of Conger to the easterly high water mark of Twelve Mile Bay of Georgian Bay;

THENCE South  $69^{\circ} 08' 20''$  West along the westerly prolongation in accordance with subsection 1 of section 11 of *The Territorial Division Act*, being chapter 458 of the Revised Statutes of Ontario, 1970 to the middle of Twelve Mile Bay of Georgian Bay;

THENCE westerly in a straight line to a point midway between Martin Island and Passage Island;

THENCE southwesterly in a straight line 11.75 miles to a point measured South  $20^{\circ} 51' 40''$  East one mile from the southerly point of Thumb Rock of the Western Islands, the said point being on the westerly prolongation of the southerly boundary of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the prolongation of the said southerly boundary 11 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.4 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.2 miles to a point distant 1,500 feet measured South  $69^{\circ} 08' 20''$  West from the westerly point of Trusty Island.

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island.

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island.

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed Islands lying north of Anker Pint Islet;

THENCE easterly 1,000 feet to a point distant 200 feet measured Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island.

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the northerly boundary of the Township of Conger;

THENCE easterly and northeasterly following the middle of the said Bay to the northerly boundary of the Township of Conger;

THENCE easterly along the northerly boundary of the Township of Conger to the point of commencement;

SECONDLY, the geographic township of Cowper, commencing at the southeasterly angle of the Township of Cowper;

THENCE northerly along the easterly boundary of the Township of Cowper to the southerly high water mark of South Channel;

THENCE northerly along the northerly prolongation in accordance with subsection 2b of section 11 of *The Territorial Division Act*, to the southerly high water mark of Isabella Island;

THENCE easterly, northerly and westerly following the high water mark of Isabella Island to the said northerly prolongation of the easterly boundary of the Township of Cowper;

THENCE northerly along the northerly prolongation of the easterly boundary of the Township of Cowper to the boundary between the geographic townships of Cowper and McDougall;

THENCE westerly along the northerly boundary of the geographic township of Cowper in accordance with the said section 11 of *The Territorial Division Act* to the easterly high water mark of Georgian Bay on the westerly shore of Parry Island;

THENCE westerly following the southerly boundaries of the Township of Carling to the southwesterly angle of the Township of Carling in the middle of Georgian Bay;

THENCE South 36° East along the middle of Georgian Bay 10.3 miles to a point;

THENCE North 69° 08' 20" East 25.2 miles to a point distant 1,500 feet measured South 69° 08' 20" West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island;

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island;

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed islands lying north of Anker Pint Islet;



THENCE easterly 1,000 feet to a point measured 200 feet Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island;

THENCE Due North 2,000 feet to a point,

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly and northeasterly following the middle of the Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly along the southerly boundary of the Township of Cowper to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Parry Island Indian Reserve Number 16.

### SCHEDULE C

FIRSTLY, part of the geographic township of Butt, commencing at the southwesterly angle of the Township of Butt;

THENCE easterly along the southerly boundary of the Township of Butt to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly along the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of Butt;

THENCE westerly along the northerly boundary of the Township of Butt to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of Butt to the point of commencement;

SECONDLY, part of the geographic township of McCraney, commencing at the southwesterly angle of the Township of McCraney;

THENCE easterly along the southerly boundary of the Township of McCraney to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly following the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of McCraney;

THENCE westerly along the northerly boundary of the Township of McCraney to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of McCraney to the point of commencement.

## SCHEDULE D

FIRSTLY, part of the Township of McDougall, commencing at the intersection of the northerly boundary of the Town of Parry Sound and the high water mark of the easterly shore of Parry Sound;

THENCE easterly following the boundaries between the Town of Parry Sound and the Township of McDougall to the northeasterly angle of the said Town;

THENCE southerly following along the boundaries between the Town of Parry Sound and the Township of McDougall to the southerly boundary of the said Township;

THENCE easterly along the said Township boundary to the southerly prolongation of the easterly limit of Lot 25 in Concession I of the said Township of McDougall;

THENCE northerly to and along the easterly limit of Lot 25 in concessions I and II and the northerly prolongation thereof to a parallel line distant 200 feet measured southerly at right angles from the northerly high water mark of Mill Lake.

THENCE easterly and northerly parallel with the high water mark of Mill Lake to the easterly prolongation of southerly limit of Lot 24 in Concession IV of the Township of McDougall;

THENCE westerly to and along the southerly limit of lots 24 and 25 in Concession IV to the easterly limit of the road allowance between lots 25 and 26;

THENCE northerly along the said easterly limit to the northerly limit of the road allowance between concessions IV and V of the Township of McDougall;

THENCE westerly along the said northerly limit of road allowance to the easterly limit of the right-of-way of the Canadian Pacific Railways;

THENCE southerly along the easterly limit of the said right-of-way to the northerly limit of Lot 17 in Concession A of the Township of McDougall;

THENCE westerly along the northerly limit of the said Lot 17 to north-westerly angle of the said Lot;

THENCE westerly along the westerly prolongation of the northerly limit of the said Lot to the northerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE southerly to and along the easterly limit of the said Indian Reserve to the southerly boundary of the Township of McDougall;

THENCE easterly along the southerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE northerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

SECONDLY, part of the Township of Foley, commencing at the southwesterly angle of the Town of Parry Sound;

THENCE westerly along the prolongation of the southerly boundary of the said Town to the southerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE northerly to and along the easterly limit of the said Indian Reserve to the northerly boundary of the Township of Foley;

THENCE easterly along the northerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE southerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

## SCHEDULE E

FIRSTLY, part of the geographic township of Conger, commencing at the northeasterly angle of the Township of Conger;

THENCE westerly along the northerly boundary of the Township of Conger to the easterly limit of Lot 10 in Concession XII of the said Township;

THENCE southerly along the easterly limit of Lot 10 in concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger;

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the point of commencement;

SECONDLY, part of the geographic township of Conger, commencing at the southeasterly angle of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwestly following the northwesterly limit of the said King's Highway to the southerly boundary of the Township of Conger;

THENCE easterly along the southerly boundary of the Township of Conger to the point of commencement.

An Act respecting  
Local Government in the District of  
Parry Sound

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*1st Reading*

May 28th, 1979

*2nd Reading*

June 15th, 1979

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
Local Government in the District of Parry Sound**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(2nd Reprint as further amended by the Committee of the Whole House)*

## EXPLANATORY NOTES

This Bill is essentially in the same form as Bill 205 introduced late in the last Session.

The changes from Bill 205 are as follows:

1. Two new Townships are created bearing the names "Georgian Bay North Archipelago" and "Georgian Bay South Archipelago" (ss. 3, 4).
2. The new township councils will be headed by a reeve, not a mayor. (s. 5 (1)).
3. The Minister may by order alleviate any hardships suffered by employees of the Town of Kearney as a result of the new territories added to the Town (section 14 (7)).
4. The Township of Humphrey has portions of Conger township annexed to it. (Part IV of the Bill).
5. The start-up date for these reorganizations is January 1, 1980 rather than December 1, 1979, to coincide with the normal municipal fiscal year.
6. The Province is to pay the costs of school board elections in the Archipelago and Kearney in November, 1980, since there are no regular municipal elections in that year as a result of the special thirty-five month term for members of council.

The Bill incorporates certain unorganized portions of the west part of the District of Parry Sound into two municipalities to be called the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago. It also incorporates a new Town of Kearney and annexes certain lands to the Town of Parry Sound, the Township of Humphrey and the Township of Foley.

PART I of the Bill deals with the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago. Sections 1 and 2 are definition sections, and sections 3 and 4 refer to the lands being brought under municipal organization.

SECTION 5 provides for a council consisting of a reeve and four councillors. The first elections are to occur in 1979, and the Province is to bear the cost of these elections. The section also provides that the Minister shall establish wards, and may allow a vote on a new name for each Township.

BILL 100

1979

## An Act respecting Local Government in the District of Parry Sound

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

1. In this Act, "Minister" means the Minister of Inter-governmental Affairs. Interpretation

### PART I

#### TOWNSHIPS OF GEORGIAN BAY NORTH ARCHIPELAGO AND GEORGIAN BAY SOUTH ARCHIPELAGO

2. In this Part, "Township" means the Township of Georgian Bay North Archipelago as constituted under section 3 or the Township of Georgian Bay South Archipelago as constituted under section 4. Idem

3. On the 1st day of January, 1980, the inhabitants of those portions of the geographic townships of Shawanaga and Harrison, all of which lands are described in Schedule A hereto, are incorporated as a township municipality bearing the name "The Corporation of the Township of Georgian Bay North Archipelago". Township of Georgian Bay North Archipelago incorporated

4. On the 1st day of January, 1980, the inhabitants of the geographic Township of Cowper and of that portion of the geographic Township of Conger all of which lands are described in Schedule B hereto are incorporated as a township municipality bearing the name of "The Corporation of the Township of Georgian Bay South Archipelago". Township of Georgian Bay South Archipelago incorporated

5.—(1) The council of a Township shall consist of a reeve to be elected by general vote and four councillors. Composition of council

(2) The election of the first council shall be held in the year 1979 and, notwithstanding *The Municipal Elections Act*, Election of first council

1977, the first council elected shall hold office for thirty-five months, commencing on the 1st day of January, 1980.

1979 election;  
Minister's  
powers

(3) Notwithstanding *The Municipal Elections Act, 1977*, the Minister shall, by order, provide for the holding of the election in the year 1979 of the members of the first council of a Township, including nominations, polling days, polling places, the appointment of returning officers, preparation of polling lists, and any other matters considered necessary in respect of the first election.

Minister  
to divide  
Township  
into wards

(4) For the purposes of the election of the first council, the Minister shall by order divide a Township into wards and provide for the number of members of council other than the reeve to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Referendum  
re name

(5) If directed by order of the Minister, a vote of the electors of a Township shall be taken at the same time as the election of the first council to determine, from among the names designated by the Minister, which name the Township shall bear, and following the vote the Minister shall by order confirm the name of the Township as set out in section 3 or 4, as the case may be, or declare the name that the Township shall bear, and, where a declaration is made, all references to the Township shall be deemed to refer to the name of such Township as designated in the declaration.

Expenses  
for election  
of first  
council, etc

(6) The expenses of a Township for the election of the first council and for the elections of The West Parry Sound Board of Education in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Place of  
meetings

6. The meetings of a council shall be held at such place in the District of Parry Sound as the council from time to time appoints.

General  
administrative  
head

7.—(1) The council of a Township may, by by-law, appoint a general administrative head, who,

(a) shall have such general control and management of the administration of the government and affairs of the Township and perform such duties as the council by by-law describes;

(b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;



SECTION 6 permits council meetings to be held anywhere in the District of Parry Sound, whether inside or outside a Township.

SECTION 7 provides that a person may be appointed to perform the same duties that a chief administrative officer appointed under *The Municipal Act* can perform.

SECTION 8 provides that local roads areas in a Township are dissolved and that decisions of local roads boards regarding road maintenance in the area are carried over to the new Township. The section also vests all assets and liabilities of the dissolved local roads boards in the Township, and permits the Township to agree with the Provincial Land Tax Collector as to the collection of arrears of that tax.

(c) shall hold office during the pleasure of council; and

(d) shall receive such salary as the council by by-law determines.

(2) Subsection 2 of section 238 of *The Municipal Act* applies to a general administrative head appointed under subsection 1.

Application of  
R.S.O 1970,  
c. 284,  
s. 238 (2)

8.—(1) Where an established local roads area is entirely within a Township, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Township.

Dissolution  
of local  
roads area  
and board

(2) Where only part of an established local roads area is within a Township, that part of the local roads area is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

Removal  
of part  
of local  
roads area

R.S.O 1970,  
c 256

(3) All taxes and penalties assessed by a local roads board against any land in a Township which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Unpaid taxes,  
collection of  
by Township

(4) A Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Agreement  
respecting  
collection of  
land tax  
R.S.O 1970,  
c. 370

(5) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of a Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Local  
roads board  
program  
deemed  
adopted

Extension  
of Pine  
Bay Road;  
maintenance  
deemed part  
of South  
Conger roads  
program

(6) For purposes of subsection 5, the maintenance of the extension of the Pine Bay Road from Pine Bay to Woods Bay shall be deemed to be part of the road program of the South Conger Local Roads Board.

Appointment  
to fill  
vacancies

(7) Where part of a local roads area is removed from the local roads area under subsection 2, the remaining part is deemed to be a continuation of the original local roads area and the Minister of Transportation and Communications may, for the year 1980, by order, appoint persons to fill any vacancies on the board of trustees brought about as a result of this Act.

Territory  
detached from  
Parry Sound  
for purposes  
of  
1974, c. 109,  
s. 51 (2)

9.—(1) The territory without municipal organization that becomes part of a Township under section 3 or 4 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears  
deemed assets  
of Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in a Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Township to  
pay school tax  
arrears to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township has  
right to  
recover taxes  
under  
R.S.O. 1970,  
c. 118, Pt III

(4) A Township has and shall be deemed always to have had the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Saving

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in a Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

Agreements  
for services

10. A Township and any municipality, including a district municipality, may enter into agreements for providing any services within the jurisdiction of the Township.

**SECTION 9** deals with education matters; it removes the Town of Parry Sound from education tax collections and gives the Townships the right to collect taxes, including arrears.

**SECTION 10** permits a Township and another municipality to contract for services.

SECTION 11 establishes the Townships as planning areas and deems the council to be the planning board.

SECTION 12. The Minister is empowered, on the application of the two newly-created Townships, to incorporate them as one Township; the necessary ancillary powers are granted to the Minister in the event of such incorporation.

PART II of the Bill deals with the incorporation of the new Town of Kearney. Section 14 provides for the incorporation, as well as defining the council to be elected in 1979. The costs of the first election are to be paid by the Province. The Town is deemed to be a township for highway subsidy purposes.

11. On and after the 1st day of January, 1980, a Township shall be a planning area under *The Planning Act* to be known as The Georgian Bay North Archipelago Planning Area and The Georgian Bay South Archipelago Planning Area respectively and the Township council shall be the planning board thereof, and where the Township council meets in respect of matters pertaining to planning, no separate meeting of the council as a planning board is required.

Townships  
planning  
areas under  
R.S.O. 1970,  
c. 349

12.—(1) Upon application to the Minister by the Townships constituted under sections 3 and 4 that the Townships be incorporated as one Township municipality, the Minister may by order effect the incorporation on the date specified in the order and in such order may provide for the name of the new Township, the composition of the council of the new Township and the election of the members of the council of the new Township.

Power of  
Minister to  
incorporate  
one Township

(2) The provisions of this Part apply with necessary modifications to a new Township established under subsection 1.

Application  
of Part

## PART II

### TOWN OF KEARNEY

13. In this Part, "Town" means the Town of Kearney as constituted under section 14.

Interpre-  
tation

14.—(1) On the 1st day of January, 1980, the geographic townships of Bethune and Proudfoot and those portions of the geographic townships of Butt and McCraney described in Schedule C hereto, and the Town of Kearney as it existed on the 31st day of December, 1979, are incorporated as a town municipality bearing the name "The Corporation of the Town of Kearney".

New Town  
of Kearney  
incorporated

(2) On and after the 1st day of January, 1980, the council of the Town shall consist of a mayor to be elected by general vote and six councillors.

Composition  
of council

(3) Notwithstanding *The Municipal Elections Act, 1977*, the election of the first council shall be held in the year 1979 and for the purposes of that election the Minister shall, by order, divide the Town into wards and provide for the number of members of council, other than the mayor, to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Election of  
council  
1977, c. 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, on the 31st day of December, 1979, the existing council is dissolved, and the first council elected shall hold office for

Existing  
council  
dissolved,  
term of  
office of  
first council

thirty-five months, commencing on the 1st day of January, 1980.

Expenses for election of council, etc.

(5) The expenses of the Town for the election of the first council and for the election of The East Parry Sound Board of Education, in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Town deemed township for purposes of R.S.O. 1970, c. 201

(6) For the purposes of *The Public Transportation and Highway Improvement Act*, the Town shall be deemed to be a township municipality.

Alleviation of hardship

(7) Where any employee of the Town of Kearney employed on the 28th day of May, 1979 experiences any difficulty or hardship with regard to his employment as a result of the incorporation under this section, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Dissolution of local roads area and board

**15.**—(1) Where an established local roads area is entirely within the Town, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Town.

Unpaid taxes, collection of by Town

(2) All taxes and penalties assessed by a local roads board against any land in the Town which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon such land to the Town, and the collector of the Town shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Town, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Town.

Agreement respecting collection of land tax R.S.O. 1970, c. 370

(3) The Town and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Town of arrears of land tax in respect of property within the Town.

Local roads program deemed adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Town under this section, shall be deemed to be adopted by by-law of the council of the Town on the 1st day of January, 1980.

Territory annexed to Town ceases to be deemed to be district municipality 1977, c. 109

**16.**—(1) The territory without municipal organization that becomes part of the Town under section 14 of this Act and that was deemed to be a district municipality or part of a district municipality in respect of The East Parry Sound Board of Education under subsection 3 of section 50 of *The Education Act, 1974*, ceases to be so deemed on the 1st day of January, 1980.



**SECTION 15 sets out the same provisions for local roads areas and collection of taxes as apply in the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago.**

**SECTION 16 contains provisions regarding education matters similar to those for the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago.**

**PART III** deals with the annexation of portions of the townships of McDougall and Foley to the Town of Parry Sound. Section 18 permits the Minister to alleviate any hardships suffered by McDougall employees as a result of this annexation.

**PART IV** deals with the annexation of portions of the Township of Conger to the Township of Humphrey. Similar provisions are included with respect to local roads areas and the collection of taxes as are found in Part I dealing with the Township of Georgian Bay North Archipelago and the Township of Georgian Bay South Archipelago.

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in the Town and that are owing and uncollected as of the 1st day of January, 1980, shall be deemed to have become assets of the Town on the 1st day of January, 1980.

School tax arrears deemed assets of Town

(3) The Town shall pay, to the extent that such moneys have not already been paid, the full amount of such arrears and accumulated interest to The East Parry Sound Board of Education.

Town to pay school tax arrears to East Parry Sound Board of Education

(4) The Town has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Town has right to collect taxes under R.S.O. 1970, c. 118, Pt. III

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Town on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Town.

Saving

PART III

TOWN OF PARRY SOUND

17. On the 1st day of January, 1980, the portions of the Township of McDougall and the Township of Foley described in Schedule D hereto are annexed to the Town of Parry Sound.

Part of McDougall Township and Foley Township annexed to Parry Sound

18. Where any employee of the Township of McDougall experiences any difficulty or hardship with regard to his employment as a result of the annexation under section 16, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Alleviation of hardship

PART IV

TOWNSHIP OF HUMPHREY

19. On the 1st day of January, 1980, the portions of the geographic Township of Conger described in Schedule E hereto are annexed to the Township of Humphrey.

Part of Conger annexed to Humphrey

20.—(1) Where part of an established local roads area is within the Township, that part of the local roads area

Removal of part of local roads area

is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

R.S.O. 1970,  
c. 256

Unpaid taxes,  
collection of  
by township

(2) All taxes and penalties assessed by a local roads board against any land in the Township, which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Agreement  
respecting  
collection of  
land tax

R.S.O. 1970,  
c. 370

(3) The Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Local roads  
board program  
deemed  
adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Detachment  
of part of  
Conger from  
Parry Sound

1974, c. 109

**21.**—(1) That part of the geographic Township of Conger that becomes part of the Township under section 19 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears deemed  
assets of  
Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to land located in the Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Arrears to be  
paid to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township  
has right to  
collect taxes  
under  
R.S.O. 1970,  
c. 118, Part III

(4) The Township has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest



**PART V** sets out general provisions allowing questions arising out of these municipal reorganizations to be determined by the Ontario Municipal Board, permitting the Lieutenant Governor in Council to make general remedial orders, and ensuring that the boards of education elected in 1978 in these areas are not affected by the Act.

owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township. Saving

## PART V

### GENERAL

**22.** The incorporations and annexations provided for in this Act shall be deemed to have been effected by orders of the Ontario Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of that Act, made on the day the incorporations or annexations take effect under this Act, pursuant to applications made under sections 10 and 14 of *The Municipal Act*, and subject to the provisions of this Act, the Ontario Municipal Board, upon the application of the municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such incorporation and annexations and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers. Incorporations and annexations deemed by Municipal Board orders. R.S.O. 1970, c. 323, 284

**23.** The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the content and purpose of this Act. Conditional powers.

**24.** Notwithstanding subsections 12, 25 and 31 of section 57 of *The Education Act, 1974*, nothing in this Act shall, for the period commencing the 1st day of January, 1980 and ending on the 30th day of November, 1980, affect the representation on The West Parry Sound Board of Education or The East Parry Sound Board of Education of any municipality or territory without municipal organization as it exists on the day this Act comes into force. Representation on boards of education not affected 1974, c. 109

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

Short title

**26.** The short title of this Act is *The District of Parry Sound Local Government Act, 1979.*

## SCHEDULE A

FIRSTLY, part of the geographic township of Harrison, commencing at the intersection of the easterly high water mark of Georgian Bay and the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to the westerly limit of the Naiscoutaing Indian Reserve Number 17A;

THENCE easterly following the southerly limits of the said Indian Reserve to the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to a point distant 8,052 feet measured North  $69^{\circ} 08' 20''$  East therealong from the easterly limit of Lot 31 in Concession XIV of the Township of Harrison;

THENCE South  $20^{\circ} 51' 40''$  East 13,332 feet to a point;

THENCE North  $69^{\circ} 08' 20''$  East 32,000 feet to the easterly boundary of the Township of Harrison;

THENCE southerly along the easterly boundary of the Township of Harrison to its southeasterly angle;

THENCE westerly along the southerly boundary of the Township of Harrison to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwestery to the northerly point of Osseo Island;

THENCE westerly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to northwesterly point of the said Island;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;



THENCE westerly along the northerly high water mark of Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.5 miles to the easterly boundary of the Territorial District of Manitoulin in accordance with paragraph 47 of section 1 of *The Territorial Division Act*;

THENCE Due North along the said easterly boundary 3.8 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.5 miles to a point midway between the Brother Islands and the Sister Islands;

THENCE easterly to the northerly point of Jarrad Island;

THENCE easterly following the middle of Charles Inlet being to and along the middle of the Middle Channel of the Naiscoot River to the headwaters of the South Channel of the Naiscoot River;

THENCE southerly along the middle of the South Channel of the Naiscoot River to the westerly prolongation of the northerly boundary of the Township of Harrison;

THENCE easterly along the prolongation of the Township of Harrison to the point of commencement;

SECONDLY, part of the geographic township of Shawanaga, commencing at the intersection of the easterly high water mark of Georgian Bay and the southerly boundary of the Township of Shawanaga;

THENCE easterly along the southerly boundary of the Township of Shawanaga to a point distant 6,666 feet measured South  $69^{\circ} 08' 20''$  West therealong from the southwesterly angle of Lot 20 in Concession 1 in the Township of Shawanaga;

THENCE North  $20^{\circ} 51' 40''$  West to the southerly limit of the Shawanaga Indian Reserve Number 17;

THENCE westerly and northerly following the westerly limits of the Indian Reserve to the northerly limit of the said Indian Reserve;

THENCE easterly following the said northerly limit to the easterly limit of the said Indian Reserve;

THENCE southerly along the easterly limit of the said Indian Reserve to the northeasterly limit of the King's Highway Number 69;

THENCE North  $69^{\circ} 08' 20''$  East 3 miles to the easterly boundary of the Township of Shawanaga;

THENCE northerly along the easterly boundary of the Township of Shawanaga to its northeasterly angle;

THENCE westerly along the northerly boundary of the Township of Shawanaga to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwestery to the northerly point of Osseo Island;

THENCE southwestery to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to its northwesterly point;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;

THENCE westerly along the northerly high water mark to the northwesterly Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwestery along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE South  $36^{\circ}$  East along the middle of Georgian Bay 6.8 miles to the westerly angle of the Township of Carling;

THENCE easterly along the northerly boundary of the Township of Carling to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Naiscoutaing Indian Reserve Number 17B.

## SCHEDULE B

FIRSTLY, part of the geographic township of Conger, commencing at the intersection of the northly boundary of the Township of Conger and the easterly limit of Lot 10 in Concession XII of the Township of Conger;

THENCE southerly along the easterly limit of Lot 10 in Concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger.

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE southerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwesterly following the northwesterly limit of the said King's Highway to the southerly limit of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the southerly boundary of the Township of Conger to the easterly high water mark of Twelve Mile Bay of Georgian Bay;

THENCE South  $69^{\circ} 08' 20''$  West along the westerly prolongation in accordance with subsection 1 of section 11 of *The Territorial Division Act*, being chapter 458 of the Revised Statutes of Ontario, 1970 to the middle of Twelve Mile Bay of Georgian Bay;

THENCE westerly in a straight line to a point midway between Martin Island and Passage Island;

THENCE southwesterly in a straight line 11.75 miles to a point measured South  $20^{\circ} 51' 40''$  East one mile from the southerly point of Thumb Rock of the Western Islands, the said point being on the westerly prolongation of the southerly boundary of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the prolongation of the said southerly boundary 11 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.4 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.2 miles to a point distant 1,500 feet measured South  $69^{\circ} 08' 20''$  West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island;

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island;

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed Islands lying north of Anker Pint Islet;

THENCE easterly 1,000 feet to a point distant 200 feet measured Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island;

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the northerly boundary of the Township of Conger;

THENCE easterly and northeasterly following the middle of the said Bay to the northerly boundary of the Township of Conger;

THENCE easterly along the northerly boundary of the Township of Conger to the point of commencement;

SECONDLY, the geographic township of Cowper, commencing at the southeasterly angle of the Township of Cowper;

THENCE northerly along the easterly boundary of the Township of Cowper to the southerly high water mark of South Channel;

THENCE northerly along the northerly prolongation in accordance with subsection 2b of section 11 of *The Territorial Division Act*, to the southerly high water mark of Isabella Island;

THENCE easterly, northerly and westerly following the high water mark of Isabella Island to the said northerly prolongation of the easterly boundary of the Township of Cowper;

THENCE northerly along the northerly prolongation of the easterly boundary of the Township of Cowper to the boundary between the geographic townships of Cowper and McDougall;

THENCE westerly along the northerly boundary of the geographic township of Cowper in accordance with the said section 11 of *The Territorial Division Act* to the easterly high water mark of Georgian Bay on the westerly shore of Parry Island;

THENCE westerly following the southerly boundaries of the Township of Carling to the southwesterly angle of the Township of Carling in the middle of Georgian Bay;

THENCE South  $36^{\circ}$  East along the middle of Georgian Bay 10.3 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.2 miles to a point distant 1,500 feet measured South  $69^{\circ} 08' 20''$  West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island;

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island;

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed islands lying north of Anker Pint Islet;

THENCE easterly 1,000 feet to a point measured 200 feet Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island;

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly and northeasterly following the middle of the Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly along the southerly boundary of the Township of Cowper to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Parry Island Indian Reserve Number 16.

### SCHEDULE C

FIRSTLY, part of the geographic township of Butt, commencing at the southwesterly angle of the Township of Butt;

THENCE easterly along the southerly boundary of the Township of Butt to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly along the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of Butt;

THENCE westerly along the northerly boundary of the Township of Butt to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of Butt to the point of commencement;

SECONDLY, part of the geographic township of McCraney, commencing at the southwesterly angle of the Township of McCraney;

THENCE easterly along the southerly boundary of the Township of McCraney to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly following the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of McCraney;

THENCE westerly along the northerly boundary of the Township of McCraney to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of McCraney to the point of commencement.

## SCHEDULE D

FIRSTLY, part of the Township of McDougall, commencing at the intersection of the northerly boundary of the Town of Parry Sound and the high water mark of the easterly shore of Parry Sound;

THENCE easterly following the boundaries between the Town of Parry Sound and the Township of McDougall to the northeasterly angle of the said Town;

THENCE southerly following along the boundaries between the Town of Parry Sound and the Township of McDougall to the southerly boundary of the said Township;

THENCE easterly along the said Township boundary to the southerly prolongation of the easterly limit of Lot 25 in Concession I of the said Township of McDougall;

THENCE northerly to and along the easterly limit of Lot 25 in concessions I and II and the northerly prolongation thereof to a parallel line distant 200 feet measured southerly at right angles from the northerly high water mark of Mill Lake.

THENCE easterly and northerly parallel with the high water mark of Mill Lake to the easterly prolongation of southerly limit of Lot 24 in Concession IV of the Township of McDougall;

THENCE westerly to and along the southerly limit of lots 24 and 25 in Concession IV to the easterly limit of the road allowance between lots 25 and 26;

THENCE northerly along the said easterly limit to the northerly limit of the road allowance between concessions IV and V of the Township of McDougall;

THENCE westerly along the said northerly limit of road allowance to the easterly limit of the right-of-way of the Canadian Pacific Railways;

THENCE southerly along the easterly limit of the said right-of-way to the northerly limit of Lot 17 in Concession A of the Township of McDougall;

THENCE westerly along the northerly limit of the said Lot 17 to north-westerly angle of the said Lot;

THENCE westerly along the westerly prolongation of the northerly limit of the said Lot to the northerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE southerly to and along the easterly limit of the said Indian Reserve to the southerly boundary of the Township of McDougall;

THENCE easterly along the southerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE northerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

SECONDLY, part of the Township of Foley, commencing at the southwesterly angle of the Town of Parry Sound;

THENCE westerly along the prolongation of the southerly boundary of the said Town to the southerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE northerly to and along the easterly limit of the said Indian Reserve to the northerly boundary of the Township of Foley;

THENCE easterly along the northerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE southerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

## SCHEDULE E

FIRSTLY, part of the geographic township of Conger, commencing at the northeasterly angle of the Township of Conger;

THENCE westerly along the northerly boundary of the Township of Conger to the easterly limit of Lot 10 in Concession XII of the said Township;

THENCE southerly along the easterly limit of Lot 10 in concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger;

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the point of commencement;

SECONDLY, part of the geographic township of Conger, commencing at the southeasterly angle of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwestly following the northwesterly limit of the said King's Highway to the southerly boundary of the Township of Conger;

THENCE easterly along the southerly boundary of the Township of Conger to the point of commencement.

An Act respecting  
Local Government in the District of  
Parry Sound

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*1st Reading*

May 28th, 1979

*2nd Reading*

June 15th, 1979

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(2nd Reprint as further amended by the  
Committee of the Whole House)*



**BILL 100**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting  
Local Government in the District of Parry Sound**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 100

1979

## An Act respecting Local Government in the District of Parry Sound

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

1. In this Act, "Minister" means the Minister of Inter-governmental Affairs. Interpretation

### PART I

#### TOWNSHIPS OF GEORGIAN BAY NORTH ARCHIPELAGO AND GEORGIAN BAY SOUTH ARCHIPELAGO

2. In this Part, "Township" means the Township of Georgian Bay North Archipelago as constituted under section 3 or the Township of Georgian Bay South Archipelago as constituted under section 4. Idem

3. On the 1st day of January, 1980, the inhabitants of those portions of the geographic townships of Shawanaga and Harrison, all of which lands are described in Schedule A hereto, are incorporated as a township municipality bearing the name "The Corporation of the Township of Georgian Bay North Archipelago". Township of Georgian Bay North Archipelago incorporated

4. On the 1st day of January, 1980, the inhabitants of the geographic Township of Cowper and of that portion of the geographic Township of Conger all of which lands are described in Schedule B hereto are incorporated as a township municipality bearing the name of "The Corporation of the Township of Georgian Bay South Archipelago". Township of Georgian Bay South Archipelago incorporated

5.—(1) The council of a Township shall consist of a reeve to be elected by general vote and four councillors. Composition of council

(2) The election of the first council shall be held in the year 1979 and, notwithstanding *The Municipal Elections Act*, Election of first council  
1977, c. 62

1977, the first council elected shall hold office for thirty-five months, commencing on the 1st day of January, 1980.

1979 election;  
Minister's  
powers

(3) Notwithstanding *The Municipal Elections Act, 1977*, the Minister shall, by order, provide for the holding of the election in the year 1979 of the members of the first council of a Township, including nominations, polling days, polling places, the appointment of returning officers, preparation of polling lists, and any other matters considered necessary in respect of the first election.

Minister  
to divide  
Township  
into wards

(4) For the purposes of the election of the first council, the Minister shall by order divide a Township into wards and provide for the number of members of council other than the reeve to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Referendum  
re name

(5) If directed by order of the Minister, a vote of the electors of a Township shall be taken at the same time as the election of the first council to determine, from among the names designated by the Minister, which name the Township shall bear, and following the vote the Minister shall by order confirm the name of the Township as set out in section 3 or 4, as the case may be, or declare the name that the Township shall bear, and, where a declaration is made, all references to the Township shall be deemed to refer to the name of such Township as designated in the declaration.

Expenses  
for election  
of first  
council, etc.

(6) The expenses of a Township for the election of the first council and for the elections of The West Parry Sound Board of Education in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Place of  
meetings

6. The meetings of a council shall be held at such place in the District of Parry Sound as the council from time to time appoints.

General  
administrative  
head

7.—(1) The council of a Township may, by by-law, appoint a general administrative head, who,

(a) shall have such general control and management of the administration of the government and affairs of the Township and perform such duties as the council by by-law describes;

(b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;

(c) shall hold office during the pleasure of council; and

(d) shall receive such salary as the council by by-law determines.

(2) Subsection 2 of section 238 of *The Municipal Act* applies to a general administrative head appointed under subsection 1.

Application of  
R.S.O. 1970,  
c. 284,  
s. 238 (2)

8.—(1) Where an established local roads area is entirely within a Township, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Township.

Dissolution  
of local  
roads area  
and board

(2) Where only part of an established local roads area is within a Township, that part of the local roads area is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

Removal  
of part  
of local  
roads area

R.S.O. 1970,  
c. 256

(3) All taxes and penalties assessed by a local roads board against any land in a Township which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Unpaid taxes,  
collection of  
by Township

(4) A Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Agreement  
respecting  
collection of  
land tax  
R.S.O. 1970,  
c. 370

(5) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of a Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Local  
roads board  
program  
deemed  
adopted

Extension  
of Pine  
Bay Road;  
maintenance  
deemed part  
of South  
Conger roads  
program

(6) For purposes of subsection 5, the maintenance of the extension of the Pine Bay Road from Pine Bay to Woods Bay shall be deemed to be part of the road program of the South Conger Local Roads Board.

Appointment  
to fill  
vacancies

(7) Where part of a local roads area is removed from the local roads area under subsection 2, the remaining part is deemed to be a continuation of the original local roads area and the Minister of Transportation and Communications may, for the year 1980, by order, appoint persons to fill any vacancies on the board of trustees brought about as a result of this Act.

Territory  
detached from  
Parry Sound  
for purposes  
of  
1974, c. 109,  
s. 51 (2)

9.—(1) The territory without municipal organization that becomes part of a Township under section 3 or 4 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears  
deemed assets  
of Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in a Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Township to  
pay school tax  
arrears to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township has  
right to  
recover taxes  
under  
R.S.O. 1970,  
c. 118, Pt. III

(4) A Township has and shall be deemed always to have had the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Saving

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in a Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

Agreements  
for services

10. A Township and any municipality, including a district municipality, may enter into agreements for providing any services within the jurisdiction of the Township.

11. On and after the 1st day of January, 1980, a Township shall be a planning area under *The Planning Act* to be known as The Georgian Bay North Archipelago Planning Area and The Georgian Bay South Archipelago Planning Area respectively and the Township council shall be the planning board thereof, and where the Township council meets in respect of matters pertaining to planning, no separate meeting of the council as a planning board is required.

Townships  
planning  
areas under  
R.S.O. 1970,  
c. 349

12.—(1) Upon application to the Minister by the Townships constituted under sections 3 and 4 that the Townships be incorporated as one Township municipality, the Minister may by order effect the incorporation on the date specified in the order and in such order may provide for the name of the new Township, the composition of the council of the new Township and the election of the members of the council of the new Township.

Power of  
Minister to  
incorporate  
one Township

(2) The provisions of this Part apply with necessary modifications to a new Township established under subsection 1.

Application  
of Part

## PART II

### TOWN OF KEARNEY

13. In this Part, "Town" means the Town of Kearney as constituted under section 14.

Interpre-  
tation

14.—(1) On the 1st day of January, 1980, the geographic townships of Bethune and Proudfoot and those portions of the geographic townships of Butt and McCraney described in Schedule C hereto, and the Town of Kearney as it existed on the 31st day of December, 1979, are incorporated as a town municipality bearing the name "The Corporation of the Town of Kearney".

New Town  
of Kearney  
incorporated

(2) On and after the 1st day of January, 1980, the council of the Town shall consist of a mayor to be elected by general vote and six councillors.

Composition  
of council

(3) Notwithstanding *The Municipal Elections Act, 1977*, the election of the first council shall be held in the year 1979 and for the purposes of that election the Minister shall, by order, divide the Town into wards and provide for the number of members of council, other than the mayor, to be elected in the respective wards and such wards shall remain in effect until altered by the Ontario Municipal Board.

Election of  
council  
1977, c. 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, on the 31st day of December, 1979, the existing council is dissolved, and the first council elected shall hold office for

Existing  
council  
dissolved,  
term of  
office of  
first council

thirty-five months, commencing on the 1st day of January, 1980.

Expenses for election of council, etc.

(5) The expenses of the Town for the election of the first council and for the election of The East Parry Sound Board of Education, in November, 1980 shall, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Town deemed township for purposes of R.S.O. 1970, c. 201

(6) For the purposes of *The Public Transportation and Highway Improvement Act*, the Town shall be deemed to be a township municipality.

Alleviation of hardship

(7) Where any employee of the Town of Kearney employed on the 28th day of May, 1979 experiences any difficulty or hardship with regard to his employment as a result of the incorporation under this section, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Dissolution of local roads area and board

**15.**—(1) Where an established local roads area is entirely within the Town, the local roads area and board thereof are dissolved on the 1st day of January, 1980, and all the assets and liabilities of the board become on such date, assets and liabilities of the Town.

Unpaid taxes, collection of by Town

(2) All taxes and penalties assessed by a local roads board against any land in the Town which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon such land to the Town, and the collector of the Town shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Town, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Town.

Agreement respecting collection of land tax R.S.O. 1970, c. 370

(3) The Town and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Town of arrears of land tax in respect of property within the Town.

Local roads program deemed adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Town under this section, shall be deemed to be adopted by by-law of the council of the Town on the 1st day of January, 1980.

Territory annexed to Town ceases to be deemed to be district municipality 1977, c. 109

**16.**—(1) The territory without municipal organization that becomes part of the Town under section 14 of this Act and that was deemed to be a district municipality or part of a district municipality in respect of The East Parry Sound Board of Education under subsection 3 of section 50 of *The Education Act, 1974*, ceases to be so deemed on the 1st day of January, 1980.



(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to lands located in the Town and that are owing and uncollected as of the 1st day of January, 1980, shall be deemed to have become assets of the Town on the 1st day of January, 1980.

School tax  
arrears  
deemed assets  
of Town

(3) The Town shall pay, to the extent that such moneys have not already been paid, the full amount of such arrears and accumulated interest to The East Parry Sound Board of Education.

Town to pay  
school tax  
arrears to  
East Parry  
Sound Board  
of Education

(4) The Town has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

Town has  
right to  
collect  
taxes under  
R.S.O. 1970,  
c. 118, Pt. III

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Town on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Town.

Saving

### PART III

#### TOWN OF PARRY SOUND

17. On the 1st day of January, 1980, the portions of the Township of McDougall and the Township of Foley described in Schedule D hereto are annexed to the Town of Parry Sound.

Part of  
McDougall  
Township  
and Foley  
Township  
annexed to  
Parry Sound

18. Where any employee of the Township of McDougall experiences any difficulty or hardship with regard to his employment as a result of the annexation under section 16, the Minister may by order do anything necessary to alleviate or remedy such difficulty or hardship.

Alleviation  
of hardship

### PART IV

#### TOWNSHIP OF HUMPHREY

19. On the 1st day of January, 1980, the portions of the geographic Township of Conger described in Schedule E hereto are annexed to the Township of Humphrey.

Part of Conger  
annexed to  
Humphrey

20.—(1) Where part of an established local roads area is within the Township, that part of the local roads area

Removal of  
part of  
local roads  
area

R.S.O. 1970,  
c. 256

is removed from the local roads area on the 1st day of January, 1980, and the assets and liabilities of the local roads board attributable to that part become on such date assets and liabilities of the Township in the same proportion as the assessment of that part for purposes of *The Local Roads Boards Act* bears to the total assessment of the local roads area.

Unpaid taxes,  
collection of  
by township

(2) All taxes and penalties assessed by a local roads board against any land in the Township, which are due and unpaid on the 1st day of January, 1980, shall be deemed on that date to be taxes and penalties due and payable upon the land to the Township, and the collector of the Township shall enter the taxes and penalties in the collector's roll and may collect them in the same manner as if the taxes had been levied and penalties imposed by the Township, and the collector shall forthwith notify the owner or his agent as shown on the register of the board that the taxes and penalties are due and payable to the Township.

Agreement  
respecting  
collection of  
land tax  
R.S.O. 1970,  
c. 370

(3) The Township and the Land Tax Collector appointed under *The Provincial Land Tax Act* may enter into an agreement respecting the collection by the Township of arrears of land tax in respect of property within the Township.

Local roads  
board program  
deemed  
adopted

(4) The road program of work to be performed on local roads by the local roads boards for those parts of local roads areas which are dissolved and which form part of the Township under this section, shall be deemed to be adopted by by-law of the council of the Township on the 1st day of January, 1980.

Detachment  
of part of  
Conger from  
Parry Sound

1974, c. 109

**21.—(1)** That part of the geographic Township of Conger that becomes part of the Township under section 19 of this Act and that is deemed to be attached to the Town of Parry Sound for the purposes of The West Parry Sound Board of Education under subsection 2 of section 51 of *The Education Act, 1974* ceases to be so attached on the 1st day of January, 1980.

School tax  
arrears deemed  
assets of  
Township

(2) The arrears of taxes for school purposes and accumulated interest thereon that relate to land located in the Township and that are owing to the Town of Parry Sound and uncollected as of the 1st day of January, 1980 shall be deemed to have become assets of the Township on the 1st day of January, 1980.

Arrears to be  
paid to  
Parry Sound

(3) The Township shall pay the full amount of such arrears and accumulated interest to the Town of Parry Sound.

Township  
has right to  
collect taxes  
under  
R.S.O. 1970,  
c. 118, Part 111

(4) The Township has, and shall be deemed always to have had, the right to recover the taxes and accumulated interest

owing to it, including the arrears of taxes for school purposes and accumulated interest thereon referred to in subsection 2, under the procedures provided for in Part III of *The Municipal Affairs Act*.

(5) Notwithstanding subsection 4, where, prior to the 1st day of January, 1980, the proper authorities commenced procedures under any Act for the sale for arrears of taxes for school purposes of land that is in the Township on and after the 1st day of January, 1980, such procedures may be taken up and continued by the proper officers of the Township.

Saving

## PART V

### GENERAL

**22.** The incorporations and annexations provided for in this Act shall be deemed to have been effected by orders of the Ontario Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of that Act, made on the day the incorporations or annexations take effect under this Act, pursuant to applications made under sections 10 and 14 of *The Municipal Act*, and subject to the provisions of this Act, the Ontario Municipal Board, upon the application of the municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such incorporation and annexations and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

Incorporations  
and  
annexations  
deemed by  
Municipal  
Board orders  
R.S.O. 1970,  
c. 323, 284

**23.** The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the content and purpose of this Act.

Conditional  
powers

**24.** Notwithstanding subsections 12, 25 and 31 of section 57 of *The Education Act, 1974*, nothing in this Act shall, for the period commencing the 1st day of January, 1980 and ending on the 30th day of November, 1980, affect the representation on The West Parry Sound Board of Education or The East Parry Sound Board of Education of any municipality or territory without municipal organization as it exists on the day this Act comes into force.

Representa  
tion on  
boards of  
education  
not affected  
1974, c. 109

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

Commence-  
ment

Short title

**26.** The short title of this Act is *The District of Parry Sound Local Government Act, 1979.*

## SCHEDULE A

FIRSTLY, part of the geographic township of Harrison, commencing at the intersection of the easterly high water mark of Georgian Bay and the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to the westerly limit of the Naiscoutaing Indian Reserve Number 17A;

THENCE easterly following the southerly limits of the said Indian Reserve to the northerly boundary of the Township of Harrison;

THENCE easterly along the northerly boundary of the Township of Harrison to a point distant 8,052 feet measured North  $69^{\circ} 08' 20''$  East therealong from the easterly limit of Lot 31 in Concession XIV of the Township of Harrison;

THENCE South  $20^{\circ} 51' 40''$  East 13,332 feet to a point;

THENCE North  $69^{\circ} 08' 20''$  East 32,000 feet to the easterly boundary of the Township of Harrison;

THENCE southerly along the easterly boundary of the Township of Harrison to its southeasterly angle;

THENCE westerly along the southerly boundary of the Township of Harrison to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwesterly to the northerly point of Osseo Island;

THENCE westerly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to northwesterly point of the said Island;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b;

THENCE westerly along the northerly high water mark of Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.5 miles to the easterly boundary of the Territorial District of Manitoulin in accordance with paragraph 47 of section 1 of *The Territorial Division Act*;

THENCE Due North along the said easterly boundary 3.8 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.5 miles to a point midway between the Brother Islands and the Sister Islands;

THENCE easterly to the northerly point of Jarrad Island.

THENCE easterly following the middle of Charles Inlet being to and along the middle of the Middle Channel of the Naiscoot River to the headwaters of the South Channel of the Naiscoot River;

THENCE southerly along the middle of the South Channel of the Naiscoot River to the westerly prolongation of the northerly boundary of the Township of Harrison;

THENCE easterly along the prolongation of the Township of Harrison to the point of commencement;

SECONDLY, part of the geographic township of Shawanaga, commencing at the intersection of the easterly high water mark of Georgian Bay and the southerly boundary of the Township of Shawanaga;

THENCE easterly along the southerly boundary of the Township of Shawanaga to a point distant 6,666 feet measured South  $69^{\circ} 08' 20''$  West therealong from the southwesterly angle of Lot 20 in Concession 1 in the Township of Shawanaga;

THENCE North  $20^{\circ} 51' 40''$  West to the southerly limit of the Shawanaga Indian Reserve Number 17;

THENCE westerly and northerly following the westerly limits of the Indian Reserve to the northerly limit of the said Indian Reserve;

THENCE easterly following the said northerly limit to the easterly limit of the said Indian Reserve;

THENCE southerly along the easterly limit of the said Indian Reserve to the northeasterly limit of the King's Highway Number 69.

THENCE North  $69^{\circ} 08' 20''$  East 3 miles to the easterly boundary of the Township of Shawanaga;

THENCE northerly along the easterly boundary of the Township of Shawanaga to its northeasterly angle;

THENCE westerly along the northerly boundary of the Township of Shawanaga to the easterly high water mark of Georgian Bay;

THENCE westerly to the northerly point of Pollard Island;

THENCE westerly to the northerly point of Carey Rocks;

THENCE westerly to the northwesterly point of Meenahaga Island;

THENCE southwesterly to the northerly point of Osseo Island;

THENCE southwesterly to the easterly point of Ojibway Island;

THENCE westerly along the northerly high water mark of Ojibway Island to its northwesterly point;

THENCE westerly to the southeasterly point of Rothmay Island;

THENCE westerly to the northeasterly point of Ugoigo Island;

THENCE westerly along the northerly high water mark of Ugoigo Island to its westerly point;

THENCE westerly to the northerly point of Island No. 395A; as shown on Georgian Bay Islands Map No. 11b.

THENCE westerly along the northerly high water mark to the northwesterly Island No. 395A to its westerly point;

THENCE westerly to the northerly point of Kishkadena Island;

THENCE southwesterly along the northwesterly high water mark of Kishkadena Island to its westerly point;

THENCE South  $69^{\circ} 08' 20''$  West 26.5 miles to the middle of Georgian Bay;

THENCE South  $36^{\circ}$  East along the middle of Georgian Bay 6.8 miles to the westerly angle of the Township of Carling;

THENCE easterly along the northerly boundary of the Township of Carling to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Naiscoutaiga Indian Reserve Number 17B.

## SCHEDULE B

FIRSTLY, part of the geographic township of Conger, commencing at the intersection of the northly boundary of the Township of Conger and the easterly limit of Lot 10 in Concession XII of the Township of Conger;

THENCE southerly along the easterly limit of Lot 10 in Concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE southerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwesterly following the northwesterly limit of the said King's Highway to the southerly limit of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the southerly boundary of the Township of Conger to the easterly high water mark of Twelve Mile Bay of Georgian Bay;

THENCE South  $69^{\circ} 08' 20''$  West along the westerly prolongation in accordance with subsection 1 of section 11 of *The Territorial Division Act*, being chapter 458 of the Revised Statutes of Ontario, 1970 to the middle of Twelve Mile Bay of Georgian Bay;

THENCE westerly in a straight line to a point midway between Martin Island and Passage Island,

THENCE southwesterly in a straight line 11.75 miles to a point measured South  $20^{\circ} 51' 40''$  East one mile from the southerly point of Thumb Rock of the Western Islands, the said point being on the westerly prolongation of the southerly boundary of the Township of Conger;

THENCE South  $69^{\circ} 08' 20''$  West along the prolongation of the said southerly boundary 11 miles to the middle of Georgian Bay;

THENCE North  $36^{\circ}$  West along the middle of Georgian Bay 5.4 miles to a point;

THENCE North  $69^{\circ} 08' 20''$  East 25.2 miles to a point distant 1,500 feet measured South  $69^{\circ} 08' 20''$  West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island,

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island,

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed Islands lying north of Anker Pint Islet;

THENCE easterly 1,000 feet to a point distant 200 feet measured Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island,

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the northerly boundary of the Township of Conger;

THENCE easterly and northeasterly following the middle of the said Bay to the northerly boundary of the Township of Conger;

THENCE easterly along the northerly boundary of the Township of Conger to the point of commencement;

SECONDLY, the geographic township of Cowper, commencing at the southeasterly angle of the Township of Cowper;

THENCE northerly along the easterly boundary of the Township of Cowper to the southerly high water mark of South Channel;

THENCE northerly along the northerly prolongation in accordance with subsection 2b of section 11 of *The Territorial Division Act*, to the southerly high water mark of Isabella Island;

THENCE easterly, northerly and westerly following the high water mark of Isabella Island to the said northerly prolongation of the easterly boundary of the Township of Cowper;

THENCE northerly along the northerly prolongation of the easterly boundary of the Township of Cowper to the boundary between the geographic townships of Cowper and McDougall;

THENCE westerly along the northerly boundary of the geographic township of Cowper in accordance with the said section 11 of *The Territorial Division Act* to the easterly high water mark of Georgian Bay on the westerly shore of Parry Island;

THENCE westerly following the southerly boundaries of the Township of Carling to the southwesterly angle of the Township of Carling in the middle of Georgian Bay;

THENCE South 36° East along the middle of Georgian Bay 10.3 miles to a point;

THENCE North 69° 08' 20" East 25.2 miles to a point distant 1,500 feet measured South 69° 08' 20" West from the westerly point of Trusty Island;

THENCE northeasterly to a point distant 100 feet measured Due South from the southerly point of Penhale Island;

THENCE northeasterly 1,400 feet to the northwesterly point of Iowa Island;

THENCE northeasterly to a point distant 500 feet measured Due North from the easterly point of Copperhead Island;

THENCE northeasterly to a point midway between Hewson Island and Mainland Point;

THENCE northeasterly 1,300 feet to a point midway between the 2 unnamed islands lying north of Anker Pint Islet;



THENCE easterly 1,000 feet to a point measured 200 feet Due South of the southerly point of an unnamed Island lying to the south of Huron Island;

THENCE easterly to a point midway between Trainor Island and Towers Point;

THENCE easterly to a point midway between Winegarden Island and Nutley Point;

THENCE northeasterly to a point distant 100 feet measured Due West from the westerly point of Breen Island;

THENCE Due North 2,000 feet to a point;

THENCE in a northeasterly direction towards the westerly extremity of Ruddy Island to a point distant 500 feet measured southwesterly therealong from the said extremity, the said point being at the mouth of the unnamed Bay leading to the southerly boundary of the Township of Cowper,

THENCE easterly and northeasterly following the middle of the Bay leading to the southerly boundary of the Township of Cowper;

THENCE easterly along the southerly boundary of the Township of Cowper to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Parry Island Indian Reserve Number 16

### SCHEDULE C

FIRSTLY, part of the geographic township of Butt, commencing at the southwesterly angle of the Township of Butt,

THENCE easterly along the southerly boundary of the Township of Butt to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly along the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of Butt;

THENCE westerly along the northerly boundary of the Township of Butt to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of Butt to the point of commencement;

SECONDLY, part of the geographic township of McCraney, commencing at the southwesterly angle of the Township of McCraney;

THENCE easterly along the southerly boundary of the Township of McCraney to the westerly limit of the Algonquin Provincial Park as defined in Ontario Regulation 579/77;

THENCE northerly following the westerly limit of the Algonquin Provincial Park to the northerly boundary of the Township of McCraney;

THENCE westerly along the northerly boundary of the Township of McCraney to its northwesterly angle;

THENCE southerly along the westerly boundary of the Township of McCraney to the point of commencement.

## SCHEDULE D

FIRSTLY, part of the Township of McDougall, commencing at the intersection of the northerly boundary of the Town of Parry Sound and the high water mark of the easterly shore of Parry Sound;

THENCE easterly following the boundaries between the Town of Parry Sound and the Township of McDougall to the northeasterly angle of the said Town;

THENCE southerly following along the boundaries between the Town of Parry Sound and the Township of McDougall to the southerly boundary of the said Township;

THENCE easterly along the said Township boundary to the southerly prolongation of the easterly limit of Lot 25 in Concession I of the said Township of McDougall;

THENCE northerly to and along the easterly limit of Lot 25 in concessions I and II and the northerly prolongation thereof to a parallel line distant 200 feet measured southerly at right angles from the northerly high water mark of Mill Lake.

THENCE easterly and northerly parallel with the high water mark of Mill Lake to the easterly prolongation of southerly limit of Lot 24 in Concession IV of the Township of McDougall;

THENCE westerly to and along the southerly limit of lots 24 and 25 in Concession IV to the easterly limit of the road allowance between lots 25 and 26;

THENCE northerly along the said easterly limit to the northerly limit of the road allowance between concessions IV and V of the Township of McDougall;

THENCE westerly along the said northerly limit of road allowance to the easterly limit of the right-of-way of the Canadian Pacific Railways;

THENCE southerly along the easterly limit of the said right-of-way to the northerly limit of Lot 17 in Concession A of the Township of McDougall;

THENCE westerly along the northerly limit of the said Lot 17 to north-westerly angle of the said Lot;

THENCE westerly along the westerly prolongation of the northerly limit of the said Lot to the northerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE southerly to and along the easterly limit of the said Indian Reserve to the southerly boundary of the Township of McDougall;

THENCE easterly along the southerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE northerly along the westerly boundaries of the Town of Parry Sound to the point of commencement.

SECONDLY, part of the Township of Foley, commencing at the southwesterly angle of the Town of Parry Sound;

THENCE westerly along the prolongation of the southerly boundary of the said Town to the southerly prolongation of the easterly limit of Parry Island Indian Reserve Number 16;

THENCE northerly to and along the easterly limit of the said Indian Reserve to the northerly boundary of the Township of Foley;

THENCE easterly along the northerly boundary of the said Township to the westerly boundary of the Town of Parry Sound;

THENCE southerly along the westerly boundaries of the Town of Parry Sound to the point of commencement

## SCHEDULE E

FIRSTLY, part of the geographic township of Conger, commencing at the northeasterly angle of the Township of Conger;

THENCE westerly along the northerly boundary of the Township of Conger to the easterly limit of Lot 10 in Concession XII of the said Township;

THENCE southerly along the easterly limit of Lot 10 in concessions XII to IV, both inclusive, to the northerly limit of Concession III of the Township of Conger;

THENCE easterly along the said northerly limit to the northeasterly angle of Lot 5 in Concession III;

THENCE southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II;

THENCE easterly along the southerly limit of Concession II to the easterly boundary of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the point of commencement;

SECONDLY, part of the geographic township of Conger, commencing at the southeasterly angle of the Township of Conger;

THENCE northerly along the easterly boundary of the Township of Conger to the northwesterly limit of the King's Highway Number 612;

THENCE southwesterly following the northwesterly limit of the said King's Highway to the southerly boundary of the Township of Conger;

THENCE easterly along the southerly boundary of the Township of Conger to the point of commencement.

An Act respecting  
Local Government in the District of  
Parry Sound

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*1st Reading*

May 28th, 1979

*2nd Reading*

June 15th, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Public Utilities Act**

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**THE HON. T. L. WELLS**  
Minister of Intergovernmental Affairs

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## EXPLANATORY NOTES

SECTION 1. Clause c of section 13 now reads as follows:

- (c) *being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own, increases the supply of water agreed for, or improperly wastes the water.*

The re-enactment will permit some things, now absolutely prohibited, to be done with the consent of the municipal corporation that supplies the water.

SECTION 2. Subsection 1 of section 30 as it is proposed to be re-enacted is set out below, showing underlined the words being added:

- (1) *The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to Ontario Hydro for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon the lands in the same manner and to the same extent as municipal taxes upon land.*

The effect is to create a lien on an owner's land for up to three month's arrears of utility charges to the same extent and in the same manner as municipal taxes.

SECTION 3.—Subsection 1. Subsection 1 of section 42 now reads as follows:

- (1) *A commission established under this Part is a body corporate and shall consist of three or five members as may be provided by the by-law, of whom the head of the council shall be one ex officio and the others shall be elected at the same time and place and in the same manner as the head of the council, and subject to subsection 3 the elected members shall hold office for two years and until their successors are elected and the new commission is organized.*

The re-enactment is to make it clear that the members of public utility commissions are to be elected by general vote at elections held under *The Municipal Elections Act, 1977*.

BILL 101

1979

## An Act to amend The Public Utilities Act

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

1. Clause *c* of section 13 of *The Public Utilities Act*, being chapter 390 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 13 (c),  
re-enacted

(c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, improperly wastes the water or, without the consent of the corporation, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own or increases the supply of water agreed for.

2. Subsection 1 of section 30 of the said Act is repealed and the following substituted therefor: s. 30 (1),  
re-enacted

(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to Ontario Hydro for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due, and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon the lands in the same manner and to the same extent as municipal taxes upon land. Extent to  
which  
amount  
payable to  
form lien  
on land

- 3.—(1) Subsection 1 of section 42 of the said Act is repealed and the following substituted therefor: s. 42 (1),  
re-enacted

(1) A commission established under this Part is a body corporate and shall consist of three or five members as may be provided Number of  
commis-  
sioners

- by the by-law, of whom the head of the council shall be one *ex officio* and the others shall be elected by general vote at elections held under *The Municipal Elections Act, 1977*.
- 1977, c. 62
- s. 42 (3, 4, 6, 7, 8, 9), repealed
- (2) Subsections 3, 4, 6, 7, 8 and 9 of the said section 42 are repealed.
- s. 42 (10), re-enacted
- (3) Subsection 10 of the said section 42 is repealed and the following substituted therefor:
- Head of council not affected
- (10) Nothing in subsection 5 affects the *ex officio* membership in a commission of the head of council.
- s. 42 (12), amended
- (4) Subsection 12 of the said section 42 is amended by striking out "III and IV" in the second line and inserting in lieu thereof "and III".
- s. 44 (2), repealed
- 4.** Subsection 2 of section 44 of the said Act is repealed.
- Commence-  
ment
- 5.** This Act comes into force on the day it receives Royal Assent.
- Short title
- 6.** The short title of this Act is *The Public Utilities Amendment Act, 1979*.



Subsection 2. The subsections repealed provided for staggered terms of office for members. Under *The Municipal Elections Act, 1977* all members will hold office for a period of two years commencing on the 1st day of December in an election year.

Subsection 3. The re-enactment of subsection 10 is complementary to the amendment made by subsection 1 of this section of the Bill; references to the subsections being repealed are dropped.

Subsection 4. Subsection 12 of section 42 now reads as follows:

(12) *Except where otherwise expressly provided, the provisions of Parts II, III and IV of The Municipal Act that are applicable to members of the council of a local municipality apply mutatis mutandis to the commissioners to be elected under this Part.*

The reference to Part IV of *The Municipal Act* is dropped; that Part has been repealed and the substance of its provisions are now found in *The Municipal Elections Act, 1977*.

SECTION 4. The subsection proposed to be repealed now reads as follows:

(2) *Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by Ontario Hydro, the salary or other remuneration of the commissioners, so far as it is chargeable to such works, is subject to the approval of Ontario Hydro, and when the approval has been given the salary or other remuneration shall not be changed or discontinued by the council without the consent of Ontario Hydro.*





An Act to amend  
The Public Utilities Act

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*1st Reading*

May 28th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

# BILL 101

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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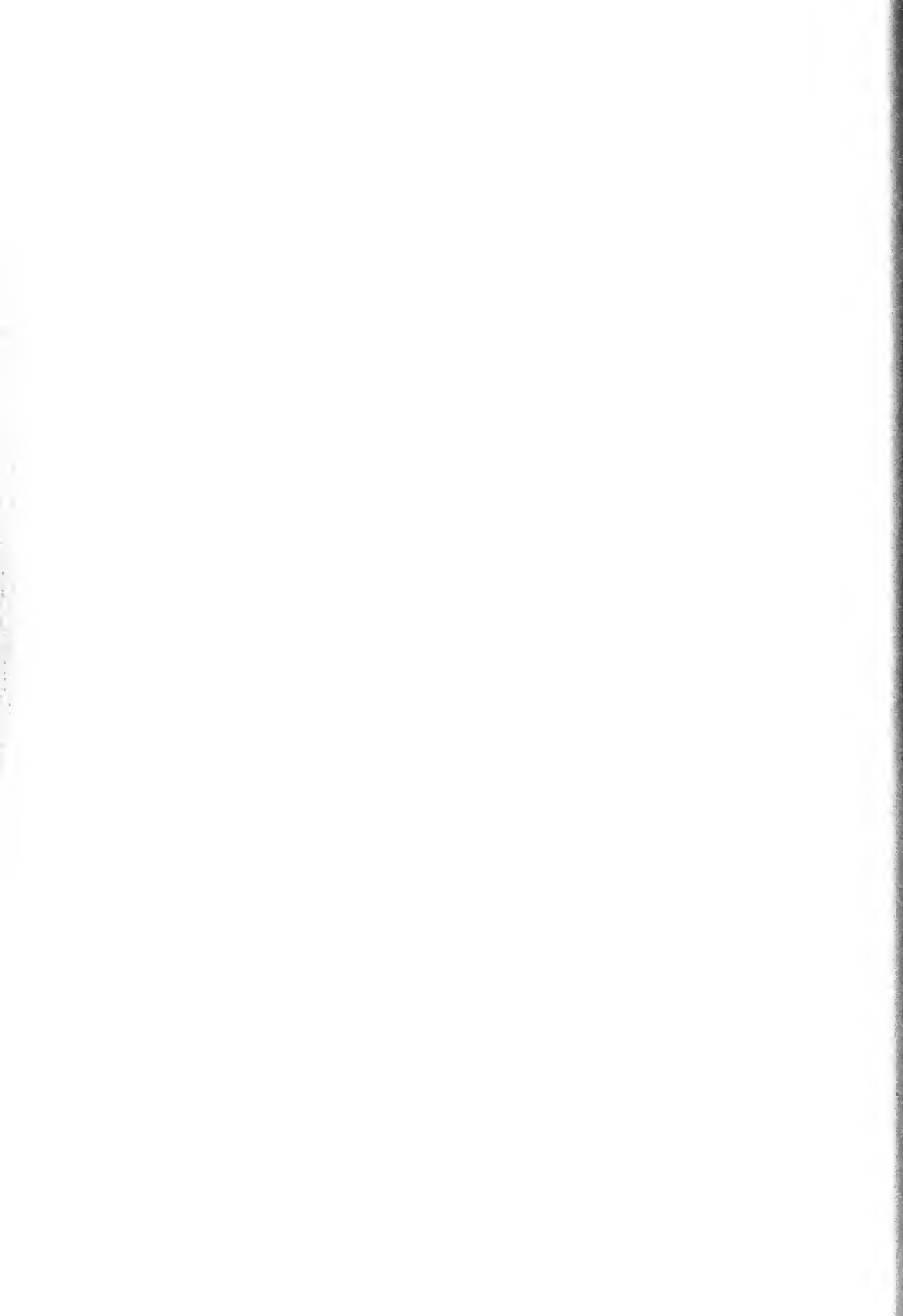
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## An Act to amend The Public Utilities Act

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 101

1979

## An Act to amend The Public Utilities Act

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

1. Clause *c* of section 13 of *The Public Utilities Act*, being chapter 390 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 13 (c),  
re-enacted

(c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, improperly wastes the water or, without the consent of the corporation, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own or increases the supply of water agreed for.

2. Subsection 1 of section 30 of the said Act is repealed and the following substituted therefor: s. 30 (1),  
re-enacted

(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to Ontario Hydro for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due, and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon the lands in the same manner and to the same extent as municipal taxes upon land. Extent to  
which  
amount  
payable to  
form lien  
on land

- 3.—(1) Subsection 1 of section 42 of the said Act is repealed and the following substituted therefor: s. 42 (1),  
re-enacted

(1) A commission established under this Part is a body corporate and shall consist of three or five members as may be provided Number of  
commis-  
sioners

by the by-law, of whom the head of the council shall be one *ex officio* and the others shall be elected by general vote at elections held under *The Municipal Elections Act, 1977*.

1977, c. 62

s. 42 (3, 4, 6, 7, 8, 9), repealed

(2) Subsections 3, 4, 6, 7, 8 and 9 of the said section 42 are repealed.

s. 42 (10), re-enacted

(3) Subsection 10 of the said section 42 is repealed and the following substituted therefor:

Head of council not affected

(10) Nothing in subsection 5 affects the *ex officio* membership in a commission of the head of council.

s. 42 (12), amended

(4) Subsection 12 of the said section 42 is amended by striking out "III and IV" in the second line and inserting in lieu thereof "and III".

s. 44 (2), repealed

4. Subsection 2 of section 44 of the said Act is repealed.

Commencement

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

Short title

6. The short title of this Act is *The Public Utilities Amendment Act, 1979*.









An Act to amend  
The Public Utilities Act

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*1st Reading*

May 28th, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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**BILL 102**

**Private Member's Bill**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to declare  
the Rights of Children in Ontario**

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**MR. McCLELLAN**

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#### EXPLANATORY NOTE

The purpose of the Bill is to declare the rights of children in Ontario and to provide a means for enforcing those rights. The Bill sets out a series of rights belonging to children who are resident in Ontario and states that every parent and the Government of Ontario has a duty to protect these rights. In certain circumstances, an application can be made to a judge for a determination whether a duty to a child has been fulfilled and the nature of that duty. The Bill provides further guarantees for children in any proceedings concerning matters affecting the guardianship, custody or status of children.

BILL 102

1979

**An Act to declare  
the Rights of Children in Ontario**

**W**HEREAS The Legislature of Ontario desires to nurture Preamble and safeguard the Province's most precious resource, our children, and whereas it is considered to be in the best interests of children in Ontario to enact a Declaration of the Rights of Children, together with the means of enforcing those rights;

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

**1. In this Act,**

Definitions

- (a) "court" means a provincial court (family division) or the Unified Family Court;
- (b) "judge" means a provincial judge presiding in a provincial court (family division) or in the Unified Family Court;
- (c) "Minister" means the Attorney General of Ontario;
- (d) "parent" includes,
  - (i) a guardian,
  - (ii) a person who has demonstrated a settled intention to treat a child as a child of the person's family, and
  - (iii) a person who is not recognized in law to be a parent of a child but,
    - 1. has acknowledged a parental relationship to the child and has voluntarily provided for the child's care and support, or

2. by an order of a court of competent jurisdiction or a written agreement, is under a legal duty to provide for the child or has been granted custody of or access to the child,

but does not include the Crown, a society or a foster parent of a child.

Declaration  
of rights

**2.** It is hereby recognized and declared that every child resident in the Province of Ontario is entitled to the following basic rights,

- (a) the right to food, clothing and housing in order to ensure good health and personal development;
- (b) the right to an environment free from physical abuse, exploitation and degrading treatment;
- (c) the right to health care necessary to promote physical and mental health and to remedy illness;
- (d) the right to reside with parents and siblings except where it is in the best interest of the child for the child to reside elsewhere;
- (e) the right to parental and adult support, guidance and continuity in the child's life;
- (f) the right to an education which will ensure every child the opportunity to reach and exercise his or her full potential;
- (g) the right to play and recreation;
- (h) the right to have his or her opinions heard and to be included to the greatest extent possible when any decisions are being made affecting his or her life;
- (i) the right to independent adult counselling and legal assistance in relation to all decisions affecting guardianship, custody, or a determination of status;
- (j) the right to a competent interpreter where language or a disability is a barrier in relation to all decisions affecting guardianship, custody, or a determination of status;
- (k) the right to an explanation of all decisions affecting guardianship, custody, or a determination of status;
- (l) the right to be informed of the rights of children and to have them applied and enforced.



**3.—**(1) Every parent has a duty to provide for and protect the rights of his or her child unless that parent, Duty of parent to child

- (a) is unable or unwilling to do so and can demonstrate that the child's rights are being provided for and protected by some other person, institution or agency; or
- (b) is under a legal duty arising from an order of a court of competent jurisdiction or a written agreement limiting the access or other rights of the parent in respect of the child.

(2) The Government of Ontario has a duty to support and assist every parent in providing for and protecting the rights of his or her child and for this purpose the Government of Ontario shall, Duty of Government of Ontario to parent

- (a) provide such services as are necessary to promote and maintain the rights of children; and
- (b) where the Government of Ontario provides a service to one or more parents, extend that service to any other parent in Ontario who requests the service.

(3) The Government of Ontario has a duty to provide for and protect the rights of a child where, Duty of Government of Ontario to child

- (a) neither parent of the child is fulfilling his or her duty to the child;
- (b) each parent of the child voluntarily relinquishes his or her rights and duties in respect of the child to the Government of Ontario; or
- (c) the child becomes a ward of the Crown.

**4.** A parent may refuse to participate in or accept services provided by the Government of Ontario for a child under section 3 unless a court determines that the child is in need of protection under *The Child Welfare Act, 1978*. Rights of parent to refuse services  
1978, c 85

**5.—**(1) Upon the application of a child, a judge may make an order in the nature of a declaration determining, Declaration

- (a) whether a parent has fulfilled his or her duty to provide for and protect the right of a child under this Act; and
- (b) the nature of the parent's duty in the particular circumstances of the case.

Where parent  
makes  
application

(2) Upon the application of a parent on behalf of his or her child, a judge may make an order in the nature of a declaration determining,

(a) whether the Government of Ontario has fulfilled its duty to support and assist the parent in providing for and protecting the rights of his or her child; and

(b) the nature of the duty of the Government of Ontario in the particular circumstances of the case.

Idem

(3) Upon the application of a child who is a ward of the Crown, or who is in the care of a children's aid society or foster parent or who, in the opinion of the judge, is in need of care, the judge may make an order in the nature of a declaration determining,

(a) whether the Government of Ontario has a duty to provide for and protect the rights of the child; and

(b) the nature of the duty of the Government of Ontario in the particular circumstances of the case.

Child as  
applicant

**6.—(1)** A child has capacity to make an application under this Act without the intervention of a next friend or a guardian *ad litem*.

Rules of  
court

(2) An application under this Act may be made in the manner prescribed by the rules of court.

Evidence

**7.** Any oral testimony, document or thing that, where admitted as evidence, enables or assists a judge in determining the rights and needs of a child is relevant to the subject-matter of proceedings under this Act, but the judge shall not admit any testimony, document or thing that attributes fault or blame to any person and does not concern directly the rights and needs of the child.

Interpre-  
tation

**8.—(1)** In this section, "court" means a provincial court (family division), the Unified Family Court, a county or district court or the Supreme Court.

Legal  
representa-  
tion  
for child

(2) A child may have legal representation at any stage in proceedings before a court in Ontario in any matter affecting the guardianship, custody or status of the child.

Court may  
direct legal  
representa-  
tion  
for child

(3) Where in a proceeding referred to in subsection 2 a child does not have legal representation, the court shall, as soon as practicable in the proceedings, determine whether legal representation is desirable to protect the interests of the child and if at that time or any later stage in the proceedings the court determines that legal representation is desirable that court shall direct that legal representation be provided for the child.

**9.**—(1) The rights enumerated in clauses *h*, *i*, *j*, and *k* of section 2 shall be deemed to constitute standards of natural justice in proceedings concerning the guardianship, custody or status of a child. Standards of natural justice

(2) Any decision arising from a proceeding referred to in subsection 1 is subject to review in proceedings for an order in the nature of *certiorari* or by way of an action for a declaration or an injunction as if the standards of natural justice established by clauses *h*, *i*, *j* and *k* of section 2 were standards of natural justice at common law. Idem

**10.**—(1) The Minister shall cause to be collected, maintained and published from time to time a digest of judicial declarations made under section 5. Digest of judicial declarations

(2) A copy of the digest of judicial declarations shall be provided by the Minister to the clerk of each provincial court (family division) and Unified Family Court and the clerk shall make the digest available to any person for examination during normal business hours and any person may make extracts therefrom. Idem

**11.** Where a provision of this Act conflicts with a provision of any other Act, this Act applies. Conflict

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

**13.** The short title of this Act is *The Children's Rights Act*, 1979. Short title

An Act to declare  
the Rights of Children in Ontario

---

*1st Reading*

May 28th, 1979

*2nd Reading*

*3rd Reading*

---

MR. McCLELLAN

---

*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Municipal Act**

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**THE HON. T. L. WELLS**  
Minister of Intergovernmental Affairs

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## EXPLANATORY NOTES

### SECTION 1. Self-explanatory.

### SECTION 2. Subsection 1 of section 224 now reads as follows:

- (1) The treasurer of every local municipality in every year shall, within one month after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer a copy of the balance sheet or sheets and the corresponding statements of surplus as of the 31st day of December of the preceding year and the statement of revenue and expenditure for the preceding year, all as certified by the auditor, or a summary thereof, in such form as the Ministry may prescribe, together with a copy of the report of the auditor.*

At present, only local municipalities must publish financial statements. The proposed re-enactment of subsection 1 of section 224 extends the requirement to all municipalities.

### SECTION 3. Section 236 now reads as follows:

- 236. Every qualified person elected to any municipal office shall take the declaration of office, where he is elected to fill a vacancy, within ten days after his election, and in other cases on or before the day fixed for holding the first meeting of the body to which he was elected, and in default he shall be deemed to have resigned.*

The proposed subsection 2 will permit a municipal council or other body to extend the time for a person to take the declaration of office, in appropriate cases, for a person elected to fill a vacancy on the council or other body.

## An Act to amend The Municipal Act

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

1.—(1) Paragraph 8 of section 1 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed. s. 1, par. 8, repealed

(2) Paragraph 13a of the said section 1, as re-enacted by the Statutes of Ontario, 1978, chapter 32, section 1, is repealed and the following substituted therefor: s. 1, par. 13a, re-enacted

13a. "Minister" means the Minister of Intergovernmental Affairs, except that in sections 361, 443, 450 and 461 "Minister" means the Minister of Housing;

13b. "Ministry" means the Ministry of Intergovernmental Affairs.

2. Subsection 1 of section 224 of the said Act is repealed and the following substituted therefor: s. 224 (1), re-enacted

(1) The treasurer of every municipality in every year shall, within the time prescribed by the Ministry after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer, either, Publication of financial statements, etc.

(a) a copy of the statement of revenue and expenditure, statement of capital operations, the balance sheet, the notes to the financial statements, the auditor's report, and the mill rate information for the current and previous year as contained in the financial review; or

(b) a summary of the information referred to in clause a in such form as the Ministry may prescribe.

3. Section 236 of the said Act is amended by adding thereto the following subsection: s. 236, amended

Extension  
of time

(2) Notwithstanding subsection 1, a municipal council or other body to which a person is elected may, for such reasons as it considers appropriate, extend by thirty days the times referred to in subsection 1.

s. 242b (4),  
amended

4. Subsection 4 of section 242b of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 32, section 14, is amended by inserting after "section" in the second line "and where the decision to be exercised by the council in respect of the matter is a statutory power of decision within the meaning of *The Statutory Powers Procedure Act, 1971*".

s. 293 (3),  
amended

5. Subsection 3 of section 293 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 124, section 5, 1973, chapter 83, section 3, 1976, chapter 69, section 4 and 1977, chapter 48, section 5, is further amended by adding thereto the following clause:

(p) by the council of a local municipality with respect to an agreement under section 24 of *The Planning Act* or subsection 20 of section 361 of this Act.

R.S.O. 1970,  
c. 349

- 6.—(1) Paragraph 41 of section 352 of the said Act is repealed and the following substituted therefor:

s. 352,  
par. 41,  
re-enacted

Rewards

41. For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment, and for offering and paying a reward to any person for information leading to the location or return of missing persons and property.

s. 352,  
par. 74,  
amended

- (2) Paragraph 74 of the said section 352 is amended by adding thereto the following clauses:

(i) Members of a board of management appointed under this paragraph shall hold office at the pleasure of the council that appointed them and unless sooner removed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment.

(j) Where a member of a board of management appointed under this paragraph has been removed from office before the expiration of his term, the council may appoint another eligible person for the unexpired portion of his term.

s. 354 (1),  
par. 129,  
re-enacted

7. Paragraph 129 of subsection 1 of section 354 of the said Act is repealed and the following substituted therefor:



SECTION 4. Subsection 4 of section 242b, as amended by this section, is set out below showing underlined the additional words:

- (4) *Where a committee conducts a hearing in respect of any matter pursuant to a by-law passed under this section, and where the decision to be exercised by the council in respect of the matter is a statutory power of decision within the meaning of The Statutory Powers Procedure Act, 1971, the provisions of sections 5 to 15 and 21 to 24 of The Statutory Powers Procedure Act, 1971 shall be deemed to apply to the committee and to the hearing conducted by it and those sections, except for section 24, do not apply to the council in the exercise of its power of decision in respect of such matter.*

The amendment clarifies that the subsection applies only where the decision is a statutory power of decision.

SECTION 5. The proposed clause p specifies additional by-laws that may be passed by local municipalities without the assent of the electors.

SECTION 6.—Subsection 1. Paragraph 41 of section 352 as proposed to be re-enacted is set out below showing underlined the words that have been added:

41. *For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment, and for offering and paying a reward to any person for information leading to the location and return of missing persons and property.*

The change permits municipalities to offer and pay rewards for information leading to the location and return of missing persons and property.

Subsection 2. Paragraph 74 of section 352 provides that a municipality may pass by-laws for acquiring, erecting, altering, maintaining, operating or managing special undertakings, including monuments, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community centres, stadia and museums.

The new clauses clarify the terms of office of members of a board of management of such an undertaking appointed under clause e of the said paragraph.

SECTION 7. Paragraph 129 of subsection 1 of section 354 now reads as follows:

129. *For prohibiting and regulating the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not.*

The proposed paragraph 129 gives municipalities the power to inspect sewage and industrial waste drains on private property, except land or premises used as dwellings, in addition to the existing powers to prohibit and regulate the discharge of sewage and industrial waste.

SECTION 8. Paragraph 8 of section 363 allows the councils of urban municipalities to pass by-laws prohibiting any person from leaving unattended a motor vehicle that is not locked in a manner that will prevent the unauthorized use of the vehicle. Clause *b* provides that the minimum fine for the breach of a by-law passed under paragraph 8 is \$1 and the maximum fine is \$10. With the repeal of clause *b*, a person convicted of a breach of a by-law passed under paragraph 8 would be subject to the general penalty provisions set out in section 466 of the Act.

SECTION 9. Subsection 2 of section 450 now reads as follows:

*(2) No highway less than twenty metres in width or, except in a city or town, more than thirty metres in width shall be laid out by the council of the municipality without the approval of the Minister or by any owner of land without the approval of the council of the municipality and of the Minister.*

The underlined words are deleted by the amendment. Under the proposed subsection 2 of section 450, the approval of the Minister of Housing will no longer be required where the municipal council lays out a highway greater than thirty metres in width.

SECTION 10. Under the proposed amendment, local municipalities will be able to lease or license the use of untravelled portions of highways in any area of the municipality. At present, these powers are restricted to lands in areas zoned for industrial or commercial purposes.

SECTION 11. The proposed section 469a gives a court the power to issue an order to restrain the continuation or repetition of a breach of a municipal by-law where a conviction has been entered.

SECTION 12. Subsection 1 of section 517 now reads as follows:

*(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than \$6, the sum of such taxes shall be deemed to be \$6 and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$6 shall form part of the general funds of the municipality.*

The amendment increases the deemed minimum tax rate from \$6 to \$10 and provides a method whereby the Minister may prescribe the deemed minimum amount of taxes

129. For prohibiting, regulating and inspecting the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not. Control of sewage

(a) A person appointed by the council to carry out inspections under this paragraph may, for the purpose of carrying out such inspections, enter in or upon any land or premises except land or premises being used as a dwelling at any time without a warrant, and may take such tests and samples as are necessary for the purposes of the inspection.

8. Clause *b* of paragraph 8 of section 363 of the said Act is repealed. s. 363, par. 8 (b), repealed
9. Subsection 2 of section 450 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 81, section 5 and 1978, chapter 87, section 40, is repealed and the following substituted therefor: s. 450 (2), re-enacted

(2) No highway less than twenty metres in width shall be laid out by the council of the municipality without the approval of the Minister or by any owner of land without the approval of the council of the municipality and of the Minister. Width of highways

10. Paragraph 1 of section 454 of the said Act is repealed and the following substituted therefor: s. 454, par. 1, re-enacted

1. For leasing or licensing the use of untravelled portions of highways under the jurisdiction of the council, except highways that are extensions or connecting links of the King's Highway, to the owners or occupants of adjoining property for such consideration and upon such terms and conditions as may be agreed. Leasing and licensing untravelled portions of highways

11. The said Act is amended by adding thereto the following section: s. 469a, enacted

469a. Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. Power to restrain by order when conviction entered

12. Subsection 1 of section 517 of the said Act is repealed and the following substituted therefor: s. 517 (1), re-enacted

(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in Minimum tax

any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than,

- (a) \$10 or such other amount as may be prescribed from time to time by the Minister; or
- (b) such other amount as may be determined by council, which amount shall not exceed \$10, or, where another amount has been prescribed by the Minister, such other amount,

the sum of such taxes shall be deemed to be \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, as the case may be, and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, shall form part of the general funds of the municipality.

Minister's  
order

(1a) The Minister may, by order, prescribe amounts for the purpose of subsection 1.

s. 527 (3),  
amended

**13.**—(1) Subsection 3 of section 527 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 69, section 18, is amended by striking out "1 per cent" in the third line and inserting in lieu thereof "1¼ per cent".

s. 527 (4),  
amended

(2) Subsection 4 of the said section 527, as enacted by the Statutes of Ontario, 1976, chapter 69, section 18, is amended by striking out "12 per cent" in the fourth line and inserting in lieu thereof "15 per cent".

s. 527 (8),  
re-enacted

(3) Subsection 8 of the said section 527 is repealed and the following substituted therefor:

Provision  
for payment  
of taxes into  
bank, etc.

(8) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada, trust company, or Province of Ontario Savings Office or, subject to *The Credit Unions and Caisses Populaires Act, 1976*, into such credit union within the meaning of that Act, as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality.

1976, c. 62

**SECTION 13.**—Subsections 1 and 2. The effect of the amendments to subsections 3 and 4 of section 527 is to raise the interest charge that may be imposed in respect of unpaid taxes during the year in which the taxes become payable from 1 per cent to  $1\frac{1}{4}$  per cent where the interest is charged on a monthly basis and from 12 per cent to 15 per cent where interest is charged on an annual basis.

Subsection 3. The proposed re-enactment of subsection 8 of section 527 will enable a municipality to authorize the payment of tax moneys into a credit union. At present, tax moneys may only be paid into a chartered bank, trust company or Province of Ontario Savings Office

SECTION 14. The proposed amendments to subsections 1 and 2 of section 553 are complementary to the amendment to section 527 of the Act as set out in section 13 of this Bill. The amount of interest that may be charged in respect of unpaid taxes and interest is increased from 1 per cent to 1¼ per cent per month and from 12 per cent to 15 per cent per year.

SECTION 15.—Subsection 1. Subsection 1a of section 636a as amended by this subsection is set out below showing underlined the additional words:

- (1a) *The council may, by by-law passed on or before the 31st day of December in any year, provide that the Assessment Review Court shall exercise the functions of the council under subsections 6, 7 and 16, except in respect of applications under clause d of subsection 1, and any such by-law shall apply to applications made in and after the year in which such by-law is passed and shall continue so to apply until repealed.*

Subsection 1 of section 636a provides for applications to a municipal council for the cancellation, reduction or refund of taxes in certain cases. Clause d of subsection 1 provides for applications by persons who are unable to pay taxes by reason of sickness or extreme poverty. Under the proposed amendment, the council will be required to hear such applications.

Subsections 2, 3 and 4. Subsections 6, 7 and 8 of section 636a, as amended by this section, are set out below showing underlined the additional words:

- (6) *Where the council has not passed a by-law under subsection 1a, and in the case of all applications under clause d of subsection 1, the council, subject to such restrictions and limitations as are contained in this section, may reject the application or,*

(a) *where the taxes have not been paid, cancel the whole of the taxes or reduce the taxes; or*

(b) *where the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or*

(c) *where the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.*

- (7) *Subject to subsection 7a, the council shall hear and dispose of every application not later than the 31st day of March in the year following the year in respect of which the application is made, and in the case of every application under clause d of subsection 1, the council shall hear and dispose of every application not later than the 31st day of December in the year following the year in respect of which the application is made, and the clerk of the municipality shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given and such notice shall state thereon, except in the case of applications under clause d of subsection 1, that such decision may be appealed to the Assessment Review Court within fourteen days of the mailing of such notice.*

- (8) *Subject to subsection 8a, an appeal may be had to the Assessment Review Court by the applicant from the decision of the council, or where the council has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing de novo.*

The amendments are complementary to the amendment to subsection 1a.

**14.—**(1) Subsection 1 of section 553 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 69, section 19, is amended by striking out “1 per cent” in the eighth line and inserting in lieu thereof “1¼ per cent”. s. 553 (1).  
amended

(2) Subsection 2 of the said section 553, as enacted by the Statutes of Ontario, 1976, chapter 69, section 19, is amended by striking out “12 per cent” in the fifth line and inserting in lieu thereof “15 per cent”. s. 553 (2).  
amended

**15.—**(1) Subsection 1a of section 636a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 175, section 9, is repealed and the following substituted therefor: s. 636a (1a).  
re-enacted

(1a) The council may, by by-law passed on or before the 31st day of December in any year, provide that the Assessment Review Court shall exercise the functions of the council under subsections 6, 7 and 16, except in respect of applications under clause *d* of subsection 1, and any such by-law shall apply to applications made in and after the year in which such by-law is passed and shall continue so to apply until repealed. By-law to  
provide for  
exercise by  
Assessment  
Review Court  
of functions  
of council

(2) Subsection 6 of the said section 636a, exclusive of the clauses, as enacted by the Statutes of Ontario, 1972, chapter 124, section 25 and amended by 1973, chapter 175, section 9, is repealed and the following substituted therefor: s. 636a (6).  
re-enacted

(6) Where the council has not passed a by-law under subsection 1a, and in the case of all applications under clause *d* of subsection 1, the council, subject to such restrictions and limitations as are contained in this section, may reject the application or, Powers of  
council

(3) Subsection 7 of the said section 636a, as amended by the Statutes of Ontario, 1973, chapter 175, section 9, is repealed and the following substituted therefor: s. 636a (7).  
re-enacted

(7) Subject to subsection 7a, the council shall hear and dispose of every application not later than the 31st day of March in the year following the year in respect of which the application is made, and in the case of every application under clause *d* of subsection 1, the council shall hear and dispose of every application not later than the 31st day of December in the year following the year in respect of which the application is made, and the clerk of the municipality shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given and such notice shall state thereon, except in the case of applications under clause *d* of Time of  
hearing,  
etc

subsection 1, that such decision may be appealed to the Assessment Review Court within fourteen days of the mailing of such notice.

s. 636a (8),  
amended

(4) Subsection 8 of the said section 636a is amended by adding at the commencement thereof "Subject to subsection 8a".

s. 636a,  
amended

(5) The said section 636a is amended by adding thereto the following subsection:

Decision of  
council final

(8a) In the case of an application under clause *d* of subsection 1, the decision of the council is final and no appeal may be had to the Assessment Review Court.

Transition  
R S O. 1970,  
c. 284

(6) Applications under clause *d* of subsection 1 of section 636a of *The Municipal Act* commenced prior to the coming into force of this section shall be continued and finally determined in the same manner as if this section had not been enacted.

s. 639a,  
enacted

**16.** The said Act is further amended by adding thereto the following section:

English and  
French  
language  
forms

639a.—(1) The Minister may, by order, prescribe an English and French language version of any form prescribed by or under this Act.

By-laws  
providing  
for use  
of forms

(2) The council of a municipality may, by by-law, provide for the use in the municipality of the version of the form prescribed by the Minister under subsection 1 in place of the corresponding form prescribed by or under this Act, and, notwithstanding any other provision in this Act, where a by-law under this subsection is in force in a municipality the version of the forms provided for in the by-law shall be used in the municipality in place of the corresponding forms prescribed by or under this Act.

Commence-  
ment

**17.**—(1) This Act, except section 2, comes into force on the day it receives Royal Assent.

Idem

(2) Section 2 comes into force on the 1st day of January, 1980.

Short title

**18.** The short title of this Act is *The Municipal Amendment Act, 1979*.



Subsection 5. Under the proposed subsection 8a, the decision of the council will be final with respect to an application under clause d of subsection 1 of section 636a.

Subsection 6. Self-explanatory.

SECTION 16. The proposed section 639a authorizes the Minister of Intergovernmental Affairs to prescribe bilingual versions of forms prescribed by or under *The Municipal Act*.

The council of a municipality will be authorized to provide for the use in the municipality of a bilingual version of a form that is prescribed by the Minister.





An Act to amend The Municipal Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Municipal Act**

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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

## EXPLANATORY NOTES

### SECTION 1. Self-explanatory.

### SECTION 2. Subsection 1 of section 224 now reads as follows:

*(1) The treasurer of every local municipality in every year shall, within one month after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer a copy of the balance sheet or sheets and the corresponding statements of surplus as of the 31st day of December of the preceding year and the statement of revenue and expenditure for the preceding year, all as certified by the auditor, or a summary thereof, in such form as the Ministry may prescribe, together with a copy of the report of the auditor.*

At present, only local municipalities must publish financial statements. The proposed re-enactment of subsection 1 of section 224 extends the requirement to all municipalities.

### SECTION 3. Section 236 now reads as follows:

*236. Every qualified person elected to any municipal office shall take the declaration of office, where he is elected to fill a vacancy, within ten days after his election, and in other cases on or before the day fixed for holding the first meeting of the body to which he was elected, and in default he shall be deemed to have resigned.*

The proposed subsection 2 will permit a municipal council or other body to extend the time for a person to take the declaration of office, in appropriate cases, for a person elected to fill a vacancy on the council or other body.

## An Act to amend The Municipal Act

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

1.—(1) Paragraph 8 of section 1 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed. s. 1, par. 8, repealed

(2) Paragraph 13a of the said section 1, as re-enacted by the Statutes of Ontario, 1978, chapter 32, section 1, is repealed s. 1, par. 13a, re-enacted and the following substituted therefor:

13a. "Minister" means the Minister of Intergovernmental Affairs, except that in sections 361, 443, 450 and 461 "Minister" means the Minister of Housing;

13b. "Ministry" means the Ministry of Intergovernmental Affairs.

2. Subsection 1 of section 224 of the said Act is repealed and the following substituted therefor: s. 224 (1), re-enacted

(1) The treasurer of every municipality in every year shall, within the time prescribed by the Ministry after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer, either, Publication of financial statements, etc.

(a) a copy of the statement of revenue and expenditure, statement of capital operations, the balance sheet, the notes to the financial statements, the auditor's report, and the mill rate information for the current and previous year as contained in the financial review; or

(b) a summary of the information referred to in clause a in such form as the Ministry may prescribe.

3. Section 236 of the said Act is amended by adding thereto the following subsection: s. 236, amended

Extension  
of time

(2) Notwithstanding subsection 1, a municipal council or other body to which a person is elected may, for such reasons as it considers appropriate, extend by thirty days the times referred to in subsection 1.

s. 242b (4),  
amended

4. Subsection 4 of section 242b of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 32, section 14, is amended by inserting after "section" in the second line "and where the decision to be exercised by the council in respect of the matter is a statutory power of decision within the meaning of *The Statutory Powers Procedure Act, 1971*".

s. 293 (3),  
amended

5. Subsection 3 of section 293 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 124, section 5, 1973, chapter 83, section 3, 1976, chapter 69, section 4 and 1977, chapter 48, section 5, is further amended by adding thereto the following clause:

(ϕ) by the council of a local municipality with respect to an agreement under section 24 of *The Planning Act* or subsection 20 of section 361 of this Act.

R.S.O. 1970,  
c. 349

s. 352,  
par. 41,  
re-enacted

- 6.—(1) Paragraph 41 of section 352 of the said Act is repealed and the following substituted therefor:

Rewards

41. For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment, and for offering and paying a reward to any person for information leading to the location or return of missing persons and property.

s. 352,  
par. 74,  
amended

- (2) Paragraph 74 of the said section 352 is amended by adding thereto the following clauses:

(i) Members of a board of management appointed under this paragraph shall hold office at the pleasure of the council that appointed them and unless sooner removed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment.

(j) Where a member of a board of management appointed under this paragraph has been removed from office before the expiration of his term, the council may appoint another eligible person for the unexpired portion of his term.

s. 354 (1),  
par. 129,  
re-enacted

7. Paragraph 129 of subsection 1 of section 354 of the said Act is repealed and the following substituted therefor:



SECTION 4. Subsection 4 of section 242b, as amended by this section, is set out below showing underlined the additional words:

- (4) *Where a committee conducts a hearing in respect of any matter pursuant to a by-law passed under this section, and where the decision to be exercised by the council in respect of the matter is a statutory power of decision within the meaning of The Statutory Powers Procedure Act, 1971, the provisions of sections 5 to 15 and 21 to 24 of The Statutory Powers Procedure Act, 1971 shall be deemed to apply to the committee and to the hearing conducted by it and those sections, except for section 24, do not apply to the council in the exercise of its power of decision in respect of such matter.*

The amendment clarifies that the subsection applies only where the decision is a statutory power of decision.

SECTION 5. The proposed clause p specifies additional by-laws that may be passed by local municipalities without the assent of the electors.

SECTION 6.—Subsection 1. Paragraph 41 of section 352 as proposed to be re-enacted is set out below showing underlined the words that have been added:

41. *For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment, and for offering and paying a reward to any person for information leading to the location and return of missing persons and property.*

The change permits municipalities to offer and pay rewards for information leading to the location and return of missing persons and property.

Subsection 2. Paragraph 74 of section 352 provides that a municipality may pass by-laws for acquiring, erecting, altering, maintaining, operating or managing special undertakings, including monuments, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community centres, stadia and museums.

The new clauses clarify the terms of office of members of a board of management of such an undertaking appointed under clause r of the said paragraph.

SECTION 7. Paragraph 129 of subsection 1 of section 354 now reads as follows:

129. *For prohibiting and regulating the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not.*

The proposed paragraph 129 gives municipalities the power to inspect sewage and industrial waste drains on private property, except land or premises used as dwellings, in addition to the existing powers to prohibit and regulate the discharge of sewage and industrial waste.

SECTION 8. Paragraph 8 of section 363 allows the councils of urban municipalities to pass by-laws prohibiting any person from leaving unattended a motor vehicle that is not locked in a manner that will prevent the unauthorized use of the vehicle. Clause *b* provides that the minimum fine for the breach of a by-law passed under paragraph 8 is \$1 and the maximum fine is \$10. With the repeal of clause *b*, a person convicted of a breach of a by-law passed under paragraph 8 would be subject to the general penalty provisions set out in section 466 of the Act.

SECTION 9. Subsection 2 of section 450 now reads as follows:

- (2) No highway less than twenty metres in width or, except in a city or town, more than thirty metres in width shall be laid out by the council of the municipality without the approval of the Minister or by any owner of land without the approval of the council of the municipality and of the Minister.

The underlined words are deleted by the amendment. Under the proposed subsection 2 of section 450, the approval of the Minister of Housing will no longer be required where the municipal council lays out a highway greater than thirty metres in width.

SECTION 10. Under the proposed amendment, local municipalities will be able to lease or license the use of untravelled portions of highways in any area of the municipality. At present, these powers are restricted to lands in areas zoned for industrial or commercial purposes.

SECTION 11. The proposed section 469a gives a court the power to issue an order to restrain the continuation or repetition of a breach of a municipal by-law where a conviction has been entered.

SECTION 12. Subsection 1 of section 517 now reads as follows:

- (1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than \$6, the sum of such taxes shall be deemed to be \$6 and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$6 shall form part of the general funds of the municipality.

The amendment increases the deemed minimum tax rate from \$6 to \$10 and provides a method whereby the Minister may prescribe the deemed minimum amount of taxes.

129. For prohibiting, regulating and inspecting the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not.

Control  
of sewage

(a) A person appointed by the council to carry out inspections under this paragraph may, for the purpose of carrying out such inspections, enter in or upon any land or premises except land or premises being used as a dwelling at any time without a warrant, and may take such tests and samples as are necessary for the purposes of the inspection.

8. Clause *b* of paragraph 8 of section 363 of the said Act is repealed.
9. Subsection 2 of section 450 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 81, section 5 and 1978, chapter 87, section 40, is repealed and the following substituted therefor:

s. 363,  
par. 8 (b),  
repealed  
s. 450 (2),  
re-enacted

(2) No highway less than twenty metres in width shall be laid out by the council of the municipality without the approval of the Minister or by any owner of land without the approval of the council of the municipality and of the Minister.

Width of  
highways

10. Paragraph 1 of section 454 of the said Act is repealed and the following substituted therefor:

s. 454,  
par. 1,  
re-enacted

1. For leasing or licensing the use of untravelled portions of highways under the jurisdiction of the council, except highways that are extensions or connecting links of the King's Highway, to the owners or occupants of adjoining property for such consideration and upon such terms and conditions as may be agreed.

Leasing and  
licensing  
untravelled  
portions of  
highways

11. The said Act is amended by adding thereto the following section:

s. 469a,  
enacted

469a. Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.

Power to  
restrain by  
order when  
conviction  
entered

12. Subsection 1 of section 517 of the said Act is repealed and the following substituted therefor:

s. 517 (1),  
re-enacted

(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in

Minimum  
tax

any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than,

- (a) \$10 or such other amount as may be prescribed from time to time by the Minister; or
- (b) such other amount as may be determined by council, which amount shall not exceed \$10, or, where another amount has been prescribed by the Minister, such other amount,

the sum of such taxes shall be deemed to be \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, as the case may be, and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, shall form part of the general funds of the municipality.

Minister's  
order

(1a) The Minister may, by order, prescribe amounts for the purpose of subsection 1.

s. 527 (3),  
amended

**13.**—(1) Subsection 3 of section 527 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 69, section 18, is amended by striking out "1 per cent" in the third line and inserting in lieu thereof "1¼ per cent".

s. 527 (4),  
amended

(2) Subsection 4 of the said section 527, as enacted by the Statutes of Ontario, 1976, chapter 69, section 18, is amended by striking out "12 per cent" in the fourth line and inserting in lieu thereof "15 per cent".

s. 527 (8),  
re-enacted

(3) Subsection 8 of the said section 527 is repealed and the following substituted therefor:

Provision  
for payment  
of taxes into  
bank, etc

(8) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada, trust company, or Province of Ontario Savings Office or, subject to *The Credit Unions and Caisses Populaires Act, 1976*, into such credit union within the meaning of that Act, as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality.

1976, c. 62

**SECTION 13.**—Subsections 1 and 2. The effect of the amendments to subsections 3 and 4 of section 527 is to raise the interest charge that may be imposed in respect of unpaid taxes during the year in which the taxes become payable from 1 per cent to 1¼ per cent where the interest is charged on a monthly basis and from 12 per cent to 15 per cent where interest is charged on an annual basis.

Subsection 3. The proposed re-enactment of subsection 8 of section 527 will enable a municipality to authorize the payment of tax moneys into a credit union. At present, tax moneys may only be paid into a chartered bank, trust company or Province of Ontario Savings Office.

SECTION 14. The proposed amendments to subsections 1 and 2 of section 553 are complementary to the amendment to section 527 of the Act as set out in section 13 of this Bill. The amount of interest that may be charged in respect of unpaid taxes and interest is increased from 1 per cent to 1¼ per cent per month and from 12 per cent to 15 per cent per year.

SECTION 15. The proposed section 639a authorizes the Minister of Inter-governmental Affairs to prescribe bilingual versions of forms prescribed by or under *The Municipal Act*.

The council of a municipality will be authorized to provide for the use in the municipality of a bilingual version of a form that is prescribed by the Minister.

**14.**—(1) Subsection 1 of section 553 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 69, section 19, is amended by striking out “1 per cent” in the eighth line and inserting in lieu thereof “1¼ per cent”. s. 553 (1), amended

(2) Subsection 2 of the said section 553, as enacted by the Statutes of Ontario, 1976, chapter 69, section 19, is amended by striking out “12 per cent” in the fifth line and inserting in lieu thereof “15 per cent”. s. 553 (2), amended

**15.** The said Act is further amended by adding thereto the following section: s. 639a, enacted

**639a.**—(1) The Minister may, by order, prescribe an English and French language version of any form prescribed by or under this Act. English and French language forms

(2) The council of a municipality may, by by-law, provide for the use in the municipality of the version of the form prescribed by the Minister under subsection 1 in place of the corresponding form prescribed by or under this Act, and, notwithstanding any other provision in this Act, where a by-law under this subsection is in force in a municipality the version of the forms provided for in the by-law shall be used in the municipality in place of the corresponding forms prescribed by or under this Act. By-laws providing for use of forms

**16.**—(1) This Act, except section 2, comes into force on the day it receives Royal Assent. Commencement

(2) Section 2 comes into force on the 1st day of January, 1980. Idem

**17.** The short title of this Act is *The Municipal Amendment Act, 1979*. Short title

An Act to amend The Municipal Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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



**BILL 103**

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend The Municipal Act**

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**THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs**

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BILL 103

1979

## An Act to amend The Municipal Act

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

- 1.—(1) Paragraph 8 of section 1 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed. <sup>s. 1, par. 8, repealed</sup>
- (2) Paragraph 13a of the said section 1, as re-enacted by the Statutes of Ontario, 1978, chapter 32, section 1, is repealed <sup>s. 1, par. 13a, re-enacted</sup> and the following substituted therefor:
  - 13a. "Minister" means the Minister of Intergovernmental Affairs, except that in sections 361, 443, 450 and 461 "Minister" means the Minister of Housing;
  - 13b. "Ministry" means the Ministry of Intergovernmental Affairs.
2. Subsection 1 of section 224 of the said Act is repealed and the <sup>s. 224 (1), re-enacted</sup> following substituted therefor:
  - (1) The treasurer of every municipality in every year shall, <sup>Publication of financial statements, etc.</sup> within the time prescribed by the Ministry after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer, either,
    - (a) a copy of the statement of revenue and expenditure, statement of capital operations, the balance sheet, the notes to the financial statements, the auditor's report, and the mill rate information for the current and previous year as contained in the financial review; or
    - (b) a summary of the information referred to in clause a in such form as the Ministry may prescribe.
3. Section 236 of the said Act is amended by adding thereto the <sup>s. 236, amended</sup> following subsection:

Extension  
of time

(2) Notwithstanding subsection 1, a municipal council or other body to which a person is elected may, for such reasons as it considers appropriate, extend by thirty days the times referred to in subsection 1.

s. 242b (4),  
amended

4. Subsection 4 of section 242b of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 32, section 14, is amended by inserting after "section" in the second line "and where the decision to be exercised by the council in respect of the matter is a statutory power of decision within the meaning of *The Statutory Powers Procedure Act, 1971*".

s. 293 (3),  
amended

5. Subsection 3 of section 293 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 124, section 5, 1973, chapter 83, section 3, 1976, chapter 69, section 4 and 1977, chapter 48, section 5, is further amended by adding thereto the following clause:

(p) by the council of a local municipality with respect to an agreement under section 24 of *The Planning Act* or subsection 20 of section 361 of this Act.

R.S.O. 1970,  
c. 349

s. 352,  
par. 41,  
re-enacted

- 6.—(1) Paragraph 41 of section 352 of the said Act is repealed and the following substituted therefor:

Rewards

41. For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment, and for offering and paying a reward to any person for information leading to the location or return of missing persons and property.

s. 352,  
par. 74,  
amended

- (2) Paragraph 74 of the said section 352 is amended by adding thereto the following clauses:

(i) Members of a board of management appointed under this paragraph shall hold office at the pleasure of the council that appointed them and unless sooner removed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment.

(j) Where a member of a board of management appointed under this paragraph has been removed from office before the expiration of his term, the council may appoint another eligible person for the unexpired portion of his term.

s. 354 (1),  
par. 129,  
re-enacted

7. Paragraph 129 of subsection 1 of section 354 of the said Act is repealed and the following substituted therefor:

129. For prohibiting, regulating and inspecting the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not. Control of sewage

(a) A person appointed by the council to carry out inspections under this paragraph may, for the purpose of carrying out such inspections, enter in or upon any land or premises except land or premises being used as a dwelling at any time without a warrant, and may take such tests and samples as are necessary for the purposes of the inspection.

8. Clause *b* of paragraph 8 of section 363 of the said Act is repealed. s. 363, par. 8 (b), repealed

9. Subsection 2 of section 450 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 81, section 5 and 1978, chapter 87, section 40, is repealed and the following substituted therefor: s. 450 (2), re-enacted

(2) No highway less than twenty metres in width shall be laid out by the council of the municipality without the approval of the Minister or by any owner of land without the approval of the council of the municipality and of the Minister. Width of highways

10. Paragraph 1 of section 454 of the said Act is repealed and the following substituted therefor: s. 454, par. 1, re-enacted

1. For leasing or licensing the use of untravelled portions of highways under the jurisdiction of the council, except highways that are extensions or connecting links of the King's Highway, to the owners or occupants of adjoining property for such consideration and upon such terms and conditions as may be agreed. Leasing and licensing untravelled portions of highways

11. The said Act is amended by adding thereto the following section: s. 469a, enacted

469a. Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. Power to restrain by order when conviction entered

12. Subsection 1 of section 517 of the said Act is repealed and the following substituted therefor: s. 517 (1), re-enacted

(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in Minimum tax

any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than,

- (a) \$10 or such other amount as may be prescribed from time to time by the Minister; or
- (b) such other amount as may be determined by council, which amount shall not exceed \$10, or, where another amount has been prescribed by the Minister, such other amount,

the sum of such taxes shall be deemed to be \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, as the case may be, and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, shall form part of the general funds of the municipality.

Minister's  
order

(1a) The Minister may, by order, prescribe amounts for the purpose of subsection 1.

s. 527 (3),  
amended

**13.—**(1) Subsection 3 of section 527 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 69, section 18, is amended by striking out "1 per cent" in the third line and inserting in lieu thereof "1¼ per cent".

s. 527 (4),  
amended

(2) Subsection 4 of the said section 527, as enacted by the Statutes of Ontario, 1976, chapter 69, section 18, is amended by striking out "12 per cent" in the fourth line and inserting in lieu thereof "15 per cent".

s. 527 (8),  
re-enacted

(3) Subsection 8 of the said section 527 is repealed and the following substituted therefor:

Provision  
for payment  
of taxes into  
bank, etc

(8) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada, trust company, or Province of Ontario Savings Office or, subject to *The Credit Unions and Caisses Populaires Act, 1976*, into such credit union within the meaning of that Act, as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality.

1976, c. 62

- 14.**—(1) Subsection 1 of section 553 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 69, section 19, is amended by striking out “1 per cent” in the eighth line and inserting in lieu thereof “1¼ per cent”. s. 553 (1), amended
- (2) Subsection 2 of the said section 553, as enacted by the Statutes of Ontario, 1976, chapter 69, section 19, is amended by striking out “12 per cent” in the fifth line and inserting in lieu thereof “15 per cent”. s. 553 (2), amended
- 15.** The said Act is further amended by adding thereto the following section: s. 639a, enacted
- 639a.—(1) The Minister may, by order, prescribe an English and French language version of any form prescribed by or under this Act. English and French language forms
- (2) The council of a municipality may, by by-law, provide for the use in the municipality of the version of the form prescribed by the Minister under subsection 1 in place of the corresponding form prescribed by or under this Act, and, notwithstanding any other provision in this Act, where a by-law under this subsection is in force in a municipality the version of the forms provided for in the by-law shall be used in the municipality in place of the corresponding forms prescribed by or under this Act. By-laws providing for use of forms
- 16.**—(1) This Act, except section 2, comes into force on the day it receives Royal Assent. Commencement
- (2) Section 2 comes into force on the 1st day of January, 1980. Idem
- 17.** The short title of this Act is *The Municipal Amendment Act, 1979*. Short title

An Act to amend The Municipal Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Municipality of Metropolitan Toronto Act**

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**THE HON. T. L. WELLS**  
Minister of Intergovernmental Affairs

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#### EXPLANATORY NOTES

SECTION 1. The added sections of *The Municipal Act* made applicable to the Metropolitan Corporation are:

1. Subsection 1 of section 224 dealing with the publication of financial statements
2. Section 390a providing for the procuring of liability insurance to protect members of council or a local board

SECTION 2. The maximum rate of interest chargeable by an area municipality in respect of overdue payments relating to waterworks is increased from 12 per cent to 15 per cent.

SECTIONS 3 and 4. The maximum rate of interest on overdue payments is increased from 12 per cent to 15 per cent, section 43 of the Act relates to water supply and section 52 to sewage treatment works.

**An Act to amend  
The Municipality of Metropolitan Toronto Act**

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

1. Subsection 1 of section 17 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 35, section 6, is repealed and the following substituted therefor:

s. 17 (1),  
re-enacted

(1) Sections 192, 193, 195, 197, 198, 201, subsection 1 of section 224, sections 243, 259, 281 to 286, 349, 350, paragraphs 66 and 67 of section 352, and sections 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

Application of  
R S O 1970,  
c. 284

2. Subsection 6 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 3, is repealed and the following substituted therefor:

s. 29 (6),  
re-enacted

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

Default

3. Subsection 2 of section 43 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 22, section 1, is repealed and the following substituted therefor:

s. 43 (2),  
re-enacted

(2) The Metropolitan Council may by by-law provide for uniform rates of discount for prompt payment of charges for water supplied to the area municipalities and may by by-law provide for the payment of interest in the event of default of a rate of 15 per cent per annum, or such lower rate as the Metropolitan Council determines, while such default continues.

Discounts  
and  
penalties

s. 52 (6),  
re-enacted

4. Subsection 6 of section 52 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 4, is repealed and the following substituted therefor:

Default

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 55,  
amended

5. Section 55 of the said Act is amended by adding thereto the following subsections:

Control of  
sewage

(2) The Metropolitan Council has all the authority and powers in respect of any sewers which mediately or immediately enter into sewers or treatment works under the jurisdiction of the Metropolitan Corporation as have councils of local municipalities under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*.

R.S.O. 1970,  
c. 284

Conflict

(3) In the event of conflict between a by-law passed under subsection 2 by the Metropolitan Council and a by-law passed by the council of the area municipality in which the land is situate under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*, the by-law passed by the Metropolitan Council prevails to the extent of such conflict, but in all other respects the by-law passed by the council of the area municipality remains in full force and effect.

s. 65 (10),  
re-enacted

6. Subsection 10 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 5, is repealed and the following substituted therefor:

Default

(10) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 9, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 84,  
re-enacted

7. Section 84 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 7, is repealed and the following substituted therefor:

Use of  
sidewalks,  
etc.,  
metropolitan  
roads

84.—(1) The Metropolitan Council may by by-law empower the council of any area municipality to pass by-laws for the leasing or licensing of the use of the whole or any part of or all sidewalks and untravelled portions of Metropolitan roads within the area municipality for such purposes and upon such terms and conditions as are specified by the Metropolitan Council in the by-law.

**SECTION 5.** The new subsection 2 to section 55 of the Act empowers the Metropolitan Council to prohibit or regulate the discharge of matter into sewers or treatment works under its jurisdiction. The new subsection 3 provides that in the event of conflict the Metro by-law prevails over a corresponding area municipality by-law.

**SECTION 6.** The maximum rate of interest chargeable on overdue payments relating to waste disposal is increased from 12 per cent to 15 per cent.

**SECTION 7.** Section 84 of the Act as it now reads permits the Metropolitan Council to, by by-law, empower the council of an area municipality to license the use of sidewalks and untravelled portions of metropolitan roads. As re-enacted, the Metropolitan Council may specify the purposes and the terms and conditions of the licensing in its empowering by-law. Subsection 2 is new and makes it clear that the penalty and enforcement provisions of *The Municipal Act* apply to a by-law of an area municipality passed under the authority of the Metropolitan Council by-law.

SECTIONS 8, 9, 10, 11, 12, 13, 14 and 15. The maximum rate of interest chargeable on overdue payments of various kinds, whether by an area municipality to the Metropolitan Corporation or the reverse, is increased from 12 per cent to 15 per cent.

(2) Part XXI of *The Municipal Act* applies with necessary modifications to any by-law passed by the council of an area municipality under the authority of a by-law passed by the Metropolitan Council under subsection 1. Application of  
R.S.O. 1970,  
c. 284,  
Part XXI

8. Subsection 3 of section 95 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 8, is repealed and the following substituted therefor: s. 95 (3),  
re-enacted

(3) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. Default

9. Subsection 3 of section 112 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 9, is repealed and the following substituted therefor: s. 112 (3),  
re-enacted

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 1, or if the Commission fails to make any payment as required by subsection 2, the area municipality may charge the Metropolitan Corporation, or the Metropolitan Corporation may charge the Commission, as the case may be, interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality or the Metropolitan Council determines, from the date payment is due until it is made. Default

10. Subsection 2 of section 133 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 10, is repealed and the following substituted therefor: s. 133 (2),  
re-enacted

(2) If the Metropolitan Corporation fails to make any payments as required by subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. Default

11. Subsection 5 of section 147 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 11, is repealed and the following substituted therefor: s. 147 (5),  
re-enacted

(5) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 4, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. Default

s. 150 (6),  
re-enacted

- 12.** Subsection 6 of section 150 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 12, is repealed and the following substituted therefor:

Default

(6) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 160 (3),  
re-enacted

- 13.** Subsection 3 of section 160 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 13, is repealed and the following substituted therefor:

Default

(3) If the Metropolitan Corporation fails to make any payments as required by subsection 2, the City may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the City determines, from the date payment is due until it is made.

s. 182 (6),  
re-enacted

- 14.** Subsection 6 of section 182 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 14, is repealed and the following substituted therefor:

Default

(6) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 206 (3),  
re-enacted

- 15.** Subsection 3 of section 206 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 15, is repealed and the following substituted therefor:

Default

(3) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 2, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 208 (6),  
re-enacted

- 16.—(1)** Subsection 6 of section 208 of the said Act is repealed and the following substituted therefor:

Deemed not  
local board  
except for  
R.S.O. 1970,  
c. 324

(6) Except for the purposes of *The Ontario Municipal Employees Retirement System Act*, the Board of Management shall be deemed not to be a local board of the Metropolitan Corporation.



SECTION 16.—Subsection 1. Subsection 6 of section 208 of the Act now provides that the Board of Management of the O'Keefe Centre is deemed not to be a local board of the Metropolitan Corporation; as re-enacted, the Board will be a local board for the purposes of OMERS.

Subsection 2. The re-enacted subsection will exempt from municipal taxes the lands of the O'Keefe Centre.

SECTION 17. The effect of the amendments is to permit the Metropolitan Corporation to invest surplus funds in term deposits accepted by a credit union and to become a member of a credit union.

SECTION 18. The maximum rate of interest chargeable on overdue payments in respect of the Metropolitan levy is increased from 12 per cent to 15 per cent.

SECTION 19. The additional sections of *The Municipal Act* made applicable to the Metropolitan Corporation are:

- 1 Paragraph 24a of section 352 providing for the custody of things of historical interest.
- 2 Subparagraph ii of paragraph 112 of subsection 1 of section 354 dealing with parking of motor vehicles on municipal property.

- (2) Subsection 10 of the said section 208 is repealed and the following substituted therefor: s. 208 (10),  
re-enacted

(10) The occupation, management and control by the Board of Management of the land acquired by the Metropolitan Corporation under this section shall be deemed, for the purposes of paragraph 9 of section 3 of *The Assessment Act*, to be occupation, management and control by the Metropolitan Corporation. Taxation  
R.S.O. 1970,  
c. 32

- 17.**—(1) Clause *a* of subsection 2 of section 212 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 13 and amended by 1976, chapter 42, section 16, is further amended by striking out “or” at the end of subclause iv and by adding thereto the following subclause: s. 212 (2) (a),  
amended

(v) term deposits accepted by a credit union as defined in *The Credit Unions and Caisses Populaires Act, 1976*; or 1976, c. 62

- (2) The said section 212 is amended by adding thereto the following subsection: s. 212,  
amended

(3) The Metropolitan Corporation is deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed  
municipality  
for purposes  
of 1976, c. 62,  
s. 35

- 18.** Subsection 15 of section 214 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 22, section 5, is repealed and the following substituted therefor: s. 214 (15),  
re-enacted

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum or such lower rate as the Metropolitan Council determines, from the date payment is due until it is made. Default

- 19.** Subsection 1 of section 241 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 35, section 13, is repealed and the following substituted therefor: s. 241 (1),  
re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242*a*, 242*b*, 248*a* and 249, subsection 3 of section 308, paragraphs 3, 10, 11, 12, 24, 24*a*, 29, 41, 42, 67*a* and 71*a* of section 352, subparagraph ii of paragraph 112 of subsection 1 of section 354, and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation. Application of  
R.S.O. 1970,  
c. 284

- 20.**—(1) This Act, except subsection 2 of section 16, comes into force on the day it receives Royal Assent. Commence-  
ment

Idem

(2) Subsection 2 of section 16 shall be deemed to have come into force on the 1st day of January, 1979.

Short title

**21.** The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1979*.







An Act to amend The Municipality of  
Metropolitan Toronto Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*



# BILL 104

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Municipality of Metropolitan Toronto Act

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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**An Act to amend  
The Municipality of Metropolitan Toronto Act**

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

1. Subsection 1 of section 17 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 35, section 6, is repealed and the following substituted therefor:
 

s. 17 (1),  
re-enacted

  - (1) Sections 192, 193, 195, 197, 198, 201, subsection 1 of section 224, sections 243, 259, 281 to 286, 349, 350, paragraphs 66 and 67 of section 352, and sections 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation.
 

Application of  
R S O 1970,  
c 284
  
2. Subsection 6 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 3, is repealed and the following substituted therefor:
 

s. 29 (6),  
re-enacted

  - (6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.
 

Default
  
3. Subsection 2 of section 43 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 22, section 1, is repealed and the following substituted therefor:
 

s. 43 (2),  
re-enacted

  - (2) The Metropolitan Council may by by-law provide for uniform rates of discount for prompt payment of charges for water supplied to the area municipalities and may by by-law provide for the payment of interest in the event of default of a rate of 15 per cent per annum, or such lower rate as the Metropolitan Council determines, while such default continues.
 

Discounts  
and  
penalties

s. 52 (6),  
re-enacted

4. Subsection 6 of section 52 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 4, is repealed and the following substituted therefor:

Default

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 55,  
amended

5. Section 55 of the said Act is amended by adding thereto the following subsections:

Control of  
sewage

(2) The Metropolitan Council has all the authority and powers in respect of any sewers which mediately or immediately enter into sewers or treatment works under the jurisdiction of the Metropolitan Corporation as have councils of local municipalities under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*.

R.S.O. 1970,  
c. 284

Conflict

(3) In the event of conflict between a by-law passed under subsection 2 by the Metropolitan Council and a by-law passed by the council of the area municipality in which the land is situate under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*, the by-law passed by the Metropolitan Council prevails to the extent of such conflict, but in all other respects the by-law passed by the council of the area municipality remains in full force and effect.

s. 65 (10),  
re-enacted

6. Subsection 10 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 5, is repealed and the following substituted therefor:

Default

(10) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 9, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 84,  
re-enacted

7. Section 84 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 7, is repealed and the following substituted therefor:

Use of  
sidewalks,  
etc.,  
metropolitan  
roads

84.—(1) The Metropolitan Council may by by-law empower the council of any area municipality to pass by-laws for the leasing or licensing of the use of the whole or any part of or all sidewalks and untravelled portions of Metropolitan roads within the area municipality for such purposes and upon such terms and conditions as are specified by the Metropolitan Council in the by-law.

(2) Part XXI of *The Municipal Act* applies with necessary modifications to any by-law passed by the council of an area municipality under the authority of a by-law passed by the Metropolitan Council under subsection 1.

Application of  
R.S.O. 1970,  
c 284,  
Part XXI

8. Subsection 3 of section 95 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 8, is repealed and the following substituted therefor:

s. 95 (3),  
re-enacted

(3) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

Default

9. Subsection 3 of section 112 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 9, is repealed and the following substituted therefor:

s. 112 (3),  
re-enacted

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 1, or if the Commission fails to make any payment as required by subsection 2, the area municipality may charge the Metropolitan Corporation, or the Metropolitan Corporation may charge the Commission, as the case may be, interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality or the Metropolitan Council determines, from the date payment is due until it is made.

Default

10. Subsection 2 of section 133 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 10, is repealed and the following substituted therefor:

s. 133 (2),  
re-enacted

(2) If the Metropolitan Corporation fails to make any payments as required by subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

Default

11. Subsection 5 of section 147 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 11, is repealed and the following substituted therefor:

s. 147 (5),  
re-enacted

(5) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 4, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

Default

s. 150 (6),  
re-enacted

- 12.** Subsection 6 of section 150 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 12, is repealed and the following substituted therefor:

Default

(6) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 160 (3),  
re-enacted

- 13.** Subsection 3 of section 160 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 13, is repealed and the following substituted therefor:

Default

(3) If the Metropolitan Corporation fails to make any payments as required by subsection 2, the City may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the City determines, from the date payment is due until it is made.

s. 182 (6),  
re-enacted

- 14.** Subsection 6 of section 182 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 14, is repealed and the following substituted therefor:

Default

(6) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 206 (3),  
re-enacted

- 15.** Subsection 3 of section 206 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 42, section 15, is repealed and the following substituted therefor:

Default

(3) If the Metropolitan Corporation fails to make any payments as required by clause *b* of subsection 2, the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.

s. 208 (6),  
re-enacted

- 16.—(1)** Subsection 6 of section 208 of the said Act is repealed and the following substituted therefor:

Deemed not  
local board  
except for  
R.S.O. 1970,  
c. 324

(6) Except for the purposes of *The Ontario Municipal Employees Retirement System Act*, the Board of Management shall be deemed not to be a local board of the Metropolitan Corporation.

(2) Subsection 10 of the said section 208 is repealed and the following substituted therefor: s. 208 (10),  
re-enacted

(10) The occupation, management and control by the Board of Management of the land acquired by the Metropolitan Corporation under this section shall be deemed, for the purposes of paragraph 9 of section 3 of *The Assessment Act*, to be occupation, management and control by the Metropolitan Corporation. Taxation  
R.S.O. 1970,  
c. 32

17.—(1) Clause *a* of subsection 2 of section 212 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 13 and amended by 1976, chapter 42, section 16, is further amended by striking out “or” at the end of subclause iv and by adding thereto the following subclause: s. 212 (2) (a),  
amended

(v) term deposits accepted by a credit union as defined in *The Credit Unions and Caisses Populaires Act, 1976*; or 1976, c. 62

(2) The said section 212 is amended by adding thereto the following subsection: s. 212,  
amended

(3) The Metropolitan Corporation is deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed  
municipality  
for purposes  
of 1976, c. 62,  
s. 35

18. Subsection 15 of section 214 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 22, section 5, is repealed and the following substituted therefor: s. 214 (15),  
re-enacted

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum or such lower rate as the Metropolitan Council determines, from the date payment is due until it is made. Default

19. Subsection 1 of section 241 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 35, section 13, is repealed and the following substituted therefor: s. 241 (1),  
re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242*a*, 242*b*, 248*a* and 249, subsection 3 of section 308, paragraphs 3, 10, 11, 12, 24, 24*a*, 29, 41, 42, 67*a* and 71*a* of section 352, subparagraph ii of paragraph 112 of subsection 1 of section 354, and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation. Application of  
R.S.O. 1970,  
c. 284

20.—(1) This Act, except subsection 2 of section 16, comes into force on the day it receives Royal Assent. Commence-  
ment

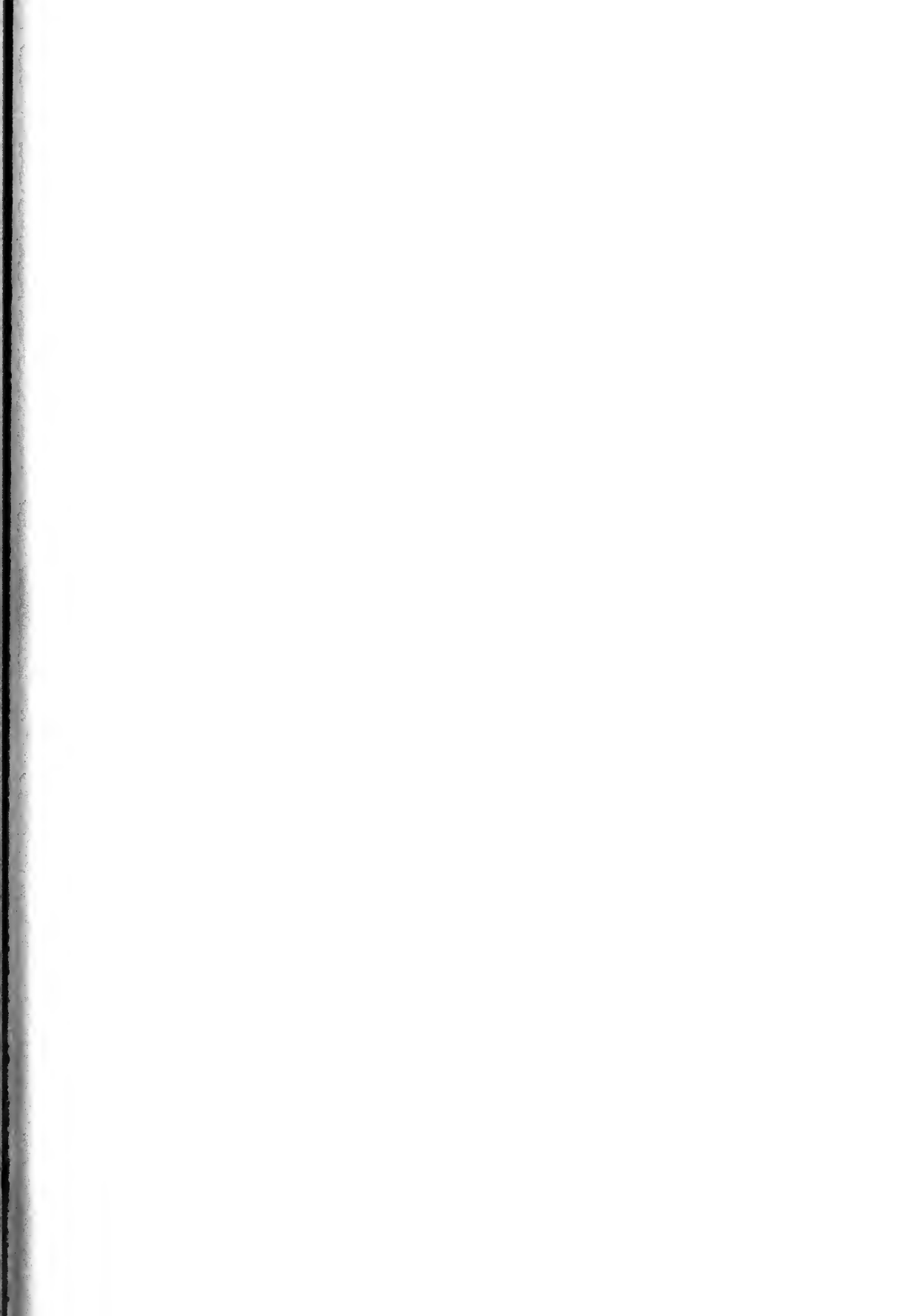
Idem

(2) Subsection 2 of section 16 shall be deemed to have come into force on the 1st day of January, 1979.

Short title

**21.** The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1979*.









An Act to amend The Municipality of  
Metropolitan Toronto Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Condominium Act, 1978**

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**THE HON. FRANK DREA**  
Minister of Consumer and Commercial Relations

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#### EXPLANATORY NOTE

The effect of the amendment is to obviate the requirement for a declarant to pay interest on money held on account of purchase price where the purchaser is in occupation of the unit. Subsection 6 of section 51 of the Act sets out a maximum amount that a proposed purchaser in occupation shall pay. In circumstances where the proposed purchaser is not assuming a mortgage, the declarant has a double burden of financing carrying charges on the unit as well as paying interest on the deposit while the proposed purchaser is in occupation.

BILL 105

1979

**An Act to amend  
The Condominium Act, 1978**

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

- 1.—(1) Subsection 3 of section 53 of *The Condominium Act, 1978*, <sup>s. 53 (3),</sup> repealed  
being chapter 84, is repealed.
- (2) Subsection 4 of the said section 53 is amended by striking out <sup>s. 53 (4),</sup>  
“subsections 2 and 3” in the first line and inserting in lieu <sup>amended</sup>  
thereof “subsection 2”.
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Condominium Amendment Act*, Short title  
1979.

An Act to amend  
The Condominium Act, 1978

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Municipality of Metropolitan Toronto Act**

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**MR. EPP**

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## EXPLANATORY NOTES

SECTION 1. The amendments to section 4 of *The Municipality of Metropolitan Toronto Act* would reinstate the three year term of office for members of the councils and local boards, including boards of education, of area municipalities in Metropolitan Toronto and, consequently, for members of the Metropolitan Council and the Metropolitan Toronto School Board.

SECTION 2. Subsection 5 of section 5, as it currently reads, showing underlined the words to be deleted, is set out below:

*(5) At the first meeting of the Metropolitan Council in each year after a regular election at which a quorum is present, the Metropolitan Council shall organize as a council and elect as chairman one of the members of the Metropolitan Council, or any other person, to hold office for the term of the council and until his successor is appointed or elected in accordance with this Act.*

The provision, as amended, requires that the chairman of the Metropolitan Council be an elected member of one of the area municipalities.

SECTION 3. Subsection 5 of section 10 is set out below:

*(5) Where a member of the council of an area municipality becomes chairman, he shall be deemed to have resigned as a member of such council, and his seat on such council thereby becomes vacant*

The effect of repealing this provision would be to permit the chairman of the Metropolitan Council to continue as a member of the council of an area municipality.

SECTION 4. This amendment is complementary to section 1 of the Bill.

An Act to amend  
The Municipality of Metropolitan Toronto Act

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

- 1.—(1) Subsection 1 of section 4 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 168, section 1, is repealed and the following substituted therefor: s. 4 (1),  
re-enacted
- (1) In every area municipality, the election of candidates for council and for any local board, any members of which are elected by ballot by the electors, shall be held in the year 1981 and in every third year thereafter and the provisions of *The Municipal Elections Act, 1977* apply to every such election with necessary modifications. Election  
of  
council  
1977, c. 62
- (2) Subsection 4 of the said section 4, as re-enacted by the Statutes of Ontario, 1972, chapter 168, section 1, is repealed and the following substituted therefor: s. 4 (4),  
re-enacted
- (4) The members of the council and of such local boards shall hold office for a three-year term and until their successors are elected and the new council or board is organized. Term of  
office
2. Subsection 5 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 35, section 1, is amended by striking out "or any other person" in the fifth line. s. 5 (5),  
amended
3. Subsection 5 of section 10 of the said Act is repealed. s. 10 (5),  
repealed
4. Subsection 4 of section 118 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 168, section 3, is repealed and the following substituted therefor: s. 118 (4),  
re-enacted
- (4) The members of such boards of education shall hold office for a three year term and until their successors are elected or appointed and a new board organized. Term of  
office

s. 125 (2),  
re-enacted

5. Subsection 2 of section 125 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 89, section 3, is repealed and the following substituted therefor:

Separate  
school  
repre-  
sentatives

(2) The members of the School Board appointed by the Metropolitan Separate School Board shall hold office for three years and until their successors are appointed

Commence-  
ment

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

Short title

7. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1979.*

SECTION 5. This amendment is complementary to section 1 of the Bill.





An Act to amend  
The Municipality of Metropolitan  
Toronto Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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MR. EPP

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*(Private Member's Bill)*



**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to provide for Disclosure of Non-Resident  
Investment in Agricultural Land in Ontario**

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**MR. RIDDELL**

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#### EXPLANATORY NOTE

The purpose of the Bill is to establish a means of ascertaining the nature and extent of non-resident ownership of agricultural land in Ontario. The Bill requires every non-resident person, as defined in the Act, to submit a report to the Minister of Agriculture and Food concerning each purchase of agricultural land. The Bill also requires land registrars in Ontario to inform the Minister about every conveyance of agricultural land registered by the land registrar that bears an affidavit indicating that the transferee is a non-resident person. The Minister must report to the Legislative Assembly on an annual basis concerning the nature and extent of non-resident ownership of agricultural land and the report is then referred to a standing committee of the Assembly for consideration.

⋮

BILL 107

1979

**An Act to provide for  
Disclosure of Non-Resident Investment  
in Agricultural Land in Ontario**

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

**1.** In this Act,

Interpre-  
tation

- (a) "agricultural land" means land that,
- (i) under a by-law passed under section 35 of *The Planning Act*, or under an order made under section 32 of that Act, is zoned for agricultural use, or
  - (ii) is assessed under *The Assessment Act*, or is actually used as farm or agricultural land, woodlands or an orchard;
- (b) "conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land;
- (c) "Minister" means the Minister of Agriculture and Food;
- (d) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,
- (i) that has issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to one or more non-resident persons,
  - (ii) that has issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders to any one non-resident person,

R S O 1970,  
c 349

R S O 1970,  
c 32

- (iii) one-half or more of the directors of which are individuals who are non-resident persons,
- (iv) where the corporation is without share capital, one-half or more of the members of which are non-resident persons, or
- (v) that is controlled directly or indirectly by one or more non-resident persons;

(e) "non-resident person" means,

- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor a person who has been lawfully admitted to Canada for permanent residence in Canada,
- (ii) a non-resident corporation,
- (iii) a partnership, syndicate, association or other organization of which one-half or more of the members are non-resident persons or in which interests representing 50 per cent or more of the total value of the property of the partnership, syndicate, association or organization is beneficially owned by non-resident persons, or
- (iv) a trust in which non-resident persons hold 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom.

Duty to  
report

**2.**—(1) Every non-resident person who acquires an interest in agricultural land situated in Ontario shall submit to the Minister not later than ninety days after the date on which the interest is conveyed to the person a report concerning the acquisition.

Contents of  
report

(2) A report referred to in subsection 1 shall set forth the following information:

1. the name and address of the non-resident person;
2. where the non-resident person is an individual, the citizenship of the non-resident person;
3. where the non-resident person is not an individual, the nature of the legal entity holding the interest, the country in which the non-resident person is incorporated or organized and the principal place of business of the non-resident person;

4. the type of interest in agricultural land which the non-resident person acquired or transferred;
5. the legal description and acreage of the agricultural land;
6. the purchase price paid for, or any other consideration given for, the interest;
7. the purposes for which the non-resident person intends to use the agricultural land; and
8. such other information as the Minister, by regulation, may require.

(3) Any person who, subsequent to acquiring an interest in agricultural land, becomes a non-resident person shall submit a report to the Minister not later than ninety days after the day on which the person becomes a non-resident person setting forth the information required by subsection 2.

3. Every land registrar shall report to the Minister, in a manner to be determined by the Minister, concerning each conveyance of agricultural land registered by the land registrar to which is attached an affidavit as to residence under *The Land Transfer Tax Act, 1974* stating that the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person.

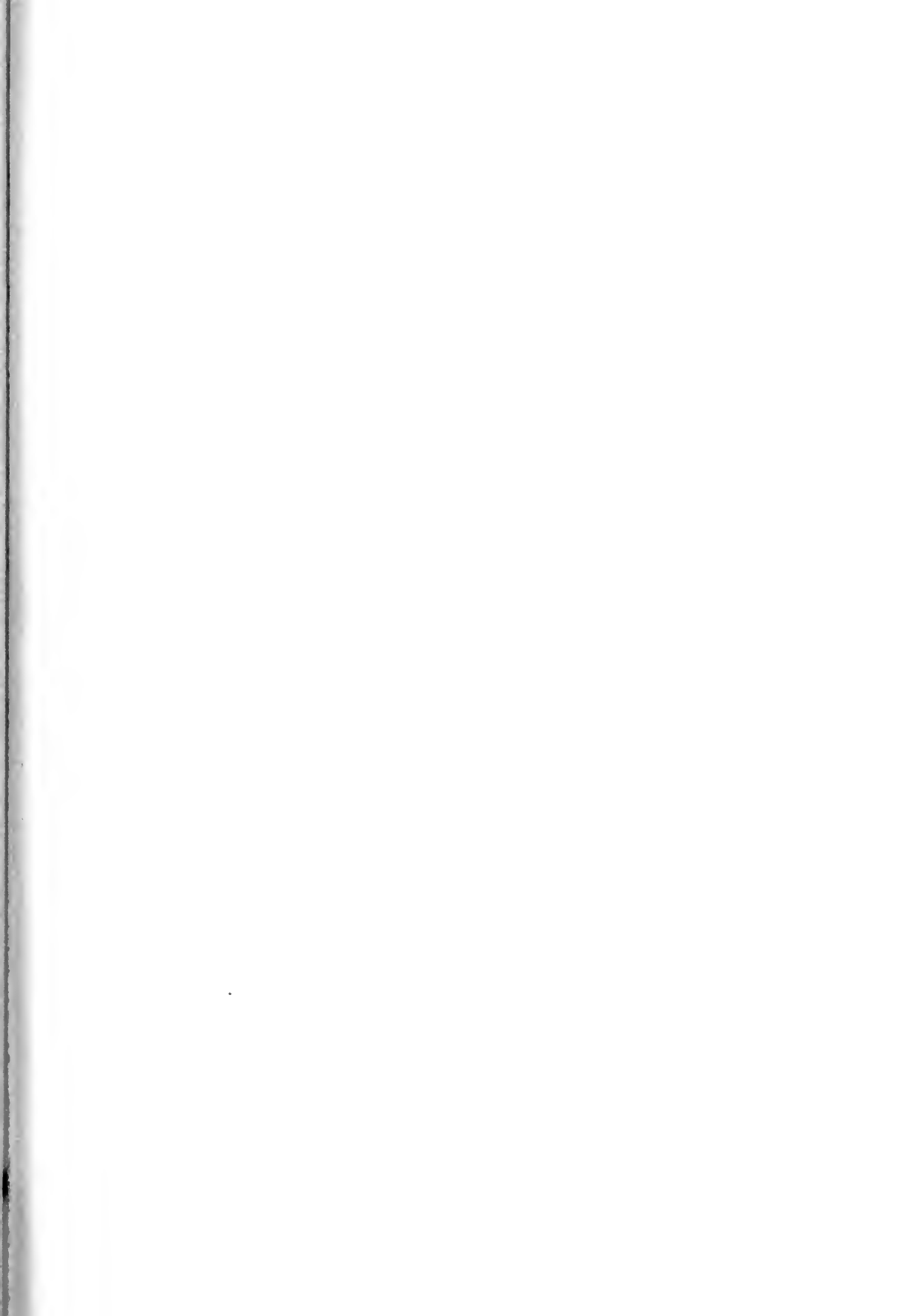
4. Every report submitted to the Minister under section 2 or section 3 shall be made available for examination by members of the public during reasonable office hours at the head office of the Ministry of Agriculture and Food.

- 5.—(1) Every person who, knowingly,
- (a) fails to make a report required by section 2; or
  - (b) furnishes false information in a report required by this Act,

and every director or officer of a corporation who knowingly concurs in such contravention or failure, is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 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 \$25,000 and not as provided therein.

- Report           **6.** The Minister shall submit an annual report to the Lieutenant Governor in Council concerning the nature and extent of non-resident ownership of agricultural land in Ontario and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session and the report shall then be referred to a standing committee of the Assembly.
- Regulations      **7.** The Lieutenant Governor in Council may make regulations,
- (a) requiring additional information to be provided in a report under section 2;
- (b) prescribing forms and providing for their use.
- Commence-  
ment           **8.** This Act comes into force on the day it receives Royal Assent.
- Short title       **9.** The short title of this Act is *The Agricultural Investment Disclosure Act, 1979*.



An Act to provide for Disclosure of  
Non-Resident Investment in Agricultural  
Land in Ontario

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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MR. RIDDELL

*(Private Member's Bill)*



**BILL 108**

**Government Bill**

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend  
The Public Accountancy Act**

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**THE HON. R. MCMURTRY  
Attorney General**

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EXPLANATORY NOTE

The present section provides for a \$25 maximum on fees. This maximum has remained unchanged since the Act was first passed in 1950.

The amendment permits the Council to set the fee subject to the approval of the Lieutenant Governor in Council.

BILL 108

1979

**An Act to amend  
The Public Accountancy Act**

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

1. Section 17 of *The Public Accountancy Act*, being chapter 373 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 17, re-enacted

17. Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations requiring the payment of fees for the grant or renewal of licences and prescribing the amounts thereof. Fees

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Public Accountancy Amendment Act, 1979*. Short title

An Act to amend  
The Public Accountancy Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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*(Government Bill)*

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# BILL 108

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Public Accountancy Act

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THE HON. R. MCMURTRY  
Attorney General

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BILL 108

1979

**An Act to amend  
The Public Accountancy Act**

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

1. Section 17 of *The Public Accountancy Act*, being chapter 373 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
  17. Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations requiring the payment of fees for the grant or renewal of licences and prescribing the amounts thereof. Fees
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Public Accountancy Amendment Act, 1979*. Short title

An Act to amend  
The Public Accountancy Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

June 12th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend The Evidence Act**

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**THE HON. R. MCMURTRY**  
**Attorney General**

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EXPLANATORY NOTE

The amendment permits the use of official translation of statutes in French language proceedings.

BILL 109

1979

## An Act to amend The Evidence Act

**H**ER 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 Evidence Act*, being chapter 151 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:
  - (2) Copies of the statutes of Ontario that are translated into the French language and that purport to be published by the Ministry of the Attorney General and printed by the Queen's Printer shall be admitted in evidence to prove the contents thereof but, in the event of a conflict between the version published under *The Statutes Act* and the French language translation, the version published under *The Statutes Act* shall prevail.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Evidence Amendment Act, 1970*.

s. 26,  
amendedCopies of  
French  
translationR.S.O. 1970,  
c. 446Commence-  
ment

Short title

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An Act to amend  
The Evidence Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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*(Government Bill)*

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# BILL 109

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Evidence Act

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THE HON. R. MCMURTRY  
Attorney General

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BILL 109

1979

## An Act to amend The Evidence Act

**H**ER 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 Evidence Act*, being chapter 151 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:
  - (2) Copies of the statutes of Ontario that are translated into the French language and that purport to be published by the Ministry of the Attorney General and printed by the Queen's Printer shall be admitted in evidence to prove the contents thereof but, in the event of a conflict between the version published under *The Statutes Act* and the French language translation, the version published under *The Statutes Act* shall prevail.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Evidence Amendment Act, 1979*.

s. 26,  
amendedCopies of  
French  
translationR.S.O. 1970,  
c. 446Commence-  
ment

Short title

An Act to amend  
The Evidence Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

June 12th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Administration of Justice Act**

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**THE HON. R. MCMURTRY**  
**Attorney General**

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#### EXPLANATORY NOTES

SECTION 1. The clause added authorizes the fees payable in court proceedings to be fixed by regulation made by the Lieutenant Governor in Council. These are now fixed under the rules made by the rule-making body for each court.

SECTIONS 2, 3 AND 4. The amendments are complementary to section 1 and delete the fixing of fees under the rules of the various courts. This Bill is complemented by section 6 (6) of a Bill entitled *An Act to amend The Judicature Act* which deletes the fixing of fees by the rules of the Supreme Court.

BILL 110

1979

**An Act to amend  
The Administration of Justice Act**

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

1. Section 7 of *The Administration of Justice Act*, being chapter 6 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 8, section 2, is further amended by adding thereto the following clause:
  - (ba) requiring the payment of fees in respect of proceedings in any court and prescribing the amounts thereof.
2. Clause *b* of section 40 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is repealed. s. 7,  
amended
3. Clause *b* of section 10 of *The General Sessions Act*, being chapter 191 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970,  
c. 94,  
s. 40 (b),  
repealed
4. Clause *b* of section 79 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by striking out "all fees payable to the Crown, the judge, the registrar, and other officers of the court, and" in the first, second and third lines. R.S.O. 1970,  
c. 191,  
s. 10 (b),  
repealed
5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. R.S.O. 1970,  
c. 451,  
s. 79 (b),  
amended
6. The short title of this Act is *The Administration of Justice Amendment Act, 1979*. Commence-  
ment

Short title

An Act to amend  
The Administration of Justice Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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*(Government Bill)*

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**BILL 110**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Administration of Justice Act**

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**THE HON. R. McMURTRY**  
Attorney General

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BILL 110

1979

**An Act to amend  
The Administration of Justice Act**

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

1. Section 7 of *The Administration of Justice Act*, being chapter 6 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 8, section 2, is further amended by adding thereto the following clause:
 

(ba) requiring the payment of fees in respect of proceedings in any court and prescribing the amounts thereof.
2. Clause *b* of section 40 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is repealed.
 

R.S.O. 1970,  
c. 94,  
s. 40 (b),  
repealed
3. Clause *b* of section 10 of *The General Sessions Act*, being chapter 191 of the Revised Statutes of Ontario, 1970, is repealed.
 

R.S.O. 1970,  
c. 191,  
s. 10 (b),  
repealed
4. Clause *b* of section 79 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by striking out "all fees payable to the Crown, the judge, the registrar, and other officers of the court, and" in the first, second and third lines.
 

R.S.O. 1970,  
c. 451,  
s. 79 (b),  
amended
5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
 

Commence-  
ment
6. The short title of this Act is *The Administration of Justice Amendment Act, 1979*.
 

Short title

An Act to amend  
The Administration of Justice Act

---

*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

June 12th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Judicature Act**

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**THE HON. R. MCMURTRY**  
Attorney General

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#### EXPLANATORY NOTES

SECTION 1 The amendment includes the associate chief justices in the definition of "judge" which would read as follows:

*(k) "judge" includes a chief justice, an associate chief justice, an ex officio judge and a supernumerary judge*

SECTION 2 The amendments delete any special place in rank and precedence for supernumerary judges, who will rank among "other judges".

SECTION 3 The provision amended provides for judges who leave office to retain their capacity to dispose of unfinished cases. The amendment removes reference to the retaining of this capacity by those who leave office and become supernumerary judges, as unnecessary.

SECTION 4 The amendment makes provision for interest payable on judgments based upon the prime rate, parallel to the provision for prejudgment interest enacted in 1977 as section 38.

BILL 111

1979

## An Act to amend The Judicature Act

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

1. Clause *k* of section 1 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 159, section 1, is amended by inserting after "justice" in the first line "an associate chief justice". s. 1 (k),  
amended
  
- 2.—(1) Subsection 3 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 159, section 3 and 1977, chapter 45, section 3, is repealed and the following substituted therefor: s. 8 (3),  
re-enacted
  - (3) The justices of appeal and the other judges have rank and precedence after the Associate Chief Justice of the High Court, and among themselves according to seniority of appointment. Rank and  
precedence
  
- (2) Subsection 4 of the said section 8, as enacted by the Statutes of Ontario, 1972, chapter 159, section 3, is repealed. s. 8 (4),  
repealed
  
3. Subsection 1 of section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 159, section 4, is amended by striking out "or elects to hold office only as a supernumerary judge" in the second and third lines. s. 11 (1),  
amended
  
- 4.—(1) Section 40 of the said Act is repealed and the following substituted therefor: s. 40,  
re-enacted
  - 40.—(1) A verdict or judgment bears interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, at the prime rate established in the same manner as for the purposes of section 38, notwithstanding that the entry of judgment has been suspended by a proceeding in the action, including an appeal. Interest  
on  
judgments
  
  - (2) The judge may, where he considers it to be just to do so in all the circumstances, Discretion  
of judge

- (a) disallow interest under this section;
- (b) fix a rate of interest higher or lower than the prime rate;
- (c) fix a date other than the date of judgment from which interest is to run,

in respect of the whole or any part of the amount for which judgment is given.

Application  
of section

- (2) This section does not apply to a verdict rendered or judgment given before this section comes into force.

s. 48,  
amended

- 5.** Section 48 of the said Act is amended by adding thereto the following subsection:

Judge  
sitting  
singly

(1a) A proceeding in the Divisional Court may be heard, determined and disposed of by a judge of the Divisional Court sitting singly where the proceeding,

- (a) is an appeal under clause *f* of subsection 1 of section 17; or
- (b) is in a matter that the judge is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard by a judge sitting singly.

s. 114 (1) (a),  
re-enacted

- 6.—(1)** Clause *a* of subsection 1 of section 114 of the said Act is repealed and the following substituted therefor:

(a) the Chief Justice of Ontario, the Chief Justice of the High Court, the Associate Chief Justice of Ontario, the Associate Chief Justice of the High Court and four other judges of the Supreme Court to be appointed by the Chief Justice of Ontario.

s. 114 (1),  
amended

- (2) Subsection 1 of the said section 114, as amended by the Statutes of Ontario, 1975, chapter 30, section 6, is further amended by adding thereto the following clause:

(*ea*) the Registrar of the Supreme Court.

s. 114,  
amended

- (3) The said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4, 1975, chapter 30, section 6 and 1977, chapter 51, section 8, is further amended by adding thereto the following subsection:

Idem

(2a) The Chief Justice of Ontario and the Chief Justice of the High Court may jointly appoint either the Associate Chief Justice of Ontario or the Associate Chief Justice of the High Court to act as chairman from time to time as set out in the appointment.

**SECTION 5.** The new provision provides for Divisional Court to sit as a single judge in the cases set out in clauses *a* and *b*.

**SECTION 6.—Subsection 1.** The amendment adds the associate chief justices to the Rules Committee and reduces the judges on the Rules Committee by one.

**Subsection 2.** The Registrar of the Supreme Court is added to the Rules Committee as a member.

**Subsection 3.** The new provision permits the Chief Justice of Ontario to substitute an associate chief justice in his place as chairman of the Rules Committee, upon appointment made by him jointly with the Chief Justice of the High Court.

Subsection 4. The section repealed makes the Registrar of the Supreme Court, *ex officio*, the secretary of the Rules Committee. The repeal permits the Secretary to be any person arranged by the Committee.

Subsection 5. The amendment would permit the rate of interest to be applied in determining the capitalized value of an award in respect of future damages to be fixed by the Rules and of uniform application.

Subsection 6. The clause repealed provides for the fees payable to the Crown in respect of court proceedings to be fixed by the Rules. The repeal is complementary to a Bill entitled *An Act to amend The Administration of Justice Act* by which all such fees in all the courts would be fixed by regulation of the Lieutenant Governor in Council under that Act

- (4) Subsection 3 of the said section 114 is repealed. s. 114 (3),  
repealed
- (5) Subsection 10 of the said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4, 1975, chapter 30, section 6 and 1977, chapter 51, section 8, is further amended by adding thereto the following clause: s. 114 (10),  
amended
- (ba) prescribing the rate of interest to be used in determining the capitalized value of an award in respect of future damages.
- (6) Clause *h* of subsection 10 of the said section 114 is repealed. s. 114 (10) (h),  
repealed
- 7.**—(1) This Act, except subsection 6 of section 6, comes into force on the day it receives Royal Assent. Commence-  
ment
- (2) Subsection 6 of section 6 comes into force on a day to be named by proclamation of the Lieutenant Governor. Idem
- 8.** The short title of this Act is *The Judicature Amendment Act, 1979*. Short title

An Act to amend  
The Judicature Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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*(Government Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Judicature Act**

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**THE HON. R. MCMURTRY**  
Attorney General

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

#### EXPLANATORY NOTES

SECTION 1. The amendment includes the associate chief justices in the definition of "judge" which would read as follows:

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- 2.—(1) Subsection 3 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 159, section 3 and 1977, chapter 45, section 3, is repealed and the following substituted therefor: <sup>s. 8 (3), re-enacted</sup>
  - (3) The justices of appeal and the other judges have rank and precedence after the Associate Chief Justice of the High Court, and among themselves according to seniority of appointment. <sup>Rank and precedence</sup>
  - (2) Subsection 4 of the said section 8, as enacted by the Statutes of Ontario, 1972, chapter 159, section 3, is repealed. <sup>s. 8 (4), repealed</sup>
3. Subsection 1 of section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 159, section 4, is amended by striking out "or elects to hold office only as a supernumerary judge" in the second and third lines. <sup>s. 11 (1), amended</sup>
- 4.—(1) Section 40 of the said Act is repealed and the following substituted therefor: <sup>s. 40, re-enacted</sup>
  - 40.—(1) A verdict or judgment bears interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, at the prime rate established in the same manner as for the purposes of section 38, notwithstanding that the entry of judgment has been suspended by a proceeding in the action, including an appeal. <sup>Interest on judgments</sup>
  - (2) The judge may, where he considers it to be just to do so in all the circumstances, <sup>Discretion of judge</sup>

- (a) disallow interest under this section;
- (b) fix a rate of interest higher or lower than the prime rate;
- (c) fix a date other than the date of judgment from which interest is to run,

in respect of the whole or any part of the amount for which judgment is given.

Application  
of section

- (2) This section does not apply to a verdict rendered or judgment given before this section comes into force.

s. 48,  
amended

5. Section 48 of the said Act is amended by adding thereto the following subsection:

Judge  
sitting  
singly

(1a) A proceeding in the Divisional Court may be heard, determined and disposed of by a judge of the Divisional Court sitting singly where the proceeding,

(a) is an appeal under clause *f* of subsection 1 of section 17;  
or

(b) is in a matter that the Chief Justice of the High Court or a judge designated by him is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard by a judge sitting singly.

s. 114 (1) (a),  
re-enacted

- 6.—(1) Clause *a* of subsection 1 of section 114 of the said Act is repealed and the following substituted therefor:

(a) the Chief Justice of Ontario, the Chief Justice of the High Court, the Associate Chief Justice of Ontario, the Associate Chief Justice of the High Court and four other judges of the Supreme Court to be appointed by the Chief Justice of Ontario.

s. 114 (1),  
amended

- (2) Subsection 1 of the said section 114, as amended by the Statutes of Ontario, 1975, chapter 30, section 6, is further amended by adding thereto the following clause:

(*ea*) the Registrar of the Supreme Court.

s. 114,  
amended

- (3) The said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4, 1975, chapter 30, section 6 and 1977, chapter 51, section 8, is further amended by adding thereto the following subsection:

Idem

(2a) The Chief Justice of Ontario and the Chief Justice of the High Court may jointly appoint either the Associate Chief Justice of Ontario or the Associate Chief Justice of the High Court to act as chairman from time to time as set out in the appointment.

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- 7.**—(1) This Act, except subsection 6 of section 6, comes into force on the day it receives Royal Assent. Commence-  
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- 8.** The short title of this Act is *The Judicature Amendment Act, 1979*. Short title

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An Act to amend  
The Judicature Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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



# BILL 111

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Judicature Act

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THE HON. R. MCMURTRY  
Attorney General

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amended
  
- 2.—(1) Subsection 3 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 159, section 3 and 1977, chapter 45, section 3, is repealed and the following substituted therefor: s. 8 (3),  
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  - (3) The justices of appeal and the other judges have rank and precedence after the Associate Chief Justice of the High Court, and among themselves according to seniority of appointment. Rank and  
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- (2) Subsection 4 of the said section 8, as enacted by the Statutes of Ontario, 1972, chapter 159, section 3, is repealed. s. 8 (4),  
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- 4.—(1) Section 40 of the said Act is repealed and the following substituted therefor: s. 40,  
re-enacted
  - 40.—(1) A verdict or judgment bears interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, at the prime rate established in the same manner as for the purposes of section 38, notwithstanding that the entry of judgment has been suspended by a proceeding in the action, including an appeal. Interest  
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in respect of the whole or any part of the amount for which judgment is given.

Application  
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amended

- 5.** Section 48 of the said Act is amended by adding thereto the following subsection:

Judge  
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(a) is an appeal under clause *f* of subsection 1 of section 17;  
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(b) is in a matter that the Chief Justice of the High Court or a judge designated by him is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard by a judge sitting singly.

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s. 114 (1),  
amended

- (2) Subsection 1 of the said section 114, as amended by the Statutes of Ontario, 1975, chapter 30, section 6, is further amended by adding thereto the following clause:

(ea) the Registrar of the Supreme Court.

s. 114,  
amended

- (3) The said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4, 1975, chapter 30, section 6 and 1977, chapter 51, section 8, is further amended by adding thereto the following subsection:

Idem

(2a) The Chief Justice of Ontario and the Chief Justice of the High Court may jointly appoint either the Associate Chief Justice of Ontario or the Associate Chief Justice of the High Court to act as chairman from time to time as set out in the appointment.

- (4) Subsection 3 of the said section 114 is repealed. s. 114 (3),  
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- (5) Subsection 10 of the said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4, 1975, chapter 30, section 6 and 1977, chapter 51, section 8, is further amended by adding thereto the following clause: s. 114 (10),  
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- (6) Clause *h* of subsection 10 of the said section 114 is repealed. s. 114 (10) (h),  
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- 7.**—(1) This Act, except subsection 6 of section 6, comes into force on the day it receives Royal Assent. Commence-  
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- (2) Subsection 6 of section 6 comes into force on a day to be named by proclamation of the Lieutenant Governor. Idem
- 8.** The short title of this Act is *The Judicature Amendment Act, 1979*. Short title





An Act to amend  
The Judicature Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

June 18th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The County Judges Act**

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**THE HON. R. MCMURTRY**  
Attorney General

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EPLANATORY NOTE

The amendments remove the term "junior judge" from the Act and related Acts.

⋮

BILL 112

1979

## An Act to amend The County Judges Act

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

1. Section 2 of *The County Judges Act*, being chapter 95 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: s. 2.  
amended

(2) Where another judge is appointed in accordance with section 3 or 4 for a county court or a district court or is designated under section 4 to reside in the jurisdiction of the court, the judge appointed for the court in accordance with subsection 1 shall be known as the senior judge of the court. Senior  
judge

2. Section 3 of the said Act is amended, s. 3.  
amended

- (a) in subsection 1, as amended by the Statutes of Ontario, 1973, chapter 136, section 1, by striking out "A junior" in the first line and inserting in lieu thereof "An additional";
- (b) in subsection 2, as amended by the Statutes of Ontario, 1971, chapter 4, section 1, by striking out "junior" in the first line and inserting in lieu thereof "additional";
- (c) in subsection 3, as amended by the Statutes of Ontario, 1971, chapter 4, section 1, by striking out "junior" in the first line and inserting in lieu thereof "additional"; and
- (d) in subsection 4, by striking out "junior" in the first line and inserting in lieu thereof "additional".

3. Section 4 of the said Act is amended, s. 4.  
amended

- (a) in subsection 1, as amended by the Statutes of Ontario, 1972, chapter 86, section 1,
- (i) by striking out "junior" in the second line, and

(ii) by striking out "or junior judges" in the amendment of 1972; and

(b) in subsection 2, by striking out "or junior judge" in the first line.

s. 4a,  
amended

4. Section 4a of the said Act, as enacted by the Statutes of Ontario, 1976, chapter 15, section 1, is amended,

(a) in subsection 1, by striking out "or junior judge" in the first line and in the fourth line; and

(b) in subsection 2, by striking out "or junior judge" in the second line.

s. 5 (2),  
amended

5. Subsection 2 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 44, section 2, is amended by striking out "junior judges" in the second and third lines.

s. 6,  
re-enacted

6. Section 6 of the said Act is repealed and the following substituted therefor:

Supervision  
by senior  
judge

6. The senior judge of a county or district court may regulate and supervise the other judges of the court in the exercise of their authority.

s. 7,  
amended

7. Section 7 of the said Act is amended by striking out "or junior judge" in the first line.

s. 10,  
amended

8. Section 10 of the said Act is amended by striking out "and junior judge" in the first line.

s. 12,  
amended

9. Section 12 of the said Act is amended by striking out "the judge or a junior judge" in the first line and inserting in lieu thereof "a judge".

s. 13 (2),  
amended

10. Subsection 2 of section 13 of the said Act is amended by striking out "in his absence, of the junior judge or" in the second line and inserting in lieu thereof "senior judge or, if the senior judge is absent, of the other".

s. 15,  
amended

11. Section 15 of the said Act is amended,

(a) in subsection 5, by striking out "and junior judges" in the third and fourth lines;

(b) in subsection 6, by striking out "and junior judges" in the first line and in the eighth line;

(c) in subsection 7, by striking out "or junior judge" in the seventh line; and

(d) in subsection 8, by striking out "and junior judges" in the fifth line.

**12.** Section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 136, section 4, is amended, s. 16, amended

(a) in subsection 1, by striking out "or junior judge" in the first line; and

(b) in subsection 2, by striking out "or junior judge" in the first line.

**13.** A reference in any Act or regulation to a junior judge of a county or district court shall be deemed to be a reference to a judge of the court. Other references

#### COMPLEMENTARY AMENDMENTS

**14.** Subsection 1 of section 1 of *The County Court Judges' Criminal Courts Act*, being chapter 93 of the Revised Statutes of Ontario, 1970, is amended by striking out "The judge of every county court or district court or a junior judge thereof" in the first and second lines and inserting in lieu thereof "A judge of a county court or district court". R.S.O. 1970, c. 93, s. 1(1), amended

**15.**—(1) Section 3 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is amended by striking out "or a junior judge" in the second line. R.S.O. 1970, c. 94, s. 3, amended

(2) Section 12 of the said Act is amended by striking out "judge and the junior" in the first line. s. 12, amended

**16.** Section 7 of *The General Sessions Act*, being chapter 191 of the Revised Statutes of Ontario, 1970, is amended, R.S.O. 1970, c. 191, s. 7, amended

(a) by striking out "The" where it appears the first time in the first line and inserting in lieu thereof "A"; and

(b) by striking out "or a junior" in the second line.

**17.**—(1) Subclause ii of clause *h* of subsection 1 of section 1 of *The Small Claims Courts Act*, being chapter 439 of the Revised Statutes of Ontario, 1970, is amended by striking out "the judge or a junior" and inserting in lieu thereof "a". R.S.O. 1970, c. 439, s. 1(1)(h)(ii), amended

(2) Subsection 2 of section 1 of the said Act is repealed. s. 1(2), repealed

R.S.O. 1970,  
c. 451, s. 4,  
amended

**18.**—(1) Section 4 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by striking out “or a junior judge” in the third and fourth lines.

s. 8 (1),  
re-enacted

(2) Subsection 1 of section 8 of the said Act is repealed and the following substituted therefor:

Appointment  
of judges

(1) The Lieutenant Governor in Council shall appoint as many judges of the surrogate courts as the Lieutenant Governor in Council considers necessary and may designate one of the judges of a surrogate court as the senior judge of the court.

Term of  
office

(1a) Every judge of a surrogate court shall hold office during good behaviour and may be removed from office by the Lieutenant Governor in Council for inability, incapacity or misbehaviour established to the satisfaction of the Lieutenant Governor in Council.

s. 8 (2),  
amended

(3) Subsection 2 of section 8 of the said Act is amended by striking out “or junior judge” in the second line.

s. 8 (3),  
amended

(4) Subsection 3 of section 8 of the said Act is amended,

(a) by striking out “the judge or junior judge” in the first line and inserting in lieu thereof “a judge”; and

(b) by striking out “or junior judge” in the second line.

s. 9 (1, 2),  
re-enacted

(5) Subsections 1 and 2 of section 9 of the said Act are repealed and the following substituted therefor:

Acting  
judge

(1) Where there is a vacancy in the office of a judge of a surrogate court or a judge of a surrogate court is absent or ill, any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing may, when so directed by the Attorney General, act as a judge of the surrogate court.

Acting  
judge on  
request

(2) Where a judge of a surrogate court requests in writing any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing to preside over the surrogate court of the judge making the request, such judge or barrister may act as judge of the surrogate court.

s. 11 (2),  
amended

(6) Subsection 2 of section 11 of the said Act is amended by striking out “or junior judge” in the first and second lines.

s. 77 (1),  
amended

(7) Subsection 1 of section 77 of the said Act is amended by striking out “or junior judge” in the sixth line.

- 19.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment
- 20.** The short title of this Act is *The County Judges Amendment Act, 1979*. Short title

An Act to amend  
The County Judges Act

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*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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*(Government Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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An Act to amend The County Judges Act

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THE HON. R. MCMURTRY  
Attorney General

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

EXPLANATORY NOTE

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BILL 112

1979

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1. Section 2 of *The County Judges Act*, being chapter 95 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: s. 2,  
amended

(2) Where another judge is appointed in accordance with section 3 or 4 for a county court or a district court or is designated under section 4 to reside in the jurisdiction of the court, the judge appointed for the court in accordance with subsection 1 shall be known as the senior judge of the court. Senior  
judge

2. Section 3 of the said Act is amended, s. 3,  
amended

- (a) in subsection 1, as amended by the Statutes of Ontario, 1973, chapter 136, section 1, by striking out "A junior" in the first line and inserting in lieu thereof "An additional";
- (b) in subsection 2, as amended by the Statutes of Ontario, 1971, chapter 4, section 1, by striking out "junior" in the first line and inserting in lieu thereof "additional";
- (c) in subsection 3, as amended by the Statutes of Ontario, 1971, chapter 4, section 1, by striking out "junior" in the first line and inserting in lieu thereof "additional"; and
- (d) in subsection 4, by striking out "junior" in the first line and inserting in lieu thereof "additional".

3. Section 4 of the said Act is amended, s. 4,  
amended

- (a) in subsection 1, as amended by the Statutes of Ontario, 1972, chapter 86, section 1,
- (i) by striking out "junior" in the second line, and

(ii) by striking out “or junior judges” in the amendment of 1972; and

(b) in subsection 2, by striking out “or junior judge” in the first line.

s. 4a,  
amended

4. Section 4a of the said Act, as enacted by the Statutes of Ontario, 1976, chapter 15, section 1, is amended,

(a) in subsection 1, by striking out “or junior judge” in the first line and in the fourth line; and

(b) in subsection 2, by striking out “or junior judge” in the second line.

s. 5 (2),  
amended

5. Subsection 2 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 44, section 2, is amended by striking out “junior judges” in the second and third lines.

s. 6,  
re-enacted

6. Section 6 of the said Act is repealed and the following substituted therefor:

Supervision  
by senior  
judge

6. The senior judge of a county or district court may, subject to the authority of the chief judge, regulate and supervise the other judges of the court in the exercise of their authority.

s. 7,  
amended

7. Section 7 of the said Act is amended by striking out “or junior judge” in the first line.

s. 10,  
amended

8. Section 10 of the said Act is amended by striking out “and junior judge” in the first line.

s. 12,  
amended

9. Section 12 of the said Act is amended by striking out “the judge or a junior judge” in the first line and inserting in lieu thereof “a judge”.

s. 13 (2),  
amended

10. Subsection 2 of section 13 of the said Act is amended by striking out “in his absence, of the junior judge or” in the second line and inserting in lieu thereof “senior judge or, if the senior judge is absent, of the other”.

s. 15,  
amended

11. Section 15 of the said Act is amended,

(a) in subsection 5, by striking out “and junior judges” in the third and fourth lines;

(b) in subsection 6, by striking out “and junior judges” in the first line and in the eighth line;

(c) in subsection 7, by striking out “or junior judge” in the seventh line; and

(d) in subsection 8, by striking out “and junior judges” in the fifth line.

**12.** Section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 136, section 4, is amended, s. 16, amended

(a) in subsection 1, by striking out “or junior judge” in the first line; and

(b) in subsection 2, by striking out “or junior judge” in the first line.

**13.** A reference in any Act or regulation to a junior judge of a county or district court shall be deemed to be a reference to a judge of the court. Other references

#### COMPLEMENTARY AMENDMENTS

**14.** Subsection 1 of section 1 of *The County Court Judges' Criminal Courts Act*, being chapter 93 of the Revised Statutes of Ontario, 1970, is amended by striking out “The judge of every county court or district court or a junior judge thereof” in the first and second lines and inserting in lieu thereof “A judge of a county court or district court”. R.S.O. 1970, c. 93, s. 1 (1), amended

**15.**—(1) Section 3 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is amended by striking out “or a junior judge” in the second line. R.S.O. 1970, c. 94, s. 3, amended

(2) Section 12 of the said Act is amended by striking out “judge and the junior” in the first line. s. 12, amended

**16.** Section 7 of *The General Sessions Act*, being chapter 191 of the Revised Statutes of Ontario, 1970, is amended, R.S.O. 1970, c. 191, s. 7, amended

(a) by striking out “The” where it appears the first time in the first line and inserting in lieu thereof “A”; and

(b) by striking out “or a junior” in the second line.

**17.**—(1) Subclause ii of clause *h* of subsection 1 of section 1 of *The Small Claims Courts Act*, being chapter 439 of the Revised Statutes of Ontario, 1970, is amended by striking out “the judge or a junior” and inserting in lieu thereof “a”. R.S.O. 1970, c. 439, s. 1 (1) (b) (ii), amended

(2) Subsection 2 of section 1 of the said Act is repealed. s. 1 (2), repealed

R.S.O. 1970,  
c. 451, s. 4,  
amended

18.—(1) Section 4 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by striking out “or a junior judge” in the third and fourth lines.

s. 8 (1),  
re-enacted

(2) Subsection 1 of section 8 of the said Act is repealed and the following substituted therefor:

Appointment  
of judges

(1) The Lieutenant Governor in Council shall appoint as many judges of the surrogate courts as the Lieutenant Governor in Council considers necessary and may designate one of the judges of a surrogate court as the senior judge of the court.

Term of  
office

(1a) Every judge of a surrogate court shall hold office during good behaviour and may be removed from office by the Lieutenant Governor in Council for inability, incapacity or misbehaviour established to the satisfaction of the Lieutenant Governor in Council.

s. 8 (2),  
amended

(3) Subsection 2 of section 8 of the said Act is amended by striking out “or junior judge” in the second line.

s. 8 (3),  
amended

(4) Subsection 3 of section 8 of the said Act is amended,

(a) by striking out “the judge or junior judge” in the first line and inserting in lieu thereof “a judge”; and

(b) by striking out “or junior judge” in the second line.

s. 9 (1, 2),  
re-enacted

(5) Subsections 1 and 2 of section 9 of the said Act are repealed and the following substituted therefor:

Acting  
judge

(1) Where there is a vacancy in the office of a judge of a surrogate court or a judge of a surrogate court is absent or ill, any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing may, when so directed by the Attorney General, act as a judge of the surrogate court.

Acting  
judge, on  
request

(2) Where a judge of a surrogate court requests in writing any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing to preside over the surrogate court of the judge making the request, such judge or barrister may act as judge of the surrogate court.

s. 11 (2),  
amended

(6) Subsection 2 of section 11 of the said Act is amended by striking out “or junior judge” in the first and second lines.

s. 77 (1),  
amended

(7) Subsection 1 of section 77 of the said Act is amended by striking out “or junior judge” in the sixth line.

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment
  
20. The short title of this Act is *The County Judges Amendment Act, 1979*. Short title

An Act to amend  
The County Judges Act

---

*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

---

THE HON. R. MCMURTRY  
Attorney General

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



# BILL 112

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The County Judges Act

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THE HON. R. MCMURTRY  
Attorney General

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BILL 112

1979

## An Act to amend The County Judges Act

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

1. Section 2 of *The County Judges Act*, being chapter 95 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: s. 2,  
amended

(2) Where another judge is appointed in accordance with section 3 or 4 for a county court or a district court or is designated under section 4 to reside in the jurisdiction of the court, the judge appointed for the court in accordance with subsection 1 shall be known as the senior judge of the court. Senior  
judge

2. Section 3 of the said Act is amended. s. 3,  
amended

- (a) in subsection 1, as amended by the Statutes of Ontario, 1973, chapter 136, section 1, by striking out "A junior" in the first line and inserting in lieu thereof "An additional";
- (b) in subsection 2, as amended by the Statutes of Ontario, 1971, chapter 4, section 1, by striking out "junior" in the first line and inserting in lieu thereof "additional";
- (c) in subsection 3, as amended by the Statutes of Ontario, 1971, chapter 4, section 1, by striking out "junior" in the first line and inserting in lieu thereof "additional"; and
- (d) in subsection 4, by striking out "junior" in the first line and inserting in lieu thereof "additional".

3. Section 4 of the said Act is amended, s. 4,  
amended

- (a) in subsection 1, as amended by the Statutes of Ontario, 1972, chapter 86, section 1,
- (i) by striking out "junior" in the second line, and

(ii) by striking out “or junior judges” in the amendment of 1972; and

(b) in subsection 2, by striking out “or junior judge” in the first line.

s. 4a,  
amended

4. Section 4a of the said Act, as enacted by the Statutes of Ontario, 1976, chapter 15, section 1, is amended,

(a) in subsection 1, by striking out “or junior judge” in the first line and in the fourth line; and

(b) in subsection 2, by striking out “or junior judge” in the second line.

s. 5 (2),  
amended

5. Subsection 2 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 44, section 2, is amended by striking out “junior judges” in the second and third lines.

s. 6,  
re-enacted

6. Section 6 of the said Act is repealed and the following substituted therefor:

Supervision  
by senior  
judge

6. The senior judge of a county or district court may, subject to the authority of the chief judge, regulate and supervise the other judges of the court in the exercise of their authority.

s. 7,  
amended

7. Section 7 of the said Act is amended by striking out “or junior judge” in the first line.

s. 10,  
amended

8. Section 10 of the said Act is amended by striking out “and junior judge” in the first line.

s. 12,  
amended

9. Section 12 of the said Act is amended by striking out “the judge or a junior judge” in the first line and inserting in lieu thereof “a judge”.

s. 13 (2),  
amended

10. Subsection 2 of section 13 of the said Act is amended by striking out “in his absence, of the junior judge or” in the second line and inserting in lieu thereof “senior judge or, if the senior judge is absent, of the other”.

s. 15,  
amended

11. Section 15 of the said Act is amended,

(a) in subsection 5, by striking out “and junior judges” in the third and fourth lines;

(b) in subsection 6, by striking out “and junior judges” in the first line and in the eighth line;

- (c) in subsection 7, by striking out "or junior judge" in the seventh line; and
- (d) in subsection 8, by striking out "and junior judges" in the fifth line.

**12.** Section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 136, section 4, is amended, s. 16,  
amended

- (a) in subsection 1, by striking out "or junior judge" in the first line; and
- (b) in subsection 2, by striking out "or junior judge" in the first line.

**13.** A reference in any Act or regulation to a junior judge of a county or district court shall be deemed to be a reference to a judge of the court. Other  
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#### COMPLEMENTARY AMENDMENTS

**14.** Subsection 1 of section 1 of *The County Court Judges' Criminal Courts Act*, being chapter 93 of the Revised Statutes of Ontario, 1970, is amended by striking out "The judge of every county court or district court or a junior judge thereof" in the first and second lines and inserting in lieu thereof "A judge of a county court or district court". R S O 1970,  
c. 93, s. 1 (1),  
amended

**15.**—(1) Section 3 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is amended by striking out "or a junior judge" in the second line. R S O 1970,  
c. 94, s. 3,  
amended

(2) Section 12 of the said Act is amended by striking out "judge and the junior" in the first line. s. 12,  
amended

**16.** Section 7 of *The General Sessions Act*, being chapter 191 of the Revised Statutes of Ontario, 1970, is amended, R S O 1970,  
c. 191, s. 7,  
amended

- (a) by striking out "The" where it appears the first time in the first line and inserting in lieu thereof "A"; and
- (b) by striking out "or a junior" in the second line.

**17.**—(1) Subclause ii of clause h of subsection 1 of section 1 of *The Small Claims Courts Act*, being chapter 439 of the Revised Statutes of Ontario, 1970, is amended by striking out "the judge or a junior" and inserting in lieu thereof "a". R S O 1970,  
c. 439,  
s. 1 (1) (h) (ii),  
amended

(2) Subsection 2 of section 1 of the said Act is repealed. s. 1 (2),  
repealed

R.S.O. 1970,  
c. 451, s. 4,  
amended

**18.**—(1) Section 4 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by striking out “or a junior judge” in the third and fourth lines.

s. 8 (1),  
re-enacted

(2) Subsection 1 of section 8 of the said Act is repealed and the following substituted therefor:

Appointment  
of judges

(1) The Lieutenant Governor in Council shall appoint as many judges of the surrogate courts as the Lieutenant Governor in Council considers necessary and may designate one of the judges of a surrogate court as the senior judge of the court.

Term of  
office

(1a) Every judge of a surrogate court shall hold office during good behaviour and may be removed from office by the Lieutenant Governor in Council for inability, incapacity or misbehaviour established to the satisfaction of the Lieutenant Governor in Council.

s. 8 (2),  
amended

(3) Subsection 2 of section 8 of the said Act is amended by striking out “or junior judge” in the second line.

s. 8 (3),  
amended

(4) Subsection 3 of section 8 of the said Act is amended,

(a) by striking out “the judge or junior judge” in the first line and inserting in lieu thereof “a judge”; and

(b) by striking out “or junior judge” in the second line.

s. 9 (1, 2),  
re-enacted

(5) Subsections 1 and 2 of section 9 of the said Act are repealed and the following substituted therefor:

Acting  
judge

(1) Where there is a vacancy in the office of a judge of a surrogate court or a judge of a surrogate court is absent or ill, any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing may, when so directed by the Attorney General, act as a judge of the surrogate court.

Acting  
judge, on  
request

(2) Where a judge of a surrogate court requests in writing any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing to preside over the surrogate court of the judge making the request, such judge or barrister may act as judge of the surrogate court.

s. 11 (2),  
amended

(6) Subsection 2 of section 11 of the said Act is amended by striking out “or junior judge” in the first and second lines.

s. 77 (1),  
amended

(7) Subsection 1 of section 77 of the said Act is amended by striking out “or junior judge” in the sixth line.

**19.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**20.** The short title of this Act is *The County Judges Amendment Act, 1979*. Short title

An Act to amend  
The County Judges Act

---

*1st Reading*

May 29th, 1979

*2nd Reading*

June 12th, 1979

*3rd Reading*

June 18th, 1979

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THE HON. R. MCMURTRY  
Attorney General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act for the establishment and conduct of a Project in  
The Municipality of Metropolitan Toronto for the development  
of improved methods of processing certain Civil Actions**

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**THE HON. R. MCMURTRY**  
Attorney General

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#### EXPLANATORY NOTE

The Bill would replace the small claims courts in The Municipality of Metropolitan Toronto with a Provincial Court (Civil Division) having its monetary jurisdiction extended to a maximum of \$3,000.

Extensive rule-making powers would permit the flexibility necessary to design, as a trial project, new procedures for the implementation of the extended jurisdiction.

The Bill establishes an Advisory Committee to guide reforms in procedure, and the trial project expires on January 1st, 1983

BILL 113

1979

**An Act for the establishment and conduct of a  
Project in The Municipality of Metropolitan  
Toronto for the development of improved methods  
of processing certain Civil Actions**

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

**1.** In this Act,

Interpre-  
tation

- (a) "Advisory Committee" means the advisory committee established under section 8;
- (b) "judge" means a judge of the Provincial Court appointed under section 4;
- (c) "Provincial Court" means the Provincial Court (Civil Division) of The Municipality of Metropolitan Toronto;
- (d) "rules" means the rules made under or adopted by this Act.

**2.** The purpose of this Act is to enable the establishment and conduct of a project using a limited class of civil actions in The Municipality of Metropolitan Toronto for the development of simplified procedures and of methods of making civil remedies more accessible and reducing delays.

Purpose

**3.—(1)** There shall be a court of record in and for The Municipality of Metropolitan Toronto called the Provincial Court (Civil Division) of The Municipality of Metropolitan Toronto.

Provincial  
Court (Civil  
Division)  
established

(2) The Provincial Court shall be presided over by a judge of the Provincial Court appointed under section 4.

Presiding  
judges

**4.** The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such judges of the Provincial Court as are considered necessary.

Appointment  
of judges

Senior  
judge

5. The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a judge as senior judge of the Provincial Court who shall have general supervision and direction over arranging the sittings of the Provincial Court and assigning judges for hearings in the Provincial Court, as circumstances require.

Juris-  
diction  
R S O 1970,  
c 439

6.—(1) The jurisdiction of the Provincial Court shall be the same as the jurisdiction of small claims courts under *The Small Claims Courts Act* or any other Act, except that in the Provincial Court the maximum claim or value of \$1,000 set out in section 54 of *The Small Claims Courts Act* shall be \$3,000 in each instance and not as set out therein.

Application  
of R S O  
1970, c 439

(2) Except in so far as they are inconsistent with this Act or the rules, *The Small Claims Courts Act* and the rules and regulations thereunder apply in the same manner as if the Provincial Court and judges and officers thereof were small claims courts and judges and officers thereof and the proceedings in the Provincial Court were proceedings in a small claims court.

Exception

(3) Sections 13 and 104 of *The Small Claims Courts Act* do not apply where the action is for more than \$1,000.

Divisions

(4) The divisions established under *The Small Claims Courts Act* in The Municipality of Metropolitan Toronto are continued as local divisions of the Provincial Court, subject to amendment by the rules, and an office of the Provincial Court shall be maintained in each local division, and the provisions of *The Small Claims Courts Act* respecting the territorial jurisdiction of a small claims court in a division apply in respect of the office of the Provincial Court in which proceedings are commenced and the action is conducted.

References  
in other  
Acts

(5) A reference in or under any Act to a small claims court or a judge thereof shall, in respect of The Municipality of Metropolitan Toronto, be deemed to be a reference to the Provincial Court or a judge thereof.

Continuation  
of action

7.—(1) A proceeding commenced in a small claims court in The Municipality of Metropolitan Toronto before section 3 comes into force shall be continued and disposed of in the Provincial Court.

Transfer  
of actions  
from county  
court and  
Supreme  
Court

(2) Where an action that is within the jurisdiction of the Provincial Court was commenced in the county court or in the Supreme Court before section 3 came into force, and no evidence has been heard in the action, the action shall, with the consent of the parties, be transferred to the Provincial Court in the manner prescribed by the rules.

**8.**—(1) There shall be an Advisory Committee composed of seven persons of whom one shall be the Deputy Attorney General, who shall be the chairman, one shall be the senior judge of the Provincial Court or his nominee and five shall be appointed by the Attorney General, of whom one shall be a county court judge and at least two shall be members of the Law Society of Upper Canada engaged in active litigation practice. Advisory  
Committee

(2) The Deputy Attorney General may designate a member of the Advisory Committee who shall act as chairman during the absence of the Deputy Attorney General. Deputy  
chairman

(3) The Advisory Committee shall advise and make recommendations to the Attorney General on any matter concerning the establishment and operation of the Provincial Court and the practices and procedures therein that the Advisory Committee considers advisable or that is referred to it by the Attorney General. Duties

**9.**—(1) The Lieutenant Governor in Council may make such rules as are considered necessary and desirable for the establishment and operation of the Provincial Court and, without restricting the generality of the foregoing, may make rules. Rules

(a) on any matter in respect of which rules may be made under section 195 of *The Small Claims Courts Act* or section 114 of *The Judicature Act* but having application to the Provincial Court and matters and proceedings within its jurisdiction; R.S.O. 1970,  
cc. 439, 228

(b) providing for sittings of the Provincial Court to be held at places in The Municipality of Metropolitan Toronto outside the local division in which the action is commenced.

(2) Any rule made under subsection 1 may be general or particular in its application. Idem

(3) Where a rule made under subsection 1 is in conflict with a provision of any other Act or of the rules of any court, the rule shall prevail. Conflict

**10.** This Act is repealed on the 1st day of January, 1983. Repeal

**11.**—(1) This Act, except sections 3 to 7, comes into force on the day it receives Royal Assent. Commence-  
ment

(2) Sections 3 to 7 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**12.** The short title of this Act is *The Provincial Court (Civil Division) Project Act, 1979*. Short title





An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto for the development of improved methods of processing certain Civil Actions

---

*1st Reading*

May 29th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

*(Government Bill)*



# BILL 113

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act for the establishment and conduct of a Project in  
The Municipality of Metropolitan Toronto for the development  
of improved methods of processing certain Civil Actions**

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THE HON. R. MCMURTRY  
Attorney General

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BILL 113

1979

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- (a) "Advisory Committee" means the advisory committee established under section 8;
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- 2.** The purpose of this Act is to enable the establishment and Purpose  
conduct of a project using a limited class of civil actions in The Municipality of Metropolitan Toronto for the development of simplified procedures and of methods of making civil remedies more accessible and reducing delays.
- 3.**—(1) There shall be a court of record in and for The Provincial  
Court (Civil  
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Municipality of Metropolitan Toronto called the Provincial Court (Civil Division) of The Municipality of Metropolitan Toronto.
- (2) The Provincial Court shall be presided over by a judge of Presiding  
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Senior  
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5. The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a judge as senior judge of the Provincial Court who shall have general supervision and direction over arranging the sittings of the Provincial Court and assigning judges for hearings in the Provincial Court, as circumstances require.

Juris-  
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Application  
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(2) Except in so far as they are inconsistent with this Act or the rules, *The Small Claims Courts Act* and the rules and regulations thereunder apply in the same manner as if the Provincial Court and judges and officers thereof were small claims courts and judges and officers thereof and the proceedings in the Provincial Court were proceedings in a small claims court.

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7.—(1) A proceeding commenced in a small claims court in The Municipality of Metropolitan Toronto before section 3 comes into force shall be continued and disposed of in the Provincial Court.

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**8.**—(1) There shall be an Advisory Committee composed of seven persons of whom one shall be the Deputy Attorney General, who shall be the chairman, one shall be the senior judge of the Provincial Court or his nominee and five shall be appointed by the Attorney General, of whom one shall be a county court judge and at least two shall be members of the Law Society of Upper Canada engaged in active litigation practice. Advisory  
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(b) providing for sittings of the Provincial Court to be held at places in The Municipality of Metropolitan Toronto outside the local division in which the action is commenced.

(2) Any rule made under subsection 1 may be general or particular in its application. Idem

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An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto for the development of improved methods of processing certain Civil Actions

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*1st Reading*

May 29th, 1979

*2nd Reading*

June 18th, 1979

*3rd Reading*

June 18th, 1979

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THE HON. R. McMURTRY  
Attorney General

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend certain Acts  
respecting Regional Municipalities**

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**THE HON. T. L. WELLS**  
**Minister of Intergovernmental Affairs**

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## EXPLANATORY NOTES

### GENERAL

The Bill amends ten of the Acts that establish various regional municipalities and is divided into the following Parts:

- PART I — Ottawa-Carleton (ss. 1-11).
- PART II — Niagara (ss. 12-23).
- PART III — York (ss. 24-35).
- PART IV — Waterloo (ss. 36-50).
- PART V — Sudbury (ss. 51-62).
- PART VI — Peel (ss. 63-66).
- PART VII — Halton (ss. 67-70).
- PART VIII — Hamilton-Wentworth (ss. 71-75).
- PART IX — Durham (ss. 76-79).
- PART X — Haldimand-Norfolk (ss. 80-84).

The following four numbered paragraphs describe amendments that are common to all ten of the regional municipalities.

1. Sections 6, 8, 13, 14, 15, 18, 19, 20, 22, 25, 26, 27, 30, 31, 33, 39, 40, 42, 46, 47, 49, 52, 53, 55, 56, 57, 58, 60, 65, 69, 74, 78, 83.

The effect of the re-enactment of these subsections is to increase from 12 per cent per annum to 15 per cent per annum the maximum rate of interest that may be charged on overdue payments whether from the Regional Corporation to an area municipality or the converse.

2. Sections 1, 12, 24, 38, 51, 63, 67, 71, 76, 80.

In each instance section 390*a* is added to those sections of *The Municipal Act* made applicable to the Regional Corporation. Section 390*a* authorizes the procuring of liability insurance to protect members of council or of a local board while acting in their capacity as members or officers of the council or local board.

3. Sections 9, 23, 34, 50, 61, 66, 70, 75, 79, 84.

The following additional provisions of *The Municipal Act* are made applicable in each instance to the Regional Corporation:

1. Paragraph 24*a* of section 352 relating to the custody of things of historical value or interest.
2. Subparagraph ii of paragraph 112 of subsection 1 of section 354 dealing with prohibiting the parking of motor vehicles on municipal property.

In the case of the regional municipalities of Sudbury, Peel, Halton, Hamilton-Wentworth, Durham and Haldimand-Norfolk also made applicable is subparagraph iii of paragraph 62a of subsection 1 of section 354 dealing with maintaining and repairing sewer pipes and water pipes on condominium property.

4. *Sections 7, 21, 32, 48, 59, 64, 68, 73, 77, 82.*

The effect of the added subsection is to permit membership in credit unions.

The following amendments relate to the regional municipalities of Ottawa-Carleton, Niagara, York and Waterloo.

*Sections 3, 16, 28, 43.*

The added subsection 2 permits the Regional Council to pass by-laws for prohibiting or regulating the discharge of matter into sewers or treatment works under the jurisdiction of the Regional Corporation. Subsection 3 provides that in the event of conflict with an area municipality by-law, the Regional Council by-law prevails to the extent of the conflict.

The following amendments relate to the regional municipalities of Ottawa-Carleton and Sudbury.

*Sections 10, 62.*

Two forms are prescribed and set out in the Regional Acts; one is the oath of allegiance of the chairman and the other is the declaration of qualification of the chairman. The section added will authorize the Minister to prescribe a French-English bilingual version of these forms. The Regional Council may by by-law provide for the use of that form rather than the one set out in the Act.

The following sections of the Bill relate only to The Regional Municipality of Ottawa-Carleton:

*Section 2.*

The Regional Corporation is given the same power as local municipalities are given under *The Municipal Act* in respect of agreements with condominium corporations for the maintenance and repair of water pipes on the condominium property.

*Section 4.*

The change to metric measurement is in relation to the distance on a highway on either side of a regional road that may be governed by a traffic-regulating by-law of the Regional Council.

*Section 5.—Subsection 1.*

The number of members on the Ottawa-Carleton Regional Transit Commission is increased from five to nine.

*Subsection 2.*

Complementary to subsection 1, the quorum requirement is raised from three to five.

*Section 11.*

The two named library boards are dissolved and their assets and liabilities vested in the appropriate area municipality; thereafter the council of the area municipality will act as the library board.

The following section of the Bill applies only to The Regional Municipality of Niagara:

*Section 17.—Subsection 1.*

The re-enactment deletes the right of an area municipality to appeal to the Municipal Board if it is aggrieved by the imposition of the rate.

*Subsection 2.*

As re-enacted, the subsection requires the Municipal Board, when considering an application by the Regional Corporation for approval of the project, to disregard the method chosen by the Region to recover the costs.

*Subsection 3.*

The repealed subsection empowered the Municipal Board to direct the method by which the Region could recover the costs.

The following sections of the Bill apply only to The Regional Municipality of York:

*Section 29.*

The conversion to metric measurement is in relation to the distance from any limit of a regional road that the lands lying within which may be governed by a zoning by-law passed by the Regional Council.

*Section 35.*

The re-enactment places on The Regional Corporation all responsibility for waste disposal within the Regional Area.

The following sections of the Bill relate only to The Regional Municipality of Waterloo.

*Section 36.*

A portion of Kitchener is annexed to Waterloo and a portion of Waterloo is annexed to Kitchener.

*Section 37.*

Machinery is provided for determining membership on the Regional Council in the circumstances mentioned

*Section 41*

The subsections repealed empowered the Municipal Board to direct the manner in which the Regional Corporation could recover from the area municipalities the cost of sewage collection and disposal. See the Note to section 44 of the Bill

*Section 44.*

The method or methods by which the Regional Corporation may recover from the area municipalities the cost of sewage collection are set out as well as the manner in which the area municipalities may raise the money to cover their share of the cost. The Municipal Board, when considering an application by the Regional Corporation for approval of a sewage project is to disregard the method chosen by the Region to recover the costs.

*Section 45.*

The repealed section provided for the imposition of special sewage service rates by the Regional Corporation on an area municipality. See the Note to section 44 of the Bill as to the methods by which the Regional Corporation may recover its costs.

The following section of the Bill relates to The Regional Municipality of Sudbury:

*Section 54.*

The Regional Council is the Planning Board of the Sudbury Planning Area; the provision of *The Planning Act* made not applicable reads as follows:

*(2) No plan shall be recommended for adoption unless it is approved by a vote of the majority of all the members of the planning board.*

The following section of the Bill relates to The Regional Municipality of Hamilton-Wentworth:

*Section 72.*

The amendments affect the Regional Public Transportation System. Set out below are the subsections as proposed to be re-enacted, showing underlined the changes from the existing subsections:

*(6) No area municipality shall establish a public transportation service after the day of the passing of the by-law under subsection 2 or exercise any power under any Act respecting public transit matters provided for under this Part without the prior written approval of the Regional Corporation*

*(7) Subject to subsection 5 of section 53h, no person shall operate or cause to be operated in the Urban Transit Service Area after the dissolution of the Commission a public transportation service without having first obtained written approval of the Regional Council and any other approvals required by provincial or federal laws, and for greater clarity, the approval of the Regional Council shall always have been deemed to include the power to license, regulate and govern the operation of a public transportation service in the Urban Transit Service Area.*

*(10) Public transportation service operated by the Company or the subsidiary company on the 1st day of January, 1977 outside the limits of the Urban Transit Area, as established under this Part, shall by agreement between the Regional Council and the council of an area municipality be continued, discontinued, modified or varied.*

*(11) Public transportation service in an area municipality not within the limits of the Urban Transit Area, as established under this Part, shall be provided at the request of the council of any area municipality at such cost as may be agreed upon and in the event that there is any dispute as to the cost, after taking into account projected revenues, of the provision of such service, the matter shall be submitted to the Municipal Board for determination.*

The following section of the Bill relates to The Regional Municipality of Haldimand-Norfolk:

*Section 81.*

The effect of the re-enactment is to make not applicable subsection 2 of section 12 of *The Planning Act*; that subsection requires a vote of the majority of all the members of the planning board to recommend a plan for adoption. See the Note to section 54 of the Bill.

BILL 114

1979

## An Act to amend certain Acts respecting Regional Municipalities

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

### PART I

#### THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. Subsection 1 of section 18 of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 6, is repealed and the following substituted therefor:
 

s. 18 (1),  
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390 and 390a of *The Municipal Act* apply with necessary modifications to the Regional Corporation.
 

Application of  
R.S.O. 1970,  
c. 284
  
2. Section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 117, section 2, is amended by adding thereto the following subsection:
 

s. 27,  
amended

(12) The Regional Corporation may enter into agreements upon such terms and conditions, including terms as to the payment of fees, as are agreed upon, with a condominium corporation incorporated under *The Condominium Act, 1978* for maintaining and repairing water pipes installed on the condominium property for connecting buildings and other structures on the property with the water works of the Regional Corporation and for maintaining and repairing fire hydrants installed on the property.
 

Agreements  
with  
condominium  
corporations  
1978, c. 84
  
3. Section 34 of the said Act is amended by adding thereto the following subsections:
 

s. 34,  
amended

(2) The Regional Council has all the authority and powers in respect of any sewers which mediate or immediately enter into sewers or treatment works under the jurisdiction of the Regional
 

Control of  
sewage

- R.S.O. 1970,  
c. 284
- Corporation as have councils of local municipalities under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*.
- Conflict
- (3) In the event of conflict between a by-law passed under subsection 2 by the Regional Council and a by-law passed by the council of an area municipality under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*, the by-law passed by the Regional Council prevails to the extent of such conflict but in all other aspects the by-law of the area municipality remains in full effect and force.
- s. 55b (4),  
amended
4. Subsection 4 of section 55b of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 8, is amended by striking out "100 feet" in the fourth line and inserting in lieu thereof "thirty metres".
- s. 67b (2),  
re-enacted
- 5.— (1) Subsection 2 of section 67b of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is repealed and the following substituted therefor:
- Commission members
- (2) The Commission is a body corporate and shall consist of nine members of the Regional Council appointed by by-law of the Regional Council.
- s. 67b (3),  
re-enacted
- (2) Subsection 3 of the said section 67b is repealed and the following substituted therefor:
- Quorum
- (3) Five members of the Commission constitute a quorum.
- s. 67e (6),  
re-enacted
6. Subsection 6 of section 67e of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 43, section 7, is repealed and the following substituted therefor:
- Default
- (6) If the Regional Corporation fails to make any payment as required by subsection 5, interest shall be payable thereon at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from the date payment is due until it is made.
- s. 90,  
amended
7. Section 90 of the said Act is amended by adding thereto the following subsection:
- Deemed municipality for purposes of 1976, c. 62, s. 35
- (2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.
- s. 92 (16),  
re-enacted
8. Subsection 16 of section 92 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 126, section 17, is repealed and the following substituted therefor:



(16) If an area municipality fails to make any payment or portion thereof as provided in the by-law, the area municipality so in default shall pay to the Regional Corporation interest thereon at the rate of 15 per cent per annum from the date such payment becomes due until made, or such lower rate as the Regional Council may by by-law determine, providing that such rate of interest shall be uniform throughout the Regional Area. Default

9. Subsection 1 of section 124 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 11, is repealed and the following substituted therefor: § 124 (1), re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242a, 242b, 248a, 249 and 254, subsection 3 of section 308, section 333, paragraphs 3, 10, 11, 12, 24, 24a, 41, 67a and 71a of section 352, subparagraph ii of paragraph 112 of subsection 1 of section 354, sections 391 and 394 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284

10. The said Act is amended by adding thereto the following section: § 138a, enacted

138a.—(1) The Minister may by order prescribe an English and French language version of any form that is prescribed by this Act. Forms in both English and French language

(2) The Regional Council may by by-law provide for the use of the version of the form prescribed by the Minister under subsection 1 in place of the corresponding form prescribed by this Act and notwithstanding any other provision in this Act where a by-law under this subsection is in force the version of the form provided for in the by-law shall be used in place of the corresponding form prescribed by this Act. Use of forms

11. The said Act is further amended by adding thereto the following sections: ss. 140c, 140d, enacted

140c.—(1) The Nepean Public Library Board is dissolved on the 1st day of January, 1980 and all the assets and liabilities thereof vest on such date in The Corporation of the City of Nepean. Nepean Public Library Board dissolved

(2) The council of the said City shall be deemed to be a public library board for the purposes of *The Public Libraries Act*. Council deemed board R.S.O. 1970, c. 381

140d.—(1) The Vanier Public Library Board is dissolved on the 1st day of January, 1980 and all the assets and liabilities thereof vest on such date in The Corporation of the City of Vanier. Vanier Public Library Board dissolved

(2) The council of the said City shall be deemed to be a public library board for the purposes of *The Public Libraries Act*. Council deemed board

## PART II

## THE REGIONAL MUNICIPALITY OF NIAGARA

s. 18 (1),  
re-enacted

- 12.** Subsection 1 of section 18 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 19, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 28 (6),  
re-enacted

- 13.** Subsection 6 of section 28 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 51, section 3, is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 42 (2),  
re-enacted

- 14.** Subsection 2 of section 42 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 51, section 5, is repealed and the following substituted therefor:

Discounts  
and penalties

(2) The Regional Council may by by-law provide for uniform rates of discount for prompt payment of charges for water supply to the area municipalities and may by by-law provide for the payment of interest in the event of default at a rate of 15 per cent per annum, or such lower rate as the Regional Council determines, while such default continues.

s. 50 (6),  
re-enacted

- 15.** Subsection 6 of section 50 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 51, section 6, is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 53,  
amended

- 16.** Section 53 of the said Act is amended by adding thereto the following subsections:

(2) The Regional Council has all the authority and powers in respect of any sewers which mediately or immediately enter into sewers or treatment works under the jurisdiction of the Regional Corporation as have councils of local municipalities under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*.

Control of  
sewage

R.S.O. 1970,  
c. 284

(3) In the event of conflict between a by-law passed under subsection 2 by the Regional Council and a by-law passed by the council of an area municipality under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*, the by-law passed by the Regional Council prevails to the extent of such conflict but in all other aspects the by-law of the area municipality remains in full effect and force.

Conflict

**17.**—(1) Subsection 1 of section 54 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 54, section 2 and amended by the Statutes of Ontario, 1974, chapter 117, section 9, is repealed and the following substituted therefor:

s. 54 (1),  
re-enacted

(1) The Regional Council may by by-law from time to time provide for imposing on and collecting from any area municipality, in respect of the whole of such area municipality or any designated part thereof from which sewage or land drainage, including storm drainage, is received a sewer rate sufficient to pay the whole or such portion as the by-law may specify, of the regional expenditures relating to the capital costs of any work or water course assumed, constructed or to be constructed by the Regional Corporation, or for extension or improvement of such work, including debenture charges relating to any capital costs.

Imposition of  
sewer rate

(2) Subsection 3 of the said section 54, as enacted by the Statutes of Ontario, 1974, chapter 117, section 9, is repealed and the following substituted therefor:

s. 54 (3),  
re-enacted

(3) Notwithstanding any general or special Act, the Municipal Board shall hear and determine any application by the Regional Corporation for approval of any undertaking, work, project or scheme relating to the collection and disposal of sewage without having regard to the methods by which the Regional Corporation intends to recover the costs of the undertaking, work, project or scheme for which approval is being sought.

Approval of  
O.M.B. to  
undertaking,  
etc

(3) Subsection 4 of the said section 54, as enacted by the Statutes of Ontario, 1974, chapter 117, section 9, is repealed.

s. 54 (4),  
repealed

**18.** Subsection 2 of section 87 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 43, section 18, is repealed and the following substituted therefor:

s. 87 (2),  
re-enacted

Default

(2) If the Regional Corporation fails to make any payment as required by clause *b* of subsection 1, interest shall be payable thereon at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines from the date payment is due until it is made.

s. 100 (4),  
re-enacted

- 19.** Subsection 4 of section 100 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 43, section 19, is repealed and the following substituted therefor:

Default

(4) If the Regional Corporation fails to make any payment as required by subsection 3, interest shall be payable thereon at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines from the date payment is due until it is made.

s. 114 (6),  
re-enacted

- 20.** Subsection 6 of section 114 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 51, section 8, is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 117,  
amended

- 21.** Section 117 of the said Act is amended by adding thereto the following subsection:

Deemed  
municipality  
for  
purposes of  
1976, c. 62,  
s. 35

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.

s. 119 (16),  
re-enacted

- 22.** Subsection 16 of section 119 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 158, section 5, is repealed and the following substituted therefor:

Default

(16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum or such lower rate as the Regional Council determines, from the date payment is due until it is made.

s. 154 (1),  
re-enacted

- 23.** Subsection 1 of section 154 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 25, is repealed and the following substituted therefor:

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242a, 242b, 248a, 249 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 10, 11, 12, 24, 24a, 41, 67a and 71a of section 352, paragraph 61 and subparagraph ii of paragraph 112 of subsection 1 of section 354, section 394 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of  
R.S.O. 1970,  
c. 284

### PART III

#### THE REGIONAL MUNICIPALITY OF YORK

- 24.** Subsection 1 of section 18 of *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 35, is repealed and the following substituted therefor:

s. 18 (1),  
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of  
R.S.O. 1970,  
c. 284

- 25.** Subsection 6 of section 28 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 78, section 4, is repealed and the following substituted therefor:

s. 28 (6),  
re-enacted

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Default

- 26.** Subsection 2 of section 42 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 78, section 5, is repealed and the following substituted therefor:

s. 42 (2),  
re-enacted

(5) The Regional Corporation may by by-law provide for uniform rates of discount for prompt payment of charges for water supplied to the area municipalities and may by by-law provide for the payment of interest in the event of default at a rate of 15 per cent per annum, or such lower rate as the Regional Council determines while such default continues.

Discounts and  
penalties

- 27.** Subsection 6 of section 50 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 78, section 6, is repealed and the following substituted therefor:

s. 50 (6),  
re-enacted

- Default (6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.
- s. 53, amended **28.** Section 53 of the said Act is amended by adding thereto the following subsections:
- Control of sewage (2) The Regional Council has all the authority and powers in respect of any sewers which mediatey or immediately enter into sewers or treatment works under the jurisdiction of the Regional Corporation as have councils of local municipalities under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*.
- R.S.O. 1970, c. 284 Conflict (3) In the event of conflict between a by-law passed under subsection 2 by the Regional Council and a by-law passed by the council of an area municipality under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*, the by-law passed by the Regional Council prevails to the extent of such conflict but in all other aspects the by-law of the area municipality remains in full effect and force.
- s. 82 (1), amended **29.** Subsection 1 of section 82 of the said Act is amended by striking out "150 feet" in the second line and inserting in lieu thereof "45 metres".
- s. 85 (3), re-enacted **30.** Subsection 3 of section 85 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 78, section 9, is repealed and the following substituted therefor:
- Default (3) If the Regional Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.
- s. 109 (6), re-enacted **31.** Subsection 6 of section 109 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 78, section 11, is repealed and the following substituted therefor:
- Default (6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

- 32.** Section 112 of the said Act is amended by adding thereto the following subsection: s. 112,  
amended

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed  
municipality  
for purposes of  
1976, c. 62,  
s. 35

- 33.** Subsection 16 of section 114 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 117, section 16, is repealed and the following substituted therefor: s. 114 (16),  
re-enacted

(16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum or such lower rate as the Regional Council determines, from the date payment is due until it is made. Default

- 34.** Subsection 1 of section 149 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 42, is repealed and the following substituted therefor: s. 149 (1),  
re-enacted

(1) Section 5, parts XV, XVI, XVII and XXI, sections 242a, 242b, 246, 248a, 249 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 10, 11, 12, 24, 24a, 41, 67a and 71a of section 352, subparagraph ii of paragraph 112 of subsection 1 of section 354 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of  
R S O 1970,  
c. 284

- 35.** Section 166 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 117, section 19, is repealed and the following substituted therefor: s. 166,  
re-enacted

166.—(1) In this section, "waste" includes ashes, garbage, refuse, domestic waste, or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpre-  
tation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any area municipality, any local board thereof, or any other person whomsoever, without the consent of the Regional Council. Waste  
disposal

(3) For the purposes of subsection 2, the Regional Corporation may, Powers of  
Regional  
Corporation

(a) acquire and use land;

(b) erect, maintain and operate facilities for the purposes of receiving, dumping, treating and disposing of waste;

- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, a local, regional or metropolitan municipality, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and
- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to a regional waste disposal facility.

Vesting of  
property in  
Regional  
Corporation

(4) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of  
outstanding  
debt

(5) The Regional Corporation shall pay to the corporation of any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 4.

Compensation

(6) Subject to subsection 5, the Regional Corporation shall pay to the area municipality the costs incurred by it in the acquisition of and the improvements made to any such disposal site and works assumed by a by-law passed under subsection 4 and the current value of all equipment assumed therewith.

Interest on  
late payment

(7) If the Regional Corporation fails to make any payment required by subsection 5 or 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Approval of  
acquisition of  
land

(8) No land shall be acquired under subsection 3 and no by-law shall be passed under subsection 4 without,

- (a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions as may be agreed upon; or
- (b) failing such approval or agreement the approval of the Municipal Board.



(9) The Municipal Board, before giving its approval under clause *b* of subsection 8, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Board may appear necessary or expedient.

Approval of  
Ontario  
Municipal  
Board

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities.

How cost to  
be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe.

Disposal  
of sites

(12) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation.

Non-  
application  
of by-laws  
under

R.S.O. 1970,  
c. 284,  
s. 354 (1),  
par. 116

## PART IV

### THE REGIONAL MUNICIPALITY OF WATERLOO

**36.** Subsection *1b* of section 2 of *The Regional Municipality of Waterloo Act, 1972*, being chapter 105, as enacted by the Statutes of Ontario, 1977, chapter 34, section 16, is repealed and the following substituted therefor:

s. 2 (1b),  
re-enacted

(*1b*) That portion of the City of Kitchener described as follows is annexed to the City of Waterloo:

Portion of  
Kitchener  
annexed to  
Waterloo

Parts 2, 3, 4, 5, 6 and 7 on a Reference Plan deposited in the Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58R-2615.

(*1c*) That portion of the City of Waterloo described as follows is annexed to the City of Kitchener:

Portion of  
Waterloo  
annexed to  
Kitchener

Parts 1, 11 and 12 on a Reference Plan deposited in the Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58R-2615.

Annexations deemed by Municipal Board orders

s. 8 (2), re-enacted

(1*d*) Subsection 3 applies with necessary modifications to the annexations provided for in subsections 1*a*, 1*b* and 1*c*.

- 37.** Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor:

Where acclamation or equality of votes

(2) If, after any election in an area municipality, by reason of acclamation or an equality of votes, it cannot be determined which councillor or councillors is, or are, entitled to be a member or members of the Regional Council, the matter shall be determined by resolution of the council of the area municipality passed before the organization meeting of the Regional Council.

s. 19 (1), re-enacted

- 38.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 49, is repealed and the following substituted therefor:

Application of R.S.O. 1970, c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (6), re-enacted

- 39.** Subsection 6 of section 30 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 44 (2), re-enacted

- 40.** Subsection 2 of section 44 of the said Act is repealed and the following substituted therefor:

Discounts and Penalties

(2) The Regional Council may by by-law provide for uniform rates of discount for prompt payment of charges for water supply to the area municipalities and may by by-law provide for the payment of interest in the event of default at a rate of 15 per cent per annum, or such lower rate as the Regional Council determines, while such default continues.

s. 51 (1*a*, 1*b*), repealed

- 41.** Subsections 1*a* and 1*b* of section 51 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 117, section 22, are repealed.

s. 53 (6), re-enacted

- 42.** Subsection 6 of section 53 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the

rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

- 43.** Subsection 2 of section 56 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 164, section 2, is repealed and the following substituted therefor: s. 56 (2),  
re-enacted

(2) The Regional Council has all the authority and powers in respect of any sewers which mediate or immediately enter into sewers or treatment works under the jurisdiction of the Regional Corporation as have councils of local municipalities under paragraph 129 of subsection 1 of section 354 of *The Municipal Act*. Control of  
sewage  
  
R.S.O. 1970,  
c. 284

(3) In the event of conflict between a by-law passed under subsection 2 by the Regional Council and a by-law passed by the council of an area municipality under paragraph 129 of subsection 1 of section 354 of *The Municipal Act* the by-law passed by the Regional Council prevails to the extent of such conflict but in all other respects the by-law of the area municipality remains in full effect and force. Conflict

- 44.** Section 57 of the said Act is repealed and the following substituted therefor: s. 57,  
re-enacted

57.—(1) The Regional Council may by by-law from time to time provide for imposing on and collecting from any area municipality, in respect of the whole of such area municipality or any designated part thereof from which sewage or land drainage, including storm drainage, is received, Recovery of  
regional  
expenditures  
re sewage and  
land drainage

- (a) a sewer rate sufficient to pay the whole or such portion as the by-law may specify, of the regional expenditures relating to the capital costs of any work or watercourse assumed, constructed or to be constructed by the Regional Corporation, or for extension or improvement of such work, including debenture charges relating to any capital costs;
- (b) a sewage service rate sufficient to pay the whole, or such portion as the by-law may specify, of the regional expenditures for maintenance and operation of such work or watercourse; or
- (c) a uniform rate related to volume of sewage or land drainage received or treated sufficient to pay the whole, or such portion as the by-law may specify, of the Regional capital costs, including debenture charges, and expenditures for maintenance and operation of such work or watercourse.

Municipal Board not to have regard to method of recovering cost

(2) Notwithstanding any general or special Act, the Municipal Board shall hear and determine any application by the Regional Corporation for approval of any undertaking, work, project or scheme relating to the collection and disposal of sewage without having regard to the methods by which the Regional Corporation intends to recover the costs of the undertaking, work, project or scheme for which approval is being sought.

How area municipality may provide for payment

(3) The area municipality may,

(a) pay the amounts chargeable to it under this section out of its general funds;

(b) subject to the approval of the Municipal Board, pass by-laws under section 362 of *The Municipal Act* for imposing sewer rates to recover the whole or part of the amount chargeable to the area municipality in the same manner as if the work were being or had been constructed, extended or improved by the area municipality notwithstanding that in the by-law authorizing the work there was no provision for imposing, with the approval of the Municipal Board, upon owners or occupants of land who derive or will or may derive a benefit from the work a sewer rate sufficient to pay for the whole or a portion or percentage of the capital cost of the work;

(c) include the whole or any part of an amount chargeable to the area municipality as part of the cost of an urban service for the collection and disposal of sewage and land drainage chargeable within an urban service area established in the area municipality under any general or special Act; or

(d) pass by-laws under section 362 of *The Municipal Act* for imposing sewage service rates to recover the whole or part of the amount chargeable to the area municipality.

R.S.O. 1970, c. 284

(4) All rates imposed against an area municipality under this section are a debt of the area municipality to the Regional Corporation and shall be payable at such times and in such amounts as may be specified by by-law of the Regional Council.

Rates imposed are debt to Regional Corporation

s. 61, repealed

**45.** Section 61 of the said Act is repealed.

s. 89 (3), re-enacted

**46.** Subsection 3 of section 89 of the said Act is repealed and the following substituted therefor:

Default

(3) Where the Regional Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the Regional Corporation interest at the

rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

47. Subsection 6 of section 116 of the said Act is repealed and the following substituted therefor: s. 116 (6), re-enacted

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made. Default

48. Section 120 of the said Act is amended by adding thereto the following subsection: s. 120, amended

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed municipality for purposes of 1976, c. 62, s. 35

49. Subsection 16 of section 122 of the said Act is repealed and the following substituted therefor: s. 122 (16), re-enacted

(16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made. Default

50. Subsection 1 of section 158 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 55, is repealed and the following substituted therefor: s. 158 (1), re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242*a*, 242*b*, 246, 248*a*, 249 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 10, 11, 12, 24, 24*a*, 41, 67*a* and 71*a* of section 352, subparagraph ii of paragraph 112 of subsection 1 of section 354 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284

## PART V

### THE REGIONAL MUNICIPALITY OF SUDBURY

51. Subsection 1 of section 19 of *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 62, is repealed and the following substituted therefor: s. 19 (1), re-enacted

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (10),  
re-enacted

**52.** Subsection 10 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 117, section 27, is repealed and the following substituted therefor:

Interest to be  
charged by  
area  
municipality

(10) If the Regional Corporation fails to make any payment as required by subsection 9, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 31 (10),  
re-enacted

**53.** Subsection 10 of section 31 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 117, section 28, is repealed and the following substituted therefor:

Default

(10) If the Regional Corporation fails to make any payment as required by subsection 9, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date as payment is made.

s. 33,  
amended

**54.** Section 33 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 167, section 5, 1973, chapter 168, section 14, 1974, chapter 54, section 3 and 1978, chapter 33, section 63, is further amended by adding thereto the following subsection:

R.S.O. 1970,  
c. 349,  
s. 12 (2), not  
to apply

(2a) Notwithstanding subsection 2 of this section, subsection 2 of section 12 of *The Planning Act* does not apply to the Regional Council.

s. 39 (3),  
re-enacted

**55.** Subsection 3 of section 39 of the said Act is repealed and the following substituted therefor:

Responsibility  
of Regional  
Corporation

(3) The Regional Corporation shall pay to any municipality, before the due date, all amounts of principal and interest due upon any outstanding debt of such municipality in respect of Pioneer Manor and if the Regional Corporation fails to make any payment on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 49 (6),  
re-enacted

**56.** Subsection 6 of section 49 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area

municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

- 57.** Subsection 3 of section 72 of the said Act is repealed and the following substituted therefor: s. 72 (3), re-enacted

(3) Where the Regional Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made. Default

- 58.** Subsection 5 of section 77 of the said Act is repealed and the following substituted therefor: s. 77 (5), re-enacted

(5) If the Regional Corporation fails to make any payment on or before the due date required by subsection 4, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made. Default

- 59.** Section 79 of the said Act is amended by adding thereto the following subsection: s. 79, amended

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed municipality for purposes of 1976, c. 62, s. 35

- 60.** Subsection 16 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (16), re-enacted

(16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made. Default

- 61.** Subsection 1 of section 115 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 66, is repealed and the following substituted therefor: s. 115 (1), re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242a, 242b, 248a, 249 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 10, 11, 12, 24, 24a, 41, 67a and 71a of section 352, subparagraph iii of paragraph 62a, subparagraph ii of paragraph 112 of subsection 1 of section 354 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284

s. 126a,  
enacted

**62.** The said Act is amended by adding thereto the following section:

Forms in both  
English and  
French  
language

126a.—(1) The Minister may by order prescribe an English and French language version of any form that is prescribed by this Act.

Use of forms

(2) The Regional Council may by by-law provide for the use of the version of the form prescribed by the Minister under subsection 1 in place of the corresponding form prescribed by this Act and, notwithstanding any other provision in this Act, where a by-law under this subsection is in force the version of the form provided for in the by-law shall be used in place of the corresponding form prescribed by this Act.

## PART VI

### THE REGIONAL MUNICIPALITY OF PEEL

s. 19 (1),  
re-enacted

**63.** Subsection 1 of section 19 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 72, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of  
R.S.O. 1970,  
c. 284

**64.** Section 79 of the said Act is amended by adding thereto the following subsection:

Deemed  
municipality  
for purposes of  
1976, c. 62,  
s. 35

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.

s. 81 (15),  
re-enacted

**65.** Subsection 15 of section 81 of the said Act is repealed and the following substituted therefor:

Default

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made.

s. 115 (1),  
re-enacted

**66.** Subsection 1 of section 115 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 78, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 63, 64, 65,



66, 67, 67a and 71a of section 352, subparagraph iii of paragraph 62a, subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460 and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

## PART VII

### THE REGIONAL MUNICIPALITY OF HALTON

- 67.** Subsection 1 of section 19 of *The Regional Municipality of Halton Act, 1973*, being chapter 70, is repealed and the following substituted therefor: s. 19 (1), re-enacted
- (1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284
- 68.** Section 79 of the said Act is amended by adding thereto the following subsection: s. 79, amended
- (2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed municipality for purposes of 1976, c. 62, s. 35
- 69.** Subsection 15 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (15), re-enacted
- (15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made. Default
- 70.** Subsection 1 of section 115 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 91, is repealed and the following substituted therefor: s. 115 (1), re-enacted
- (1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 44, 63, 64, 65, 66, 67, 67a and 71a of section 352, subparagraph iii of paragraph 62a, subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460 and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284

## PART VIII

## THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

s. 19 (1),  
re-enacted

- 71.** Subsection 1 of section 19 of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 98, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 53b (6),  
re-enacted

- 72.** Subsections 6, 7, 10 and 11 of section 53b of the said Act, as enacted by the Statutes of Ontario, 1976, chapter 84, section 1, is repealed and the following substituted therefor:

Area municipi-  
pality not to  
establish  
transportation  
service

(6) No area municipality shall establish a public transportation service after the day of the passing of the by-law under subsection 2 or exercise any power under any Act respecting public transit matters provided for under this Part without the prior written approval of the Regional Corporation.

Public  
transportation  
service,  
approval  
of Regional  
Council

(7) Subject to subsection 5 of section 53h, no person shall operate or cause to be operated in the Urban Transit Service Area after the dissolution of the Commission a public transportation service without having first obtained written approval of the Regional Council and any other approvals required by provincial or federal laws, and for greater clarity, the approval of the Regional Council shall always have been deemed to include the power to license, regulate and govern the operation of a public transportation service in the Urban Transit Service Area.

Public  
transportation  
service outside  
Urban Transit  
Area, con-  
tinuation, etc.  
of

(10) Public transportation service operated by the Company or the subsidiary company on the 1st day of January, 1977 outside the limits of the Urban Transit Area, as established under this Part, shall by agreement between the Regional Council and the council of an area municipality be continued, discontinued, modified or varied.

Public  
transportation  
service outside  
Urban Transit  
Area, con-  
tinuation,  
etc., of

(11) Public transportation service in an area municipality not within the limits of the Urban Transit Area, as established under this Part, shall be provided at the request of the council of any area municipality at such cost as may be agreed upon and in the event that there is any dispute as to the cost, after taking into account projected revenues, of the provision of such service, the matter shall be submitted to the Municipal Board for determination.

- 73.** Section 79 of the said Act is amended by adding thereto the following subsection: s. 79, amended

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed municipality for purposes of 1976, c. 62, s. 35

- 74.** Subsection 15 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (15), re-enacted

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made. Default

- 75.** Subsection 1 of section 115 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 104, is repealed and the following substituted therefor: s. 115 (1), re-enacted

(1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 44, 63, 64, 65, 66, 67, 67a and 71a of section 352, subparagraph iii of paragraph 62a, subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460 and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284

## PART IX

### THE REGIONAL MUNICIPALITY OF DURHAM

- 76.** Subsection 1 of section 19 of *The Regional Municipality of Durham Act, 1973*, being chapter 78, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 110, is repealed and the following substituted therefor: s. 19 (1), re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284

- 77.** Section 87 of the said Act is amended by adding thereto the following subsection: s. 87, amended

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed municipality for purposes of 1976, c. 62, s. 35

s. 89 (15),  
re-enacted

- 78.** Subsection 15 of section 89 of the said Act is repealed and the following substituted therefor:

Default

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made.

s. 123 (1),  
re-enacted

- 79.** Subsection 1 of section 123 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 115, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 63, 64, 65, 66, 67, 67a and 71a of section 352, subparagraph iii of paragraph 62a, subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460 and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

## PART X

### THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 19 (1),  
re-enacted

- 80.** Subsection 1 of section 19 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 121, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 54 (1),  
re-enacted

- 81.** Subsection 1 of section 54 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor:

Planning  
area  
R.S.O. 1970,  
c. 349

(1) On and after the 1st day of April, 1974, the Regional Area shall be a municipality and a planning area under *The Planning Act* to be known as the Haldimand-Norfolk Planning Area and the Regional Council shall be the planning board thereof, and *The Planning Act*, except subsection 2 of section 12, applies with necessary modifications to the Regional Corporation.

s. 82,  
amended

- 82.** Section 82 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is amended by adding thereto the following subsection:

(2) The Regional Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*. Deemed municipality for purposes of 1976. c 62, s. 35

**83.** Subsection 15 of section 84 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor: s 84 (15), re-enacted

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the Regional Council determines, from the date payment is due until it is made. Default

**84.** Subsection 1 of section 119 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 33, section 126, is repealed and the following substituted therefor: s 119 (1), re-enacted

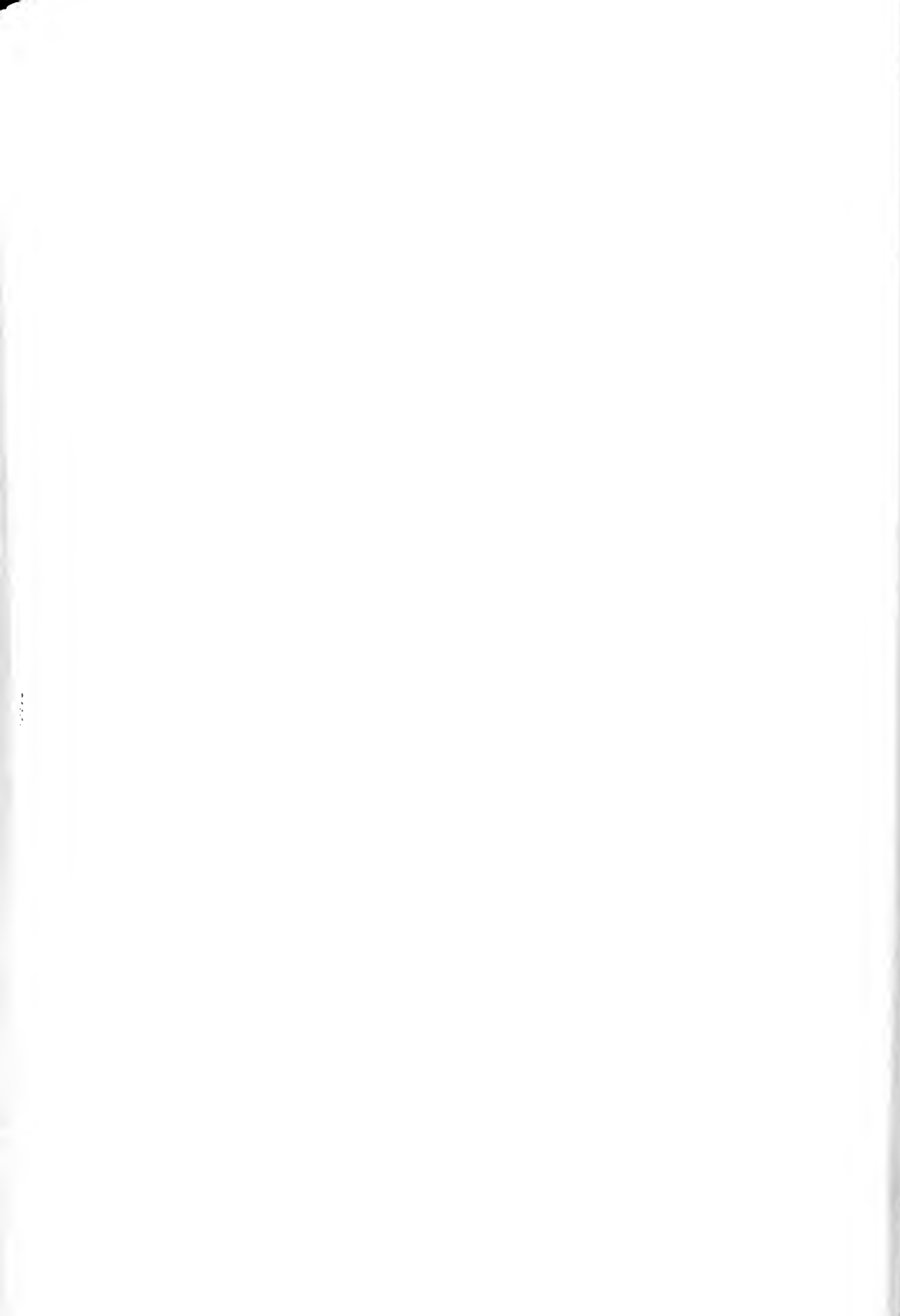
(1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250 and 254, subsection 3 of section 308, sections 333 and 348, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 63, 64, 65, 66, 67, 67a, 71a and 74 of section 352, subparagraph iii of paragraph 62a, subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460, section 469a and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R S O 1970, c 284

**85.**—(1) This Act, except sections 4, 29 and 44, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 4 and 29 shall be deemed to have come into force on the 1st day of February, 1979. Idem

(3) Section 44 shall be deemed to have come into force on the 31st day of December, 1977. Idem

**86.** The short title of this Act is *The Regional Municipalities Amendment Act, 1979*. Short title





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An Act to amend certain Acts  
respecting Regional Municipalities

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*1st Reading*

May 31st, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend The Municipal Act**

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**THE HON. T. L. WELLS**  
**Minister of Intergovernmental Affairs**

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## EXPLANATORY NOTES

SECTION 1. Section 505 of *The Municipal Act* now reads as follows:

*505.—(1) Notwithstanding section 504, where taxes in a municipality on any lands in the municipality increase in any year in an amount exceeding 10 per cent of the taxes imposed on such lands in the preceding year, based on the same expenditures on which the levy was made in the preceding year, as a result of a different assessment generally of lands in the municipality, the municipality may apply to the Minister to be designated as a municipality to which this section applies.*

*(2) The council of a municipality designated under subsection 1 may pass a by-law,*

*(a) which shall set forth the amount of the increase or decrease in taxation on each separately assessed parcel of rateable property in the municipality resulting from the assessment and expenditures mentioned in subsection 1;*

*(b) which shall limit the amount of the increases exceeding \$50 in taxation mentioned in clause a in the taxes to be levied in each year during a period of not more than five years;*

*(c) which shall provide that the total amount of the reduction in taxes resulting from the provision in the by-law authorized by clause b be raised by reducing the amount of the decreases in taxation mentioned in clause a, or by charging it in whole or in part to the general funds of the municipality or by a combination of both.*

*(3) When there has been a change in the use or character of any land which, in the opinion of the council, makes any limitation of the increase in taxation of such land under subsection 2 inappropriate, the council may by by-law exclude such land from the application of the by-law passed under subsection 2.*

*(4) The Minister may order that any by-law passed under this section is no longer effective after a date specified in the order, which date may be retroactive.*

Section 505 provides the council of a municipality with the power to limit the effect of an increase in taxes where there has been a general change in the assessment in the municipality. Under the proposed amendment to section 505 it will no longer be necessary for the municipality to apply to the Minister to be designated as a municipality to which the section applies.

The amendment, under clause *b* of subsection 1, gives the municipality discretion to determine whether a limitation on increases in taxes will apply to each separately assessed parcel of rateable property in the municipality or only to such class or classes thereof as may be defined in the by-law. Under subclause *ii* of clause *c* of subsection 1, the municipality will be allowed an additional alternative for raising the amount of the reduction in taxes resulting from the limitation in the increase in taxes. Under this provision, the municipality may reduce the amount of the decrease of any one or more of the classes of rateable property defined in the by-law.

Subsections 2 and 3 of section 505 restrict the amount of an increase or decrease in taxation that may be limited or reduced and provide that the amount that may be limited or reduced decreases in each year so that an increase or decrease caused by reassessment is phased in over a period of up to five years.

Subsection 4 of section 505 gives the council of the municipality the flexibility to determine the most suitable method of applying a by-law, under this section, to the conditions that prevail in the municipality.

Subsection 5 of section 505 has the same effect as the present subsection 3.

Subsection 6 of section 505 clarifies that a business in respect of which a tax is levied on business assessment against any person is to be treated as a separately assessed parcel of rateable property under this section.

Section 505a replaces clause g of subsection 1 of section 636a, which is repealed by section 2 of this Bill. Section 505a authorizes a local municipality to pass by-laws cancelling, refunding or reducing the taxes of any person whose taxes are unduly burdensome because of an increase that has resulted from a general change in assessment in the municipality. The maximum amount of the taxes cancelled, reduced or refunded is limited to the amount by which the increase in taxes exceeds \$50 or such greater amount as may be set out in the by-law.

**SECTION 2.** The amendments are complementary to the enactment of section 505a of *The Municipal Act* as set out in section 1 of the Bill.



## An Act to amend The Municipal Act

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

1. Section 505 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 505, re-enacted

505.—(1) Notwithstanding section 504, where taxes in a municipality on any rateable property in the municipality increase in any year as a result of a different assessment generally of lands in the municipality, the council of the municipality may, in that year, pass a by-law, Limiting increase in taxes following change in assessment basis

- (a) which shall set out the full amount of the increase or decrease in taxation that results solely from such different assessment,
- (i) on each separately assessed parcel of rateable property in the municipality, or
- (ii) on each separately assessed parcel of rateable property of such class or classes of rateable property as may be defined in the by-law,

where the increase or decrease exceeds the greater of the amounts determined under clauses *a* and *b* of subsection 2;

- (b) which shall, subject to subsections 2 and 3, with respect to taxes levied in each year for a period not exceeding five years, limit the amount of the increases,
- (i) where the council proceeds under subclause i of clause *a*, on the separately assessed parcels of rateable property mentioned in the by-law under that subclause, or

- (ii) where the council proceeds under subclause ii of clause *a*, on the separately assessed parcels of rateable property of any one or more of the classes mentioned in the by-law under that subclause; and
- (c) which shall, subject to subsections 2 and 3, provide that the total amount of the reduction in taxes resulting from the provision in the by-law authorized by clause *b* be raised within the same period as is set out in the by-law under clause *b*,
  - (i) where the council proceeds under subclause i of clause *a* by reducing the amount of the decreases on the separately assessed parcels of rateable property mentioned in the by-law under that subclause,
  - (ii) where the council proceeds under subclause ii of clause *a*, by reducing the amount of the decreases on the separately assessed parcels of rateable property of any one or more of the classes of rateable property mentioned in the by-law under that subclause, notwithstanding that no parcel in the class or classes receives a benefit under clause *b*,
  - (iii) by charging the reduction in whole or in part to the general funds of the municipality, or
  - (iv) by a combination of the methods set out in subclauses i, ii and iii.

Calculation of amounts limited or reduced

(2) A provision limiting the amount of an increase or reducing the amount of a decrease under subsection 1 shall, in the first year of the operation of the by-law, limit or reduce only the amount of the increase or decrease, as the case may be, that exceeds the greater of,

- (a) \$50 or such greater amount as may be prescribed by the by-law; and
- (b) 10 per cent, or such greater percentage as may be prescribed by the by-law, of the taxes imposed on the separately assessed parcel of rateable property in the year next preceding the year in which the increase occurred,

and that amount shall be known as an "eligible increase" or "eligible decrease", as the case may be.

(3) The amount of an eligible increase or eligible decrease that may be limited or reduced in the second and each subsequent year of operation of the by-law shall be an amount that is equal to the amount of that increase or decrease that was limited or reduced in the next preceding year less 20 per cent of the eligible increase or decrease, as the case may be, or such greater percentage as the by-law may provide.

Idem

(4) The council may,

Powers  
of  
council

(a) under clauses *b* and *c* of subsection 1, limit increases and reduce decreases for different classes of rateable property for different periods of time not exceeding five years;

(b) under clauses *a* and *b* of subsection 2, prescribe different greater amounts or greater percentages or both with respect to amounts of increases to be limited than are prescribed for the amounts of decreases to be reduced and different greater amounts or greater percentages or both may be prescribed for different classes of rateable property; and

(c) under subsection 3, prescribe different greater percentages for different classes of rateable property.

(5) When there has been a change in the use or character of any land which, in the opinion of the council, makes any limitation of the increase in taxation in respect of such land under subsection 1 inappropriate, the council may by by-law exclude increases in taxation in respect of such land from the application of the by-law passed under subsection 1.

Where change  
in use or  
character of  
any land

(6) An increase or decrease in taxes levied on business assessment within the meaning of *The Assessment Act* against any person shall, for the purposes of this section, be deemed to be an increase or decrease, as the case may be, in taxation on a separately assessed parcel of rateable property.

Business  
assessment  
R.S.O. 1970,  
c. 32

505a.—(1) The council of a local municipality may, in any year, pass by-laws to provide for the cancellation, reduction or refund of taxes levied in the year by the council on the rateable property of any person who makes application in that year to the municipality for such relief and whose taxes are unduly burdensome by reason of an increase in taxes in any year in an amount exceeding 10 per cent, or such greater percentage as may be prescribed in the by-law, of the taxes imposed on the rateable property of such person in the next preceding year resulting from a different assessment generally of lands in the municipality made in the year 1978 or thereafter.

Cancellation,  
reduction or  
refund of  
taxes

- Limitation (2) The maximum amount of the taxes cancelled, reduced or refunded pursuant to a by-law passed under subsection 1 shall be limited to the amount by which the increase attributable to the reassessment exceeds \$50 or such greater amount as may be prescribed in the by-law.
- Charge to general funds (3) The amount of any taxes cancelled, reduced or refunded pursuant to a by-law passed under subsection 1, shall be charged to the general funds of the municipality.
- s. 636a (1) (g), repealed **2.—**(1) Clause g of subsection 1 of section 636a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 25, is repealed.
- s. 636a (3), repealed (2) Subsection 3 of the said section 636a is repealed.
- Commencement **3.** This Act comes into force on the day it receives Royal Assent.
- Short title **4.** The short title of this Act is *The Municipal Amendment Act, 1979*.









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An Act to amend  
The Municipal Act

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*1st Reading*

May 31st, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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# BILL 115

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Municipal Act

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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## An Act to amend The Municipal Act

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

1. Section 505 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

505.—(1) Notwithstanding section 504, where taxes in a municipality on any rateable property in the municipality increase in any year as a result of a different assessment generally of lands in the municipality, the council of the municipality may, in that year, pass a by-law,

- (a) which shall set out the full amount of the increase or decrease in taxation that results solely from such different assessment,
- (i) on each separately assessed parcel of rateable property in the municipality, or
- (ii) on each separately assessed parcel of rateable property of such class or classes of rateable property as may be defined in the by-law,

where the increase or decrease exceeds the greater of the amounts determined under clauses *a* and *b* of subsection 2;

- (b) which shall, subject to subsections 2 and 3, with respect to taxes levied in each year for a period not exceeding five years, limit the amount of the increases,
- (i) where the council proceeds under subclause i of clause *a*, on the separately assessed parcels of rateable property mentioned in the by-law under that subclause, or

s. 505,  
re-enacted

Limiting  
increase in  
taxes follow-  
ing change in  
assessment  
basis

- (ii) where the council proceeds under subclause ii of clause *a*, on the separately assessed parcels of rateable property of any one or more of the classes mentioned in the by-law under that subclause; and
- (c) which shall, subject to subsections 2 and 3, provide that the total amount of the reduction in taxes resulting from the provision in the by-law authorized by clause *b* be raised within the same period as is set out in the by-law under clause *b*,
  - (i) where the council proceeds under subclause i of clause *a* by reducing the amount of the decreases on the separately assessed parcels of rateable property mentioned in the by-law under that subclause,
  - (ii) where the council proceeds under subclause ii of clause *a*, by reducing the amount of the decreases on the separately assessed parcels of rateable property of any one or more of the classes of rateable property mentioned in the by-law under that subclause, notwithstanding that no parcel in the class or classes receives a benefit under clause *b*,
  - (iii) by charging the reduction in whole or in part to the general funds of the municipality, or
  - (iv) by a combination of the methods set out in subclauses i, ii and iii.

Calculation  
of amounts  
limited or  
reduced

(2) A provision limiting the amount of an increase or reducing the amount of a decrease under subsection 1 shall, in the first year of the operation of the by-law, limit or reduce only the amount of the increase or decrease, as the case may be, that exceeds the greater of,

- (a) \$50 or such greater amount as may be prescribed by the by-law; and
- (b) 10 per cent, or such greater percentage as may be prescribed by the by-law, of the taxes imposed on the separately assessed parcel of rateable property in the year next preceding the year in which the increase occurred,

and that amount shall be known as an "eligible increase" or "eligible decrease", as the case may be.



(3) The amount of an eligible increase or eligible decrease that may be limited or reduced in the second and each subsequent year of operation of the by-law shall be an amount that is equal to the amount of that increase or decrease that was limited or reduced in the next preceding year less 20 per cent of the eligible increase or decrease, as the case may be, or such greater percentage as the by-law may provide.

Idem

(4) The council may,

Powers of council

(a) under clauses *b* and *c* of subsection 1, limit increases and reduce decreases for different classes of rateable property for different periods of time not exceeding five years;

(b) under clauses *a* and *b* of subsection 2, prescribe different greater amounts or greater percentages or both with respect to amounts of increases to be limited than are prescribed for the amounts of decreases to be reduced and different greater amounts or greater percentages or both may be prescribed for different classes of rateable property; and

(c) under subsection 3, prescribe different greater percentages for different classes of rateable property.

(5) When there has been a change in the use or character of any land which, in the opinion of the council, makes any limitation of the increase in taxation in respect of such land under subsection 1 inappropriate, the council may by by-law exclude increases in taxation in respect of such land from the application of the by-law passed under subsection 1.

Where change in use or character of any land

(6) An increase or decrease in taxes levied on business assessment within the meaning of *The Assessment Act* against any person shall, for the purposes of this section, be deemed to be an increase or decrease, as the case may be, in taxation on a separately assessed parcel of rateable property.

Business assessment R.S.O. 1970, c. 32

505a.—(1) The council of a local municipality may, in any year, pass by-laws to provide for the cancellation, reduction or refund of taxes levied in the year by the council on the rateable property of any person who makes application in that year to the municipality for such relief and whose taxes are unduly burdensome by reason of an increase in taxes in any year in an amount exceeding 10 per cent, or such greater percentage as may be prescribed in the by-law, of the taxes imposed on the rateable property of such person in the next preceding year resulting from a different assessment generally of lands in the municipality made in the year 1978 or thereafter.

Cancellation, reduction or refund of taxes

Limitation

(2) The maximum amount of the taxes cancelled, reduced or refunded pursuant to a by-law passed under subsection 1 shall be limited to the amount by which the increase attributable to the reassessment exceeds \$50 or such greater amount as may be prescribed in the by-law.

Charge to  
general funds

(3) The amount of any taxes cancelled, reduced or refunded pursuant to a by-law passed under subsection 1, shall be charged to the general funds of the municipality.

s. 636a (1) (g),  
repealed

**2.—(1)** Clause g of subsection 1 of section 636a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 25, is repealed.

s. 636a (3),  
repealed

(2) Subsection 3 of the said section 636a is repealed.

Commence-  
ment

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

Short title

**4.** The short title of this Act is *The Municipal Amendment Act, 1979*.



An Act to amend  
The Municipal Act

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*1st Reading*

May 31st, 1979

*2nd Reading*

June 5th, 1979

*3rd Reading*

June 5th, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The District Municipality of Muskoka Act**

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**THE HON. T. L. WELLS**  
Minister of Intergovernmental Affairs

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#### EXPLANATORY NOTES

SECTION 1. The re-enactment adds section 390a of *The Municipal Act* as one that is applicable to the District Council, that section permits the procuring of liability insurance to protect members of the council or of any local board.

SECTION 2. The re-enactment raises from 12 per cent to 15 per cent the maximum rate of interest an area municipality may charge the District Corporation on overdue payments in respect of sewage works.

SECTION 3. The re-enactment removes the requirement of obtaining Municipal Board approval to District Council by-laws dealing with private roads used as a means of access to controlled-access roads.

SECTION 4. The maximum rate of interest is raised from 12 per cent to 15 per cent in respect of overdue payments in relation to district roads.

BILL 116

1979

**An Act to amend  
The District Municipality of Muskoka Act**

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

1. Subsection 3 of section 17 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1978, chapter 34, section 6, is repealed and the following substituted therefor:

(3) Sections 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the District Council.

s. 17 (3),  
re-enacted

Idem  
R.S.O. 1970,  
c. 284

2. Subsection 10 of section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 119, section 2, is repealed and the following substituted therefor:

(10) If the District Corporation fails to make any payment as required by subsection 9, the area municipality may charge the District Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 27 (10),  
re-enacted

Default

3. Subsection 1 of section 63 of the said Act is repealed and the following substituted therefor:

(1) The District Council may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, structure or facility as a means of access to a district controlled-access road.

s. 63 (1),  
re-enacted

Private roads,  
etc., opening  
upon control-  
led-access  
roads

4. Subsection 3 of section 64 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 52, section 5, is repealed and the following substituted therefor:

s. 64 (3),  
re-enacted

- Default
- (3) If the District Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the District Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.
- s. 90, amended
5. Section 90 of the said Act is amended by adding thereto the following subsection:
- Deemed municipality for purposes of 1976, c. 62, s. 35
- (2) The District Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.
- s. 92 (16), re-enacted
6. Subsection 16 of section 92 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 146, section 3, is repealed and the following substituted therefor:
- Default
- (16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the District Council determines, from the date payment is due until it is made.
- s. 130 (1), re-enacted
7. Subsection 1 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 34, section 8, is repealed and the following substituted therefor:
- Application of R.S.O. 1970, c. 284
- (1) Section 5, Parts XV, XVI, XVII and XXI, sections 242a, 242b, 248a, 249 and 254, subsection 3 of section 308, section 333, paragraphs 3, 10, 11, 12, 24, 24a, 41, 67a and 71a of section 352, subparagraph iii of paragraph 62a and subparagraph ii of paragraph 112 of subsection 1 of section 354 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the District Corporation, and, for the purposes of section 394 of *The Municipal Act*, the District Corporation shall be deemed to be a local municipality.
- Commencement
8. This Act comes into force on the day it receives Royal Assent.
- Short title
9. The short title of this Act is *The District Municipality of Muskoka Amendment Act, 1979*.



SECTION 5. The subsection added permits membership in a credit union.

SECTION 6. The maximum rate of interest on overdue District levies is increased from 12 per cent to 15 per cent.

SECTION 7. The additional provisions of *The Municipal Act* made applicable to the District Corporation are:

1. Paragraph 24a of section 352 providing for custody of things of historical value.
2. Subparagraph iii of paragraph 62a of subsection 1 of section 354 dealing with maintaining and repairing sewer and water pipes on condominium property.
3. Subparagraph ii of paragraph 112 of subsection 1 of section 354 dealing with parking of motor vehicles on municipal property.





An Act to amend  
The District Municipality of  
Muskoka Act

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*1st Reading*

May 31st, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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# BILL 116

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The District Municipality of Muskoka Act

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 116

1979

**An Act to amend  
The District Municipality of Muskoka Act**

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

1. Subsection 3 of section 17 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1978, chapter 34, section 6, is repealed and the following substituted therefor:

s. 17 (3),  
re-enacted

(3) Sections 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the District Council.

Idem  
R.S.O. 1970,  
c. 284

2. Subsection 10 of section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 119, section 2, is repealed and the following substituted therefor:

s. 27 (10),  
re-enacted

(10) If the District Corporation fails to make any payment as required by subsection 9, the area municipality may charge the District Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Default

3. Subsection 1 of section 63 of the said Act is repealed and the following substituted therefor:

s. 63 (1),  
re-enacted

(1) The District Council may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, structure or facility as a means of access to a district controlled-access road.

Private roads,  
etc., opening  
upon control-  
led-access  
roads

4. Subsection 3 of section 64 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 52, section 5, is repealed and the following substituted therefor:

s. 64 (3),  
re-enacted

Default

(3) If the District Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the District Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 90,  
amended

5. Section 90 of the said Act is amended by adding thereto the following subsection:

Deemed  
municipality  
for purposes  
of  
1976, c. 62,  
s. 35

(2) The District Corporation shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.

s. 92 (16),  
re-enacted

6. Subsection 16 of section 92 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 146, section 3, is repealed and the following substituted therefor:

Default

(16) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the District Council determines, from the date payment is due until it is made.

s. 130 (1),  
re-enacted

7. Subsection 1 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 34, section 8, is repealed and the following substituted therefor:

Application of  
R.S.O. 1970,  
c. 284

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 242a, 242b, 248a, 249 and 254, subsection 3 of section 308, section 333, paragraphs 3, 10, 11, 12, 24, 24a, 41, 67a and 71a of section 352, subparagraph iii of paragraph 62a and subparagraph ii of paragraph 112 of subsection 1 of section 354 and paragraph 10 of section 460 of *The Municipal Act* apply with necessary modifications to the District Corporation, and, for the purposes of section 394 of *The Municipal Act*, the District Corporation shall be deemed to be a local municipality.

Commence-  
ment

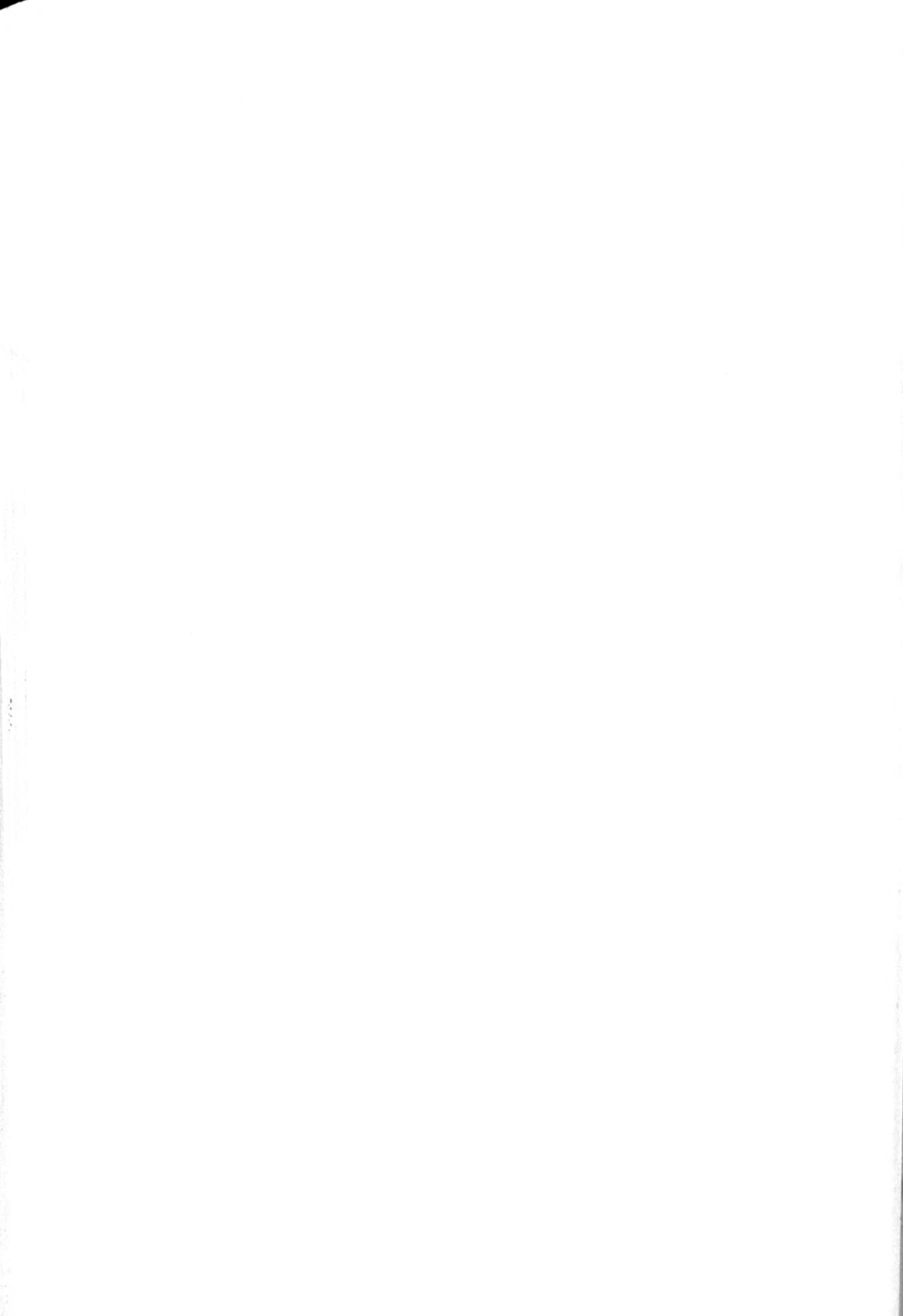
8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is *The District Municipality of Muskoka Amendment Act, 1979*.









An Act to amend  
The District Municipality of  
Muskoka Act

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*1st Reading*

May 31st, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend  
The County of Oxford Act, 1974**

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**THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs**

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#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The subsections repealed governed matters concerning the first elections held in 1974 and are spent, the re-enacted subsection provides machinery for determining entitlement to membership on the County Council in the circumstances set out.

Subsection 2. The repealed subsections are spent; subsection 4c had application only to the year 1978 and subsection 5 to the year 1974.

SECTION 2. The re-enactment of subsection 3 of section 19 adds section 390a of *The Municipal Act* as one that is applicable to the County Council; that section permits a council to procure liability insurance to protect members of council or a local board.

SECTION 3. The re-enactment of subsection 3 of section 50 raises from 12 per cent to 15 per cent the maximum interest rate an area municipality may charge the County on overdue payments in respect of County roads.

BILL 117

1979

**An Act to amend  
The County of Oxford Act, 1974**

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

- 1.—(1) Subsections 2, 3 and 4 of section 3 of *The County of Oxford Act, 1974*, being chapter 57, are repealed and the following substituted therefor: s. 3 (2),  
re-enacted,  
s. 3 (3, 4),  
repealed
- (2) If, after any election in an area municipality, by reason of acclamation or equality of votes, it cannot be determined which councillor or councillors is, or are, entitled to be a member or members of the County Council, the matter shall be determined by resolution of the council of the area municipality passed before the organization meeting of the County Council. Where  
acclamation  
or equality  
of votes
- (2) Subsection 4c, as enacted by the Statutes of Ontario, 1978, chapter 36, section 2, and subsection 5 of the said section 3, are repealed. s. 3 (4c, 5),  
repealed
2. Subsection 3 of section 19 of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 36, section 7, is repealed and the following substituted therefor: s. 19 (3),  
re-enacted
- (3) Sections 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the County Council. Application  
of  
R.S.O. 1970,  
c. 284
3. Subsection 3 of section 50 of the said Act is repealed and the following substituted therefor: s. 50 (3),  
re-enacted
- (3) Where the County fails to make any payment required by subsection 2, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. Default

s. 54,  
amended

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 36, section 8, is further amended by adding thereto the following subsection:

R.S.O. 1970,  
c. 349,  
s. 12 (2) not  
to apply

(2b) Notwithstanding subsection 2 of this section, subsection 2 of section 12 of *The Planning Act* does not apply to the County Council.

s. 58 (2),  
re-enacted

5. Subsection 2 of section 58 of the said Act is repealed and the following substituted therefor:

Payment of  
principal and  
interest to  
area muni-  
cipalities

(2) The County shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality for the purposes mentioned in subsection 1 prior to the 1st day of January, 1975 and if the County fails to pay such amounts before the due date, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 60 (2),  
repealed

6. Subsection 2 of section 60 of the said Act is repealed.

s. 76 (5),  
re-enacted

7. Subsection 5 of section 76 of the said Act is repealed and the following substituted therefor:

Default

(5) If the County fails to make any payment as required by subsection 4, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 77 (5),  
re-enacted

8. Subsection 5 of section 77 of the said Act is repealed and the following substituted therefor:

Default

(5) If the County fails to make any payment as required by subsection 4, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 79,  
amended

9. Section 79 of the said Act is amended by adding thereto the following subsection:

County deemed  
municipality  
for purposes  
of 1976, c. 63,  
s. 35

(4) The County shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.



**SECTION 4.** The County Council is the Planning Board of the Oxford Planning Area; subsection 2 of section 12 of *The Planning Act*, which the subsection added makes inapplicable, reads:

- (2) No plan shall be recommended for adoption unless it is approved by a vote of the majority of all the members of the planning board.

**SECTION 5.** The effect of the re-enactment is to raise from 12 per cent to 15 per cent the maximum interest rate an area municipality may charge the County on overdue payments in respect of hospital aid.

**SECTION 6.** The subsection to be repealed prohibited the payment of remuneration to members of the County Council appointed to the Oxford County Board of Health.

**SECTIONS 7 AND 8.** The maximum interest rate is increased from 12 per cent to 15 per cent; section 76 relates to waterworks and section 77 to sewage works.

**SECTION 9.** The added subsection permits membership in a credit union.

SECTION 10. The maximum interest rate is increased from 12 per cent to 15 per cent in respect of overdue payments of the County levy.

SECTION 11. The additional provisions of *The Municipal Act* made applicable to the County are:

1. Paragraph 24a of section 352 providing for custody of things of historical value.
2. Subparagraph iii of paragraph 62a of subsection 1 of section 354 dealing with maintaining and repairing sewer and water pipes on condominium property.
3. Subparagraph ii of paragraph 112 of subsection 1 of section 354 dealing with parking of motor vehicles on municipal property.

SECTION 12. The re-enactment in effect adds clause *b* to subsection 2 of section 116 of the Act, it will permit an area municipality, with the consent of the County, to acquire and sell land for industrial sites and to establish a department of industries.

- 10.** Subsection 15 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (15), re-enacted
- (15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the County Council determines, from the date payment is due until it is made. Default
- 11.** Subsection 1 of section 114 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 36, section 9, is repealed and the following substituted therefor: s. 114 (1), re-enacted
- (1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250, 254, 308 and 333, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 63, 64, 65, 66, 67, 67a and 71a of section 352, subparagraph iii of paragraph 62a and subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460 and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the County. Application of R.S.O. 1970, c. 284
- 12.** Subsection 2 of section 116 of the said Act is repealed and the following substituted therefor: s. 116 (2), re-enacted
- (2) Paragraph 50 of subsection 1 of section 354 and section 395 of *The Municipal Act* apply with necessary modifications to the County, and no area municipality shall exercise any such powers. Application of R.S.O. 1970, c. 284, ss. 354 (1) par. 50, 395
- (a) save and except in respect of those lands acquired or held by a local municipality on or before the 31st day of December, 1974; or
- (b) unless the by-law of the area municipality has been approved by the County Council.
- 13.** This Act comes into force on the day it receives Royal Assent. Commencement
- 14.** The short title of this Act is *The County of Oxford Amendment Act, 1979*. Short title

An Act to amend  
The County of Oxford Act, 1974

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*1st Reading*

May 31st, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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**BILL 117**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The County of Oxford Act, 1974**

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**THE HON. T. L. WELLS**  
Minister of Intergovernmental Affairs

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BILL 117

1979

**An Act to amend  
The County of Oxford Act, 1974**

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

1.—(1) Subsections 2, 3 and 4 of section 3 of *The County of Oxford Act, 1974*, being chapter 57, are repealed and the following substituted therefor: s. 3 (2),  
re-enacted,  
s. 3 (3, 4),  
repealed

(2) If, after any election in an area municipality, by reason of acclamation or equality of votes, it cannot be determined which councillor or councillors is, or are, entitled to be a member or members of the County Council, the matter shall be determined by resolution of the council of the area municipality passed before the organization meeting of the County Council. Where  
acclamation  
or equality  
of votes

(2) Subsection 4c, as enacted by the Statutes of Ontario, 1978, chapter 36, section 2, and subsection 5 of the said section 3, are repealed. s. 3 (4, 5),  
repealed

2. Subsection 3 of section 19 of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 36, section 7, is repealed and the following substituted therefor: s. 19 (3),  
re-enacted

(3) Sections 388, 389, 389a to 389e, 390, 390a and 391 of *The Municipal Act* apply with necessary modifications to the County Council. Application  
of  
R.S.O. 1970,  
c. 284

3. Subsection 3 of section 50 of the said Act is repealed and the following substituted therefor: s. 50 (3),  
re-enacted

(3) Where the County fails to make any payment required by subsection 2, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. Default

s. 54,  
amended

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 36, section 8, is further amended by adding thereto the following subsection:

R.S.O. 1970,  
c. 349,  
s. 12 (2) not  
to apply

(2b) Notwithstanding subsection 2 of this section, subsection 2 of section 12 of *The Planning Act* does not apply to the County Council.

s. 58 (2),  
re-enacted

5. Subsection 2 of section 58 of the said Act is repealed and the following substituted therefor:

Payment of  
principal and  
interest to  
area muni-  
cipalities

(2) The County shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality for the purposes mentioned in subsection 1 prior to the 1st day of January, 1975 and if the County fails to pay such amounts before the due date, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 60 (2),  
repealed

6. Subsection 2 of section 60 of the said Act is repealed.

s. 76 (5),  
re-enacted

7. Subsection 5 of section 76 of the said Act is repealed and the following substituted therefor:

Default

(5) If the County fails to make any payment as required by subsection 4, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 77 (5),  
re-enacted

8. Subsection 5 of section 77 of the said Act is repealed and the following substituted therefor:

Default

(5) If the County fails to make any payment as required by subsection 4, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 79,  
amended

9. Section 79 of the said Act is amended by adding thereto the following subsection:

County deemed  
municipality  
for purposes  
of 1976, c. 62,  
s. 35

(4) The County shall be deemed to be a municipality for the purposes of section 35 of *The Credit Unions and Caisses Populaires Act, 1976*.



- 10.** Subsection 15 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (15),  
re-enacted
- (15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the County Council determines, from the date payment is due until it is made. Default
- 11.** Subsection 1 of section 114 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 36, section 9, is repealed and the following substituted therefor: s. 114 (1),  
re-enacted
- (1) Sections 5, 217, 223, 224, 229, 231, 232, 233 and 235, subsections 1, 4 and 5 of section 237, sections 238, 239, 242a, 242b, 245, 248a, 249, 250, 254, 308 and 333, paragraphs 3, 9, 10, 11, 12, 24, 24a, 41, 63, 64, 65, 66, 67, 67a and 71a of section 352, subparagraph iii of paragraph 62a and subparagraph ii of paragraph 112 of subsection 1 of section 354, paragraph 10 of section 460 and Parts XV, XVI, XVII and XXI of *The Municipal Act* apply with necessary modifications to the County. Application  
of  
R.S.O. 1970,  
c 284
- 12.** Subsection 2 of section 116 of the said Act is repealed and the following substituted therefor: s. 116 (2),  
re-enacted
- (2) Paragraph 50 of subsection 1 of section 354 and section 395 of *The Municipal Act* apply with necessary modifications to the County, and no area municipality shall exercise any such powers, Application of  
R.S.O. 1970,  
c 284,  
ss. 354 (1)  
par 50, 395
- (a) save and except in respect of those lands acquired or held by a local municipality on or before the 31st day of December, 1974; or
- (b) unless the by-law of the area municipality has been approved by the County Council.
- 13.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment
- 14.** The short title of this Act is *The County of Oxford Amendment Act, 1979*. Short title





An Act to amend  
The County of Oxford Act, 1974

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*1st Reading*

May 31st, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Royal Ontario Museum Act**

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**MR. GRANDE**

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#### EXPLANATORY NOTE

The purpose of the Bill is to reform the structure of the board of trustees of The Royal Ontario Museum. The Board will continue to consist of twenty-one trustees but the Bill provides that eight of the trustees will be appointed by the Lieutenant Governor in Council, eight will be elected by members of the Museum and two will be elected by members of the Museum's professional staff. The Bill also increases the number of trustees required to constitute a quorum and provides that meetings of the Board shall be open to the public.

BILL 118

1979

**An Act to amend  
The Royal Ontario Museum Act**

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

- 1.—(1) Subsection 3 of section 4 of *The Royal Ontario Museum Act*, s. 4 (3),  
being chapter 417 of the Revised Statutes of Ontario, 1970, is re-enacted  
is repealed and the following substituted therefor:
- (3) Of the remaining eighteen trustees, Appointment  
and election
- (a) eight, being persons who are geographically representative of the Province of Ontario, shall be appointed by the Lieutenant Governor in Council for a three-year term;
- (b) eight shall be elected by members of the Museum for a three-year term;
- (c) two shall be elected by the professional staff of the Museum for a one-year term.
- (2) Subsection 4 of the said section 4 is repealed and the following s. 4 (4),  
substituted therefor: re-enacted
- (4) Notwithstanding subsection 3, First  
trustees
- (a) on the first appointment of trustees under clause *a* of subsection 3, three trustees shall be appointed for a one-year term, three trustees shall be appointed for a two-year term and two trustees shall be appointed for a three-year term;
- (b) on the first election of trustees under clause *b* of subsection 3, three trustees shall be elected for a one-year term, three trustees shall be elected for a two-year term and two trustees shall be elected for a three-year term,

and in each year thereafter the appropriate number of trustees shall be appointed and elected under clauses *a*, *b* and *c* of subsection 3 in order to fully constitute the Board.

s. 4 (7),  
re-enacted

- (3) Subsection 7 of the said section 4 is repealed and the following substituted therefor:

Quorum

(7) Ten trustees, including at least two trustees elected by the members and one trustee elected by the professional staff of the Museum, constitute a quorum for meetings of the Board.

s. 4 (8),  
re-enacted;  
s. 4 (9),  
repealed

- (4) Subsections 8 and 9 of the said section 4 are repealed and the following substituted therefor:

Chairman,  
vice-chairman

(8) The Board shall elect one of its members to be its chairman and may elect one of its members to be vice-chairman.

s. 4*a*,  
enacted

- 2.** The said Act is amended by adding thereto the following section:

Open  
meetings  
of Board

**4*a*.** The meetings of the Board and meetings of a committee of the Board, including a committee of the whole Board, shall be open to the public except where the Board determine that certain committees of the Board shall not be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct.

Transition

- 3.** The trustees who are members of the Board on the day this Act comes into force shall continue to hold office until their successors are appointed or elected.

Commence-  
ment

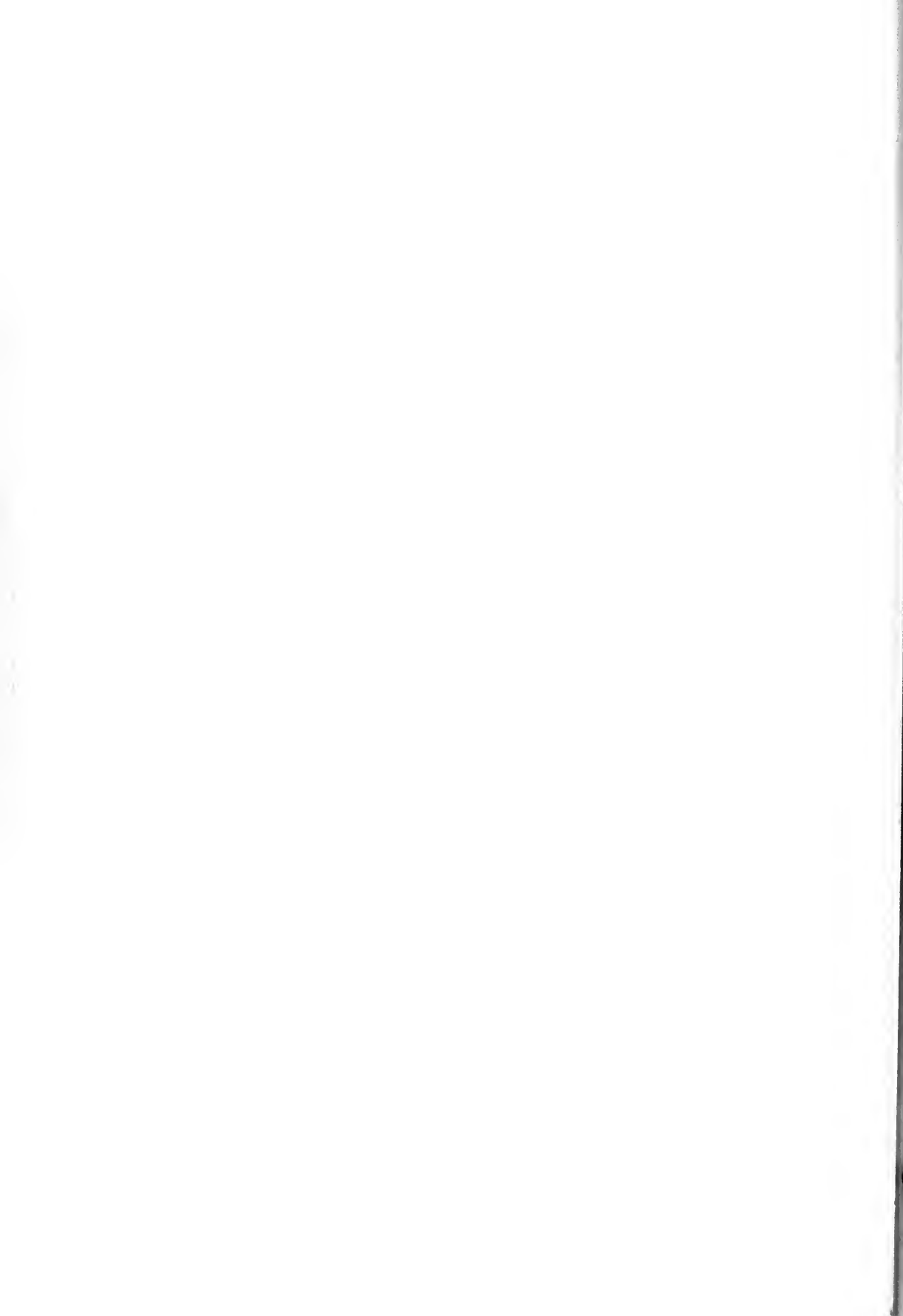
- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Royal Ontario Museum Amendment Act, 1979*.









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An Act to amend  
The Royal Ontario Museum Act

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*1st Reading*

May 31st, 1979

*2nd Reading*

*3rd Reading*

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MR. GRANDE

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for Municipal Hydro-Electric  
Service in The Regional Municipality of Halton**

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**THE HON. J. A. C. AULD**  
Minister of Energy

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#### EXPLANATORY NOTES

The Bill establishes new hydro-electric commissions for the municipalities of Burlington, Halton Hills, Milton and Oakville.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30, 1980, the members of its commission should be elected or appointed.

All customers in each municipality will be supplied with power by the new commissions.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 119

1979

**An Act to provide for Municipal  
Hydro-Electric Service in The Regional  
Municipality of Halton**

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

**1. In this Act,**

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the City of Burlington, the Town of Halton Hills, the Town of Milton and the Town of Oakville;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 70  
R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

(g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Halton Hills, Milton and Oakville and the City of Burlington is hereby established.

Application of R.S.O. 1970, cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Burlington Hydro-Electric Commission.
2. Halton Hills Hydro-Electric Commission.
3. Milton Hydro-Electric Commission.
4. Oakville Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

First commission, Burlington

1977, c. 62

(5) For the term expiring with the 30th day of November, 1980, the Burlington Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the City of Burlington and the members, other than *ex officio* members, of the Public Utilities Commission of the City of Burlington as it existed immediately before the coming into force of this Act who are qualified electors under *The Municipal Elections Act, 1977* in the City of Burlington, and, if less than four of the members are qualified electors, the council of the City of Burlington shall appoint an additional member or additional members so that there will be four additional members of the Burlington Hydro-Electric Commission.

First commission, Halton Hills

(6) For the term expiring with the 30th day of November, 1980, the Halton Hills Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Halton Hills



and the following additional members who shall be appointed by the council of the Town of Halton Hills:

1. Two members of the Hydro-Electric Commission of the Town of Georgetown as it existed immediately before the coming into force of this Act.
2. One member of the Hydro-Electric Commission of the Town of Acton as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Halton Hills supplied with power by the municipal commissions mentioned in paragraphs 1 and 2 immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1980, the Milton Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Milton and the following additional members who shall be appointed by the council of the Town of Milton: <sup>First commission, Milton</sup>

1. One member of the Hydro-Electric Commission of Campbellville as it existed immediately before the coming into force of this Act.
2. Two members of the Hydro-Electric Commission of the Town of Milton as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Milton supplied with power by the municipal commissions mentioned in paragraphs 1 and 2 immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1980, the Oakville Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Oakville and the members, other than *ex officio* members, of the Public Utilities Commission of the Town of Oakville as it existed immediately before the coming into force of this Act who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Oakville, and, if less than four of the members are qualified electors, the council of the Town of Oakville shall appoint an additional member or additional members so that there will be four additional members of the Oakville Hydro-Electric Commission. <sup>1977, c. 62</sup> <sup>First commission, Oakville</sup>

(9) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the <sup>Additional members of subsequent commissions</sup>

area municipality served by the commission, unless before the 1st day of July, 1980 the council of the area municipality provides by by-law that the additional members shall be elected by wards or appointed by the council.

Eligibility  
of members  
of council

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of  
office

(11) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary of  
first  
commissions

(13) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980 shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973* on the 1st day of January, 1979.

1973, c. 70

Resignations

(14) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of  
commissions  
R.S.O. 1970,  
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to  
distribute  
and supply  
power

(2) On and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting  
contracts

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

R.S.O. 1970,  
c. 354

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract with Ontario Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Idem  
R.S.O. 1970,  
c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of R.S.O. 1970,  
c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct customers

4.—(1) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of assets and liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1980 to the commission established by section 2 in respect of the area municipality.

Transitional

5.—(1) Where assets that pertain to the retail distribution and supply of power in an area municipality are transferred to a commission established by section 2 from a municipal commission the majority of whose customers are located in another area municipality, the commission to which the assets are transferred shall pay compensation for the assets to the commission established by section 2 in respect of the other area municipality.

Compensation for inter-municipal transfers of assets

(2) The amount of the compensation under subsection 1 shall be determined by agreement.

Determination of amount

6.—(1) On or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario

Purchase of retail distribution facilities from Ontario Hydro

Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased  
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

Purchase  
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

Interpre-  
tation

7.—(1) In this section,

(a) "parties" means,

(i) with respect to section 5, the commissions established by section 2 that are referred to in section 5, and

(ii) with respect to section 6, Ontario Hydro and, in each case, the commission established by section 2;

(b) "purchase price" means,

(i) with respect to section 5, the compensation referred to in section 5, and

(ii) with respect to section 6, the purchase price referred to in section 6.

Where price  
to be  
determined  
by  
arbitration

(2) If the purchase price under section 5 or 6 is not determined before the 1st day of January, 1981, either of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration.

Where  
parties  
unable to  
agree on  
single  
arbitrator

(3) Where a request is made under subsection 2 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration.

Arbitration  
board

(4) Where a request is made under subsection 2 or 3 that the purchase price be determined by a board of arbitration,

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

(5) Except as otherwise provided in this section, *The Arbitrations Act* applies to subsections 2, 3 and 4. Application of  
R.S.O. 1970,  
c. 25

**8.—(1)** All real property transferred by section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission. Vesting  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows: Disposition  
of real  
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance

with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
1973, c. 70

9. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Halton Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-  
tation

10.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of  
employees

(2) On or before the 31st day of December, 1979, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or  
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Partici-  
pation in  
O M E R S

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,  
c. 324

Supplementary  
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of  
pension  
credits from  
Ontario  
Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

Pension  
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life  
insurance

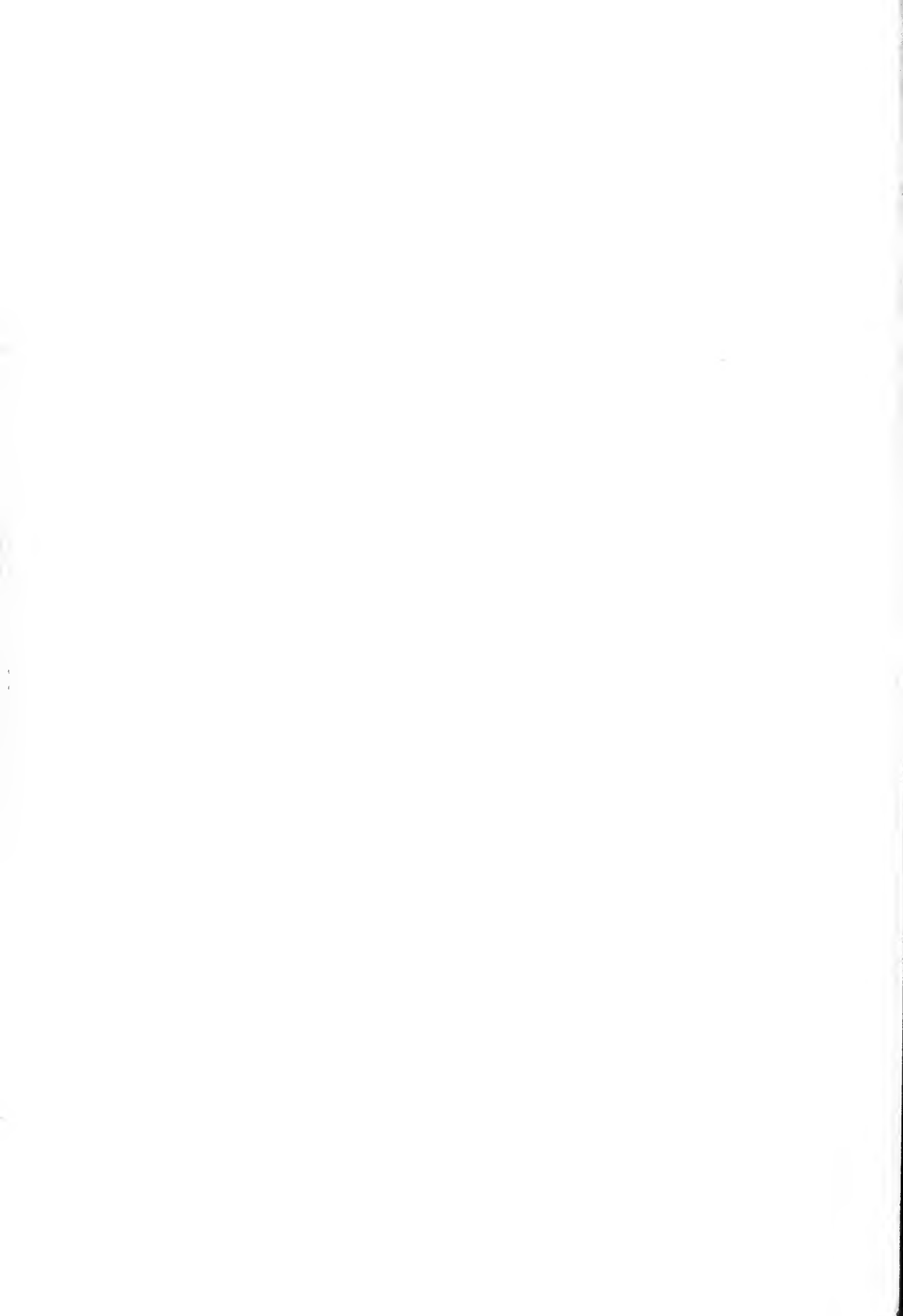
- idem (9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.
- Sick leave (10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.
- Life insurance provided to pensioners (11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.
- Termination for cause (12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.
- Special circumstances (13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.
- Dissolution of existing commissions 1973, c. 70  
R.S.O. 1970, c. 390  
Regulations
- 11.** For the purposes of section 135 of *The Regional Municipality of Halton Act, 1973*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973*, and on that date the municipal commissions supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.
- 12.** The Lieutenant Governor in Council may make regulations,
- (a) for the purpose of subsection 3 of section 6 in respect of,
- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,



- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
  - (iii) the method of determining the amount of any component of the accumulated net retail equity,
  - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
  - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
  - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
  - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 10, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

**13.** This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sub>ment</sub>

**14.** The short title of this Act is *The Halton Municipal Hydro-* <sup>Short title</sup>  
*Electric Service Act, 1979.*





An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Halton

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*1st Reading*

June 4th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Energy

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*(Government Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for Municipal Hydro-Electric  
Service in The Regional Municipality of Halton**

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**THE HON. J. A. C. AULD**  
Minister of Energy

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

#### EXPLANATORY NOTES

The Bill establishes new hydro-electric commissions for the municipalities of Burlington, Halton Hills, Milton and Oakville

Transitional periods are provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30, 1980, the members of its commission should be elected or appointed.

All customers in each municipality will be supplied with power by the new commissions.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 119

1979

**An Act to provide for Municipal  
Hydro-Electric Service in The Regional  
Municipality of Halton**

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

**1.** In this Act,

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the City of Burlington, the Town of Halton Hills, the Town of Milton and the Town of Oakville;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 70  
R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

(g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Halton Hills, Milton and Oakville and the City of Burlington is hereby established.

Application of R.S.O. 1970, cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Burlington Hydro-Electric Commission.
2. Halton Hills Hydro-Electric Commission.
3. Milton Hydro-Electric Commission.
4. Oakville Hydro-Electric Commission.

Composition

1977, c 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

First commission, Burlington

1977, c 62

(5) For the term expiring with the 30th day of November, 1980, the Burlington Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the City of Burlington and the members, other than *ex officio* members, of the Public Utilities Commission of the City of Burlington as it existed immediately before the coming into force of this Act who are qualified electors under *The Municipal Elections Act, 1977* in the City of Burlington, and, if less than four of the members are qualified electors, the council of the City of Burlington shall appoint an additional member or additional members so that there will be four additional members of the Burlington Hydro-Electric Commission.

First commission, Halton Hills

(6) For the term expiring with the 30th day of November, 1980, the Halton Hills Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Halton Hills



and the following additional members who shall be appointed by the council of the Town of Halton Hills:

1. Two members of the Hydro-Electric Commission of the Town of Georgetown as it existed immediately before the coming into force of this Act.
2. One member of the Hydro-Electric Commission of the Town of Acton as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Halton Hills supplied with power by the municipal commissions mentioned in paragraphs 1 and 2 immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1980, the Milton Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Milton and the following additional members who shall be appointed by the council of the Town of Milton: First commission, Milton

1. One member of the Hydro-Electric Commission of Campbellville as it existed immediately before the coming into force of this Act.
2. Two members of the Hydro-Electric Commission of the Town of Milton as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Milton supplied with power by the municipal commissions mentioned in paragraphs 1 and 2 immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1980, the Oakville Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Oakville and the members, other than *ex officio* members, of the Public Utilities Commission of the Town of Oakville as it existed immediately before the coming into force of this Act who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Oakville, and, if less than four of the members are qualified electors, the council of the Town of Oakville shall appoint an additional member or additional members so that there will be four additional members of the Oakville Hydro-Electric Commission. 1977, c. 62

(9) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the Additional members of subsequent commissions

area municipality served by the commission, unless before the 1st day of July, 1980 the council of the area municipality provides by by-law that the additional members shall be elected by wards or appointed by the council.

Eligibility  
of members  
of council

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of  
office

(11) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary of  
first  
commissions

(13) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980 shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973* on the 1st day of January, 1979.

1973, c. 70

Resignations

(14) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of  
commissions  
R.S.O. 1970,  
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to  
distribute  
and supply  
power

(2) On and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting  
contracts

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

R.S.O. 1970,  
c. 354

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract with Ontario Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Idem

R.S.O. 1970, c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of R.S.O. 1970, c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct customers

4.—(1) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of assets and liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1980 to the commission established by section 2 in respect of the area municipality.

Transitional

5.—(1) Where assets that pertain to the retail distribution and supply of power in an area municipality are transferred to a commission established by section 2 from a municipal commission the majority of whose customers are located in another area municipality, the commission to which the assets are transferred shall pay compensation for the assets to the commission established by section 2 in respect of the other area municipality.

Compensation for inter-municipal transfers of assets

(2) The amount of the compensation under subsection 1 shall be determined by agreement.

Determination of amount

6.—(1) On or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario

Purchase of retail distribution facilities from Ontario Hydro

Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased  
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

Purchase  
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

Interpre-  
tation

**7.—(1)** In this section,

(a) “parties” means,

- (i) with respect to section 5, the commissions established by section 2 that are referred to in section 5, and
- (ii) with respect to section 6, Ontario Hydro and, in each case, the commission established by section 2;

(b) “purchase price” means,

- (i) with respect to section 5, the compensation referred to in section 5, and
- (ii) with respect to section 6, the purchase price referred to in section 6.

Where price  
to be  
determined  
by  
arbitration

(2) If the purchase price under section 5 or 6 is not determined before the 1st day of January, 1981, either of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration.

Where  
parties  
unable to  
agree on  
single  
arbitrator

(3) Where a request is made under subsection 2 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration.

Arbitration  
board

(4) Where a request is made under subsection 2 or 3 that the purchase price be determined by a board of arbitration,

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

(5) Except as otherwise provided in this section, *The Arbitration Act* applies to subsections 2, 3 and 4. Application of  
R.S.O. 1970,  
c. 25

**8.—(1)** All real property transferred by section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission. Vesting  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows: Disposition  
of real  
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance

with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
1973, c. 70

9. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Halton Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-  
tation

10.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of  
employees

(2) On or before the 31st day of December, 1979, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or  
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Partici-  
pation in  
O M E R S

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R S O 1970.  
c. 324

Supplementary  
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan. Transfer of pension credits from Ontario Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who, Pension guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer. Group life insurance

Idem (9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Sick leave (10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners (11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

Termination for cause (12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances (13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions 1973, c. 70  
 R.S.O. 1970, c. 390  
**11.** For the purposes of section 135 of *The Regional Municipality of Halton Act, 1973*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973*, and on that date the municipal commissions supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

Halton Hills Hydro-Electric Commission  
**12.** With respect to the Town of Halton Hills and the Halton Hills Hydro-Electric Commission established by section 2, each date mentioned in sections 3, 4, 6, 7, 10 and 11 shall be deemed to be a date three months after the mentioned date.

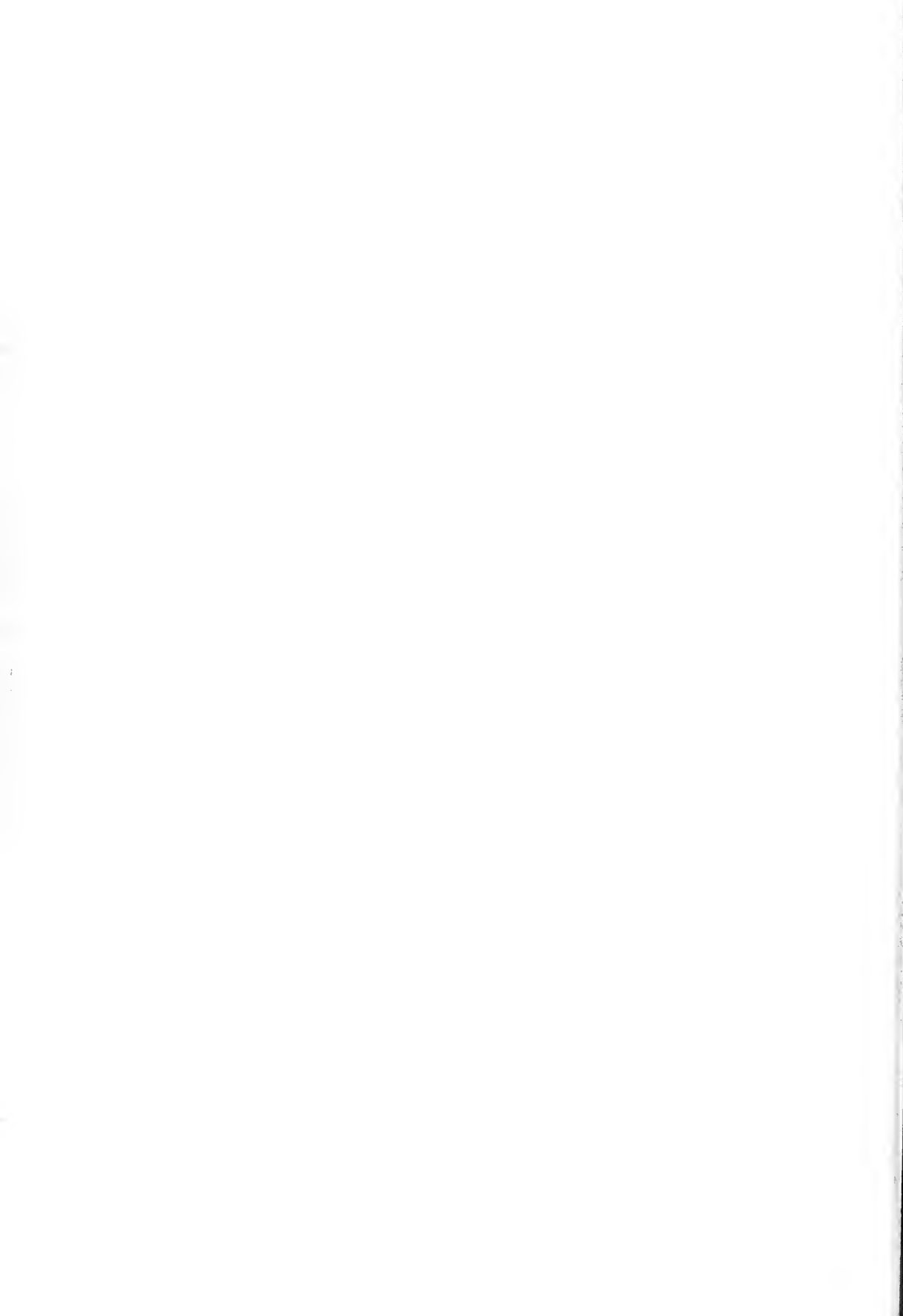
Regulations  
**13.** The Lieutenant Governor in Council may make regulations,



- (a) for the purpose of subsection 3 of section 6 in respect of,
- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
  - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
  - (iii) the method of determining the amount of any component of the accumulated net retail equity,
  - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
  - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
  - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
  - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 10, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

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

**15.** The short title of this Act is *The Halton Municipal Hydro-Electric Service Act, 1979*. Short title





An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Halton

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*1st Reading*

June 4th, 1979

*2nd Reading*

June 19th, 1979

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Energy

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

# BILL 119

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Halton

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THE HON. J. A. C. AULD  
Minister of Energy

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BILL 119

1979

**An Act to provide for Municipal  
Hydro-Electric Service in The Regional  
Municipality of Halton**

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

1. In this Act,

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the City of Burlington, the Town of Halton Hills, the Town of Milton and the Town of Oakville;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 70  
R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

(g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions  
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Halton Hills, Milton and Oakville and the City of Burlington is hereby established.

Application of  
R.S.O. 1970,  
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of  
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Burlington Hydro-Electric Commission.
2. Halton Hills Hydro-Electric Commission.
3. Milton Hydro-Electric Commission.
4. Oakville Hydro-Electric Commission.

Composition

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

1977, c. 62

First  
commission,  
Burlington

(5) For the term expiring with the 30th day of November, 1980, the Burlington Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the City of Burlington and the members, other than *ex officio* members, of the Public Utilities Commission of the City of Burlington as it existed immediately before the coming into force of this Act who are qualified electors under *The Municipal Elections Act, 1977* in the City of Burlington, and, if less than four of the members are qualified electors, the council of the City of Burlington shall appoint an additional member or additional members so that there will be four additional members of the Burlington Hydro-Electric Commission.

1977, c. 62

First  
commission,  
Halton Hills

(6) For the term expiring with the 30th day of November, 1980, the Halton Hills Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Halton Hills



and the following additional members who shall be appointed by the council of the Town of Halton Hills:

1. Two members of the Hydro-Electric Commission of the Town of Georgetown as it existed immediately before the coming into force of this Act.
2. One member of the Hydro-Electric Commission of the Town of Acton as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Halton Hills supplied with power by the municipal commissions mentioned in paragraphs 1 and 2 immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1980, <sup>First</sup> the Milton Hydro-Electric Commission established by subsection <sup>commission,</sup> 1 shall consist of the mayor of the Town of Milton and the <sup>Milton</sup> following additional members who shall be appointed by the council of the Town of Milton:

1. One member of the Hydro-Electric Commission of Campbellville as it existed immediately before the coming into force of this Act.
2. Two members of the Hydro-Electric Commission of the Town of Milton as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Milton supplied with power by the municipal commissions mentioned in paragraphs 1 and 2 immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1980, <sup>First</sup> the Oakville Hydro-Electric Commission established by subsection <sup>commission,</sup> 1 shall consist of the mayor of the Town of Oakville and the <sup>Oakville</sup> members, other than *ex officio* members, of the Public Utilities Commission of the Town of Oakville as it existed immediately before the coming into force of this Act who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Oakville, <sup>1977, c. 62</sup> and, if less than four of the members are qualified electors, the council of the Town of Oakville shall appoint an additional member or additional members so that there will be four additional members of the Oakville Hydro-Electric Commission.

(9) For terms commencing after the 30th day of November, <sup>Additional</sup> 1980, the additional members of each commission established by <sup>members of</sup> subsection 1 shall be elected by a general vote of the electors of the <sup>subsequent</sup> <sup>commissions</sup>

area municipality served by the commission, unless before the 1st day of July, 1980 the council of the area municipality provides by by-law that the additional members shall be elected by wards or appointed by the council.

Eligibility  
of members  
of council

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of  
office

(11) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary of  
first  
commissions

1973, c. 70

(13) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980 shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973* on the 1st day of January, 1979.

Resignations

(14) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of  
commissions  
R.S.O. 1970,  
c. 390

§.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to  
distribute  
and supply  
power

(2) On and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting  
contracts

R.S.O. 1970,  
c. 354

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract with Ontario Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Idem  
R.S.O. 1970, c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of R.S.O. 1970, c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct customers

4.—(1) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of assets and liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1980 to the commission established by section 2 in respect of the area municipality.

Transitional

5.—(1) Where assets that pertain to the retail distribution and supply of power in an area municipality are transferred to a commission established by section 2 from a municipal commission the majority of whose customers are located in another area municipality, the commission to which the assets are transferred shall pay compensation for the assets to the commission established by section 2 in respect of the other area municipality.

Compensation for inter-municipal transfers of assets

(2) The amount of the compensation under subsection 1 shall be determined by agreement.

Determination of amount

6.—(1) On or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario

Purchase of retail distribution facilities from Ontario Hydro

Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased  
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

Purchase  
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

Interpre-  
tation

7.—(1) In this section,

(a) "parties" means,

(i) with respect to section 5, the commissions established by section 2 that are referred to in section 5, and

(ii) with respect to section 6, Ontario Hydro and, in each case, the commission established by section 2;

(b) "purchase price" means,

(i) with respect to section 5, the compensation referred to in section 5, and

(ii) with respect to section 6, the purchase price referred to in section 6.

Where price  
to be  
determined  
by  
arbitration

(2) If the purchase price under section 5 or 6 is not determined before the 1st day of January, 1981, either of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration.

Where  
parties  
unable to  
agree on  
single  
arbitrator

(3) Where a request is made under subsection 2 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration.

Arbitration  
board

(4) Where a request is made under subsection 2 or 3 that the purchase price be determined by a board of arbitration,

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

(5) Except as otherwise provided in this section, *The Arbitrations Act* applies to subsections 2, 3 and 4.

Application of  
R.S.O. 1970,  
c. 25

**8.—(1)** All real property transferred by section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Vesting  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition  
of real  
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance

with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
1973, c. 70

9. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Halton Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-  
tation

10.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of  
employees

(2) On or before the 31st day of December, 1979, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or  
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Partici-  
pation in  
O M E R S

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R S O 1970,  
c. 324

Supplementary  
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of  
pension  
credits from  
Ontario  
Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

Pension  
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life  
insurance

- Idem (9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.
- Sick leave (10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.
- Life insurance provided to pensioners (11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.
- Termination for cause (12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.
- Special circumstances (13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.
- Dissolution of existing commissions 1973, c. 70  
R.S.O. 1970, c. 390 (11) For the purposes of section 135 of *The Regional Municipality of Halton Act, 1973*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Halton Act, 1973*, and on that date the municipal commissions supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.
- Halton Hills Hydro-Electric Commission (12) With respect to the Town of Halton Hills and the Halton Hills Hydro-Electric Commission established by section 2, each date mentioned in sections 3, 4, 6, 7, 10 and 11 shall be deemed to be a date three months after the mentioned date.
- Regulations (13) The Lieutenant Governor in Council may make regulations,



- (a) for the purpose of subsection 3 of section 6 in respect of,
- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
  - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
  - (iii) the method of determining the amount of any component of the accumulated net retail equity,
  - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
  - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
  - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation.
- (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 10, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

**14.** This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

**15.** The short title of this Act is *The Halton Municipal Hydro-* <sup>Short title</sup>  
*Electric Service Act, 1979.*





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An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Halton

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*1st Reading*

June 4th, 1979

*2nd Reading*

June 19th, 1979

*3rd Reading*

June 19th, 1979

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THE HON. J. A. C. AULD  
Minister of Energy

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**BILL 120**

**Private Member's Bill**

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend  
The Workmen's Compensation Act**

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**MR. DI SANTO**

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#### EXPLANATORY NOTES

SECTION 1. The proposed amendment deletes the definition of "medical referee" in the Act. The amendment is complementary to section 3 of the Bill.

SECTION 2. The proposed amendment deletes the reference to "medical referee" in section 13 of the Act. The amendment is complementary to section 3 of the Bill.

SECTION 3. The proposed section 21 of the Act removes the requirement that an employee claiming compensation must submit himself for examination by a legally qualified medical practitioner selected by the employer and, if requested by the Board, by a medical referee.

SECTION 4. The proposed section 22 of the Act renders the certificate of the legally qualified medical practitioner who conducts the examination of the employee conclusive of the matters certified. The amendment removes the power of the Board, contained in the current section 22, to order any employee to be examined by a medical referee.

SECTION 5—Subsection 1. The proposed subsection 3*a* of section 42 would require the Board to consider the factors listed therein in determining the compensation payable in permanent disability cases.

BILL 120

1979

## An Act to amend The Workmen's Compensation Act

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

1. Clause *g* of subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (1) (g),  
repealed

2. Section 13 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by striking out "medical referee" in the third line and in the fifth line and inserting in lieu thereof in each instance "legally qualified medical practitioner". s. 13,  
amended

3. Section 21 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed and the following substituted therefor: s. 21,  
re-enacted

21. An employee who claims compensation or to whom compensation is payable under this Part shall submit himself for examination by a legally qualified medical practitioner. Employee  
to submit  
to ex-  
amination

4. Section 22 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed and the following substituted therefor: s. 22,  
re-enacted

22. The legally qualified medical practitioner who examines the employee under section 21 shall certify to the Board as to the condition of the employee and his fitness for employment and his certificate is conclusive as to the matters certified. Certificate  
of physician

5.—(1) Section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, 1974, chapter 70, section 3, 1975, chapter 47, section 6 and 1978, chapter 54, section 3, is further amended by adding thereto the following subsection: s. 42,  
amended

Considerations  
in determining  
compensation

(3a) Notwithstanding subsection 3, when determining the compensation payable in permanent disability cases, the Board shall consider whether the impairment of the employee's earning capacity has been aggravated by,

- (a) the loss of one or more special skills possessed by the employee;
- (b) the state of the labour market for work that the employee is capable of performing; or
- (c) an inability or difficulty of the employee in communicating in a particular language.

s. 42 (5),  
re-enacted

(2) Subsection 5 of the said section 42, as re-enacted by the Statutes of Ontario, 1975, chapter 47, section 6, is repealed and the following substituted therefor:

Periodical  
payments

(5) Notwithstanding subsection 1, where the impairment of earning capacity of the employee is significantly greater than is usual for the nature and degree of his injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix, provided that the total sum of such supplement and award shall not exceed in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed, and provided that he co-operates in and is available for a medical or vocational rehabilitation program that may be provided by the Board as an aid in getting him back to work.

Commence-  
ment

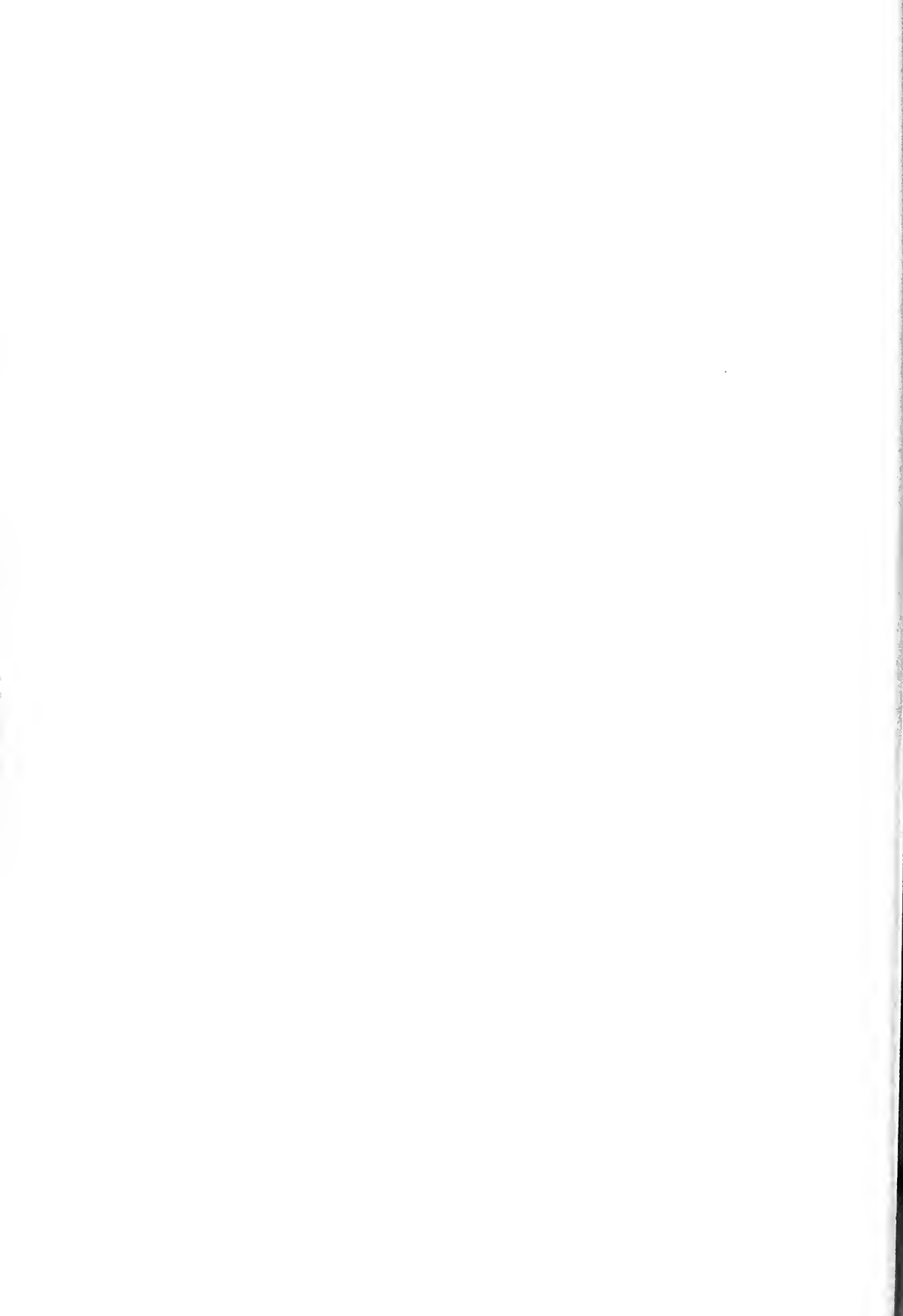
6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is *The Workmen's Compensation Amendment Act, 1979*.



Subsection 2. The proposed new subsection 5 of section 42 would limit the conditions governing the making of supplemental payments under the subsection. The current provision permits the Board to terminate supplemental payments where an employee fails to accept or ceases to be available for employment which is available and which in the opinion of the Board is suitable for his capabilities.





An Act to amend  
The Workmen's Compensation Act

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*1st Reading*

June 5th, 1979

*2nd Reading*

*3rd Reading*

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MR. DI SANTO

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*(Private Member's Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting Procedure for the  
Extension of Gas Services in Metropolitan Toronto**

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**MR. WARNER**

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide a means of ensuring the accountability of The Consumers' Gas Company to each neighbourhood and municipality in Metropolitan Toronto into which it proposes to extend gas service. The Bill establishes a procedure for holding a neighbourhood plebiscite to determine the wishes of residents concerning extension of gas service into their neighbourhood. On the basis of the results of the plebiscite, the municipal council having jurisdiction in the neighbourhood may by by-law prohibit the extension of gas service into the community or may, in consultation with any local community association, attach terms and conditions to the extension of the gas service. The Bill prohibits The Consumers' Gas Company from commencing any construction work for the purpose of extending service to a neighbourhood for a period of six months following the giving of notice as required by the Act unless the council of the municipality approves an earlier starting date.

BILL 121

1979

**An Act respecting  
Procedure for the Extension of Gas  
Service in Metropolitan Toronto**

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

**1.** Notwithstanding any special or general Act, The Consumers' Gas Company shall not break up, dig or trench any street or public place in The Municipality of Metropolitan Toronto unless the Company has complied with the procedures under this Act. Prohibition

**2.** Where The Consumers' Gas Company proposes to extend gas service to one or more residential premises that has not previously been supplied with gas, the Company shall give notice in writing of the proposed works to, Notice of gas service extension

(a) the council of the municipality in which the proposed works will occur;

(b) all assessed owners of land lying within 400 feet of the proposed works;

(c) such other persons as the municipal council may direct,

and the Company shall post a copy of the notice in a conspicuous place in the area of the proposed works where it is likely to come to the attention of persons residing in the area.

**3.** Upon the application of one or more persons receiving notice under section 2, the council of the municipality shall, by resolution, declare the boundaries of the neighbourhood affected by the proposed extension of gas service, and upon adoption of the resolution, the clerk shall prepare a list of the persons appearing on the last revised list of the municipality who are qualified to vote in a municipal election and who reside within the boundaries. Neighbourhood affected

**4.—(1)** Where, within six months following the day that notice is served in accordance with section 2, 25 per cent of the persons Plebiscite

entitled to vote in the neighbourhood affected, as declared by the municipal council under section 3, petition the council of the municipality for a plebiscite, the council of the municipality shall submit one or more questions respecting the extension of gas service in the neighbourhood to a vote of the persons appearing on the list prepared by the clerk of the municipality and the question shall be determined by the council in consultation with electors in the neighbourhood affected.

By-law re  
plebiscite

(2) The council of the municipality shall by by-law provide for the holding of a plebiscite under this Act and, without limiting the generality of the foregoing, may provide for,

- (a) the appointment, powers and duties of returning officers;
- (b) the preparation and revision of voting lists;
- (c) the forms to be used and the oaths to be administered.

By-law to  
prohibit,  
permit  
extension

**5.**—(1) Upon completion of the plebiscite, the council of the municipality shall consider the wishes of the inhabitants of the neighbourhood as indicated by the plebiscite and may, on the basis of the results of the plebiscite, by by-law, prohibit the extension of gas service into the neighbourhood or may permit the extension of gas service on such terms and conditions as are agreed upon between the council of the municipality and the neighbourhood.

Cost of  
plebiscite

(2) In a by-law under subsection 1, the council of the municipality may assess the whole or a portion of the cost of holding the plebiscite against The Consumers' Gas Company.

Recognition  
of  
neighbourhood  
representative

**6.** For the purposes of this Act, a council of a municipality shall recognize as the authorized representatives of a neighbourhood such persons as are designated for that purpose by the duly elected officers of each community association established by inhabitants of the neighbourhood and registered with the municipality.

Limitation  
on commence-  
ment of  
work

**7.** The Consumers' Gas Company shall not break up, dig or trench any street or public place for the purpose of extending gas service to one or more residential premises that has not previously been supplied with gas for a period of six months following the day that notice is served in accordance with section 2 unless the council of the municipality, in a by-law under section 5, authorizes an earlier date for the commencement of such work.

Commence-  
ment

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

Short title

**9.** The short title of this Act is *The Gas Service Extension Act, 1979*.







101

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An Act respecting  
Procedure for the Extension of Gas  
Services in Metropolitan Toronto

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*1st Reading*

June 5th, 1979

*2nd Reading*

*3rd Reading*

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MR. WARNER

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for the  
Establishment of Local Services Boards**

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**THE HON. L. BERNIER**  
Minister of Northern Affairs

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#### EXPLANATORY NOTE

The Bill empowers the Minister of Northern Affairs, upon the recommendation of the inhabitants of a community located in territory without municipal organization, to establish an incorporated Board to exercise some or all of the powers set out in the Schedule to the Bill. Depending upon the scope of the order establishing the Board, a Board may exercise jurisdiction over water supply, sewage collection and treatment, garbage collection, street or area lighting, fire protection and recreation.

A Board will consist of either three members or five members, as provided for in the order of the Minister, the members to be elected annually from amongst the inhabitants of the area.

Each Board will establish its own procedure and determine how the elections shall be conducted. The Board is required to conduct as many public meetings as are necessary to involve the public in the conduct of the Board's affairs.

The Board, with the approval of the inhabitants, may authorize the Minister of Revenue to add a surcharge to the provincial land tax collected in the Board area and the amount of the surcharge is remitted to the Board for its purposes. Additionally, the Minister of Northern Affairs may make grants to a Board in respect of its operating expenses after taking into account the estimates prepared by the Board, fees received by the Board for services provided by it and the funds made available to the Board by the initiatives of the inhabitants.

BILL 122

1979

## An Act to provide for the Establishment of Local Services Boards

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

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means a Local Services Board established under this Act;
- (b) "Board area" means the geographical area within which the Board may exercise its jurisdiction;
- (c) "inhabitant", except for the purposes of sections 3 and 31, means a permanent resident of a Board area or an owner of property situate in a Board area, who is a Canadian citizen and who has attained the full age of eighteen years;
- (d) "Minister" means the Minister of Northern Affairs;
- (e) "owner" means a person entitled to convey land and whose interest in the land is defined and whose name is specified in an instrument registered in the proper land registry office.

**2.** This Act applies only in territory without municipal organization. Application

**3.—(1)** In this section and in section 31, "inhabitant" means a permanent resident of a proposed Board area or an owner of property situate in a proposed Board area, who is a Canadian citizen and who has attained the full age of eighteen years. Interpre-  
tation

(2) Any ten inhabitants desiring the establishment of a Local Services Board may, in writing, authorize and name one of their number to call a meeting of the inhabitants to consider the desirability of establishing a Local Services Board. Calling of  
meeting

Notice (3) Where the person named does not call a meeting within ten days after being authorized to do so, any person who signed the authorization may call a meeting.

Idem (4) The notice calling the meeting,

- (a) shall be in Form 1;
- (b) shall set forth by description or drawing the proposed Board area and the place, date, time and purpose of the meeting;
- (c) shall be posted up in at least six conspicuous places in the proposed Board area;
- (d) shall be sent by registered mail to the Minister; and
- (e) may be published in a newspaper having general circulation in the proposed area,

and the day named in the notice shall be at least fourteen days from the date of the last posting or mailing, whichever occurs later.

Meeting (5) The meeting shall take place at the time and place set forth in the notice, and the person named to call the meeting shall preside at the meeting as chairman, but, if he is absent or declines to act, the inhabitants who are present at the meeting shall elect one of their number to act as chairman.

Recording secretary (6) The chairman shall appoint from among the inhabitants present a recording secretary who shall,

- (a) record the proceedings of the meeting;
- (b) post up copies of the record of the proceedings in at least six conspicuous places in the proposed Board area; and
- (c) shall send a signed copy of the record of the proceedings, including the recommendations agreed upon by the meeting under subsection 8, by registered mail to the Minister.

Voting (7) Any recommendation or other matter to be determined at the meeting shall be determined by a vote of the majority of the inhabitants present and voting, and the chairman shall decide how the voting shall be conducted.

Recommendations (8) The inhabitants shall make recommendations to the Minister in respect of,

- (a) the desirability of establishing a Local Services Board;



- (b) the boundaries of the Board area;
- (c) the name of the Board;
- (d) whether the number of Board members should be three or five;
- (e) the powers, chosen from those set out in the Schedule hereto, which the Board should have; and
- (f) such other matters as the inhabitants consider appropriate.

(9) The recommended boundaries of the proposed Board area shall not include a greater area than the area described in the notice calling the meeting. Boundaries

4. Where the Minister receives the recommendations made under section 3, the Minister may, by order, Powers of Minister

- (a) establish a Local Services Board under the name of "The Local Services Board of .....";
- (b) establish the boundaries of the Board area;
- (c) establish the number of Board members;
- (d) establish the term of office of the first Board;
- (e) designate the powers from those listed in the Schedule hereto that the Board may exercise;
- (f) provide for all matters necessary to conduct the election for the first Board members; and
- (g) provide for such other matters as the Minister considers appropriate.

5. Except as may be provided for by order of the Minister made under section 4, the term of office of a Board member shall be for one year from the 1st day of October in any year to the 30th day of September in the next year. Term of office

6.—(1) A Board is a corporation but *The Corporations Act* does not apply to the Board. Board is corporation  
R.S.O. 1970,  
c. 89

(2) A Board is not a municipality or a local board for the purposes of any Act. Board not municipality  
or local board

- Powers           **7.**—(1) A Board may exercise the powers designated in the order of the Minister and in the exercise of those powers may do all things and make all arrangements necessary to provide, maintain and improve services in the Board area.
- Review           (2) A Board may at any time apply to the Minister for a review of the powers being exercised by the Board.
- Committees       (3) The Board may appoint such committees to advise it in the conduct of its affairs as the Board considers appropriate.
- Insurance         (4) The Board shall, by by-law, contract for insurance against risks that may involve pecuniary loss or liability on the part of the Board and provide for the payment of premiums therefor.
- Limitation on actions   (5) No action shall be brought against a Board or any member of a Board for damage caused by any failure by the Board to exercise any of its powers or to provide any service.
- Assignment of contracts  
R S O 1970, c. 89       (6) A Board may by by-law accept the assignment of any contract or agreement entered into by a corporation incorporated under Part III of *The Corporations Act* where the subject-matter of the contract or agreement is consistent with the powers of the Board.
- Acquisition of land   **8.** In the exercise of its powers, a Board may acquire land by purchase or lease for its purposes and, when the land is no longer required for the purposes of the Board, dispose of it.
- Chairman head of Board   **9.**—(1) The chairman is the head of the Board and shall preside at all meetings of the Board.
- Absence, etc., of chairman   (2) In the absence of the chairman, or if his office is vacant, or if he refuses to act, the Board may, from among its members, appoint an acting chairman who, during such absence, vacancy or refusal to act, shall act in the place of the chairman and preside at the meetings of the Board.
- Failure to attend meetings, etc.   (3) If a member of the Board ceases to be an inhabitant, fails to attend any three consecutive meetings of the Board, refuses to act or dies, the remaining Board members may by by-law call a meeting to elect an inhabitant of the Board area to serve for the remainder of the term of such member and the provisions of subsections 2, 3, 6 and 7 of section 19 apply.
- Quorum           **10.**—(1) A majority of members of the Board constitutes a quorum.

(2) The concurrent vote of the majority of the whole number of Board members is necessary to pass any by-law or approve any measure. Voting

(3) All meetings of the Board shall be open to the public. Meetings  
open

**11.** Subject to the provisions of this Act, the Board shall by by-law establish its own procedures. Pro-  
cedures

**12.—(1)** All by-laws of the Board shall be under seal. Seal

(2) The Board shall by by-law authorize the secretary and one or more members of the Board to be signing officers on behalf of the Board. Signing  
officers

**13.** A Board member shall not be paid any remuneration for the performance of his duties as a Board member. No  
remunera-  
tion

**14.—(1)** The Board shall appoint a secretary, Secretary

(a) who may be a member of the Board other than the chairman; and

(b) who shall hold office at the pleasure of the Board.

(2) The secretary before entering on the duties of office shall give security in a form and on such terms as the Minister may approve for the faithful performance of such duties and for duly accounting for and paying over all moneys that come into his hands. Security

(3) The premiums in respect of the security shall be paid by the Board. Premiums

(4) In addition to the other duties prescribed by this Act, the secretary shall, Duties

(a) attend all meetings of the Board;

(b) keep minutes of such meetings;

(c) ensure that copies of the minutes of meetings are posted up in at least six conspicuous places;

(d) post up notices of meetings called by the Board;

(e) carry on correspondence as directed by the Board;

(f) receive and safely keep all moneys paid to the Board;

(g) maintain books of account and other records as may be required by the Board or by the Minister; and

(h) perform such other duties as the Board may assign.

Honorarium **15.** The Board may pay to the secretary such honorarium as the Board by by-law determines.

Public meetings **16.** A Board shall conduct sufficient public meetings so that the inhabitants may,

(a) participate in a discussion of the current and proposed programs of the Board;

(b) participate in the preparation of the annual estimates of the Board; and

(c) participate in a discussion of the annual audit report.

Notice **17.** A notice of a public meeting other than a meeting called under section 3 or 19 shall contain the place, date, time and purpose of the meeting, the signature of the secretary or the person or persons calling the meeting, and copies of the notice shall be posted up in at least six conspicuous places in the Board area at least one week in advance of the meeting.

Improper conduct **18.** The chairman may expel or exclude from any meeting any person including a Board member for improper conduct at the meeting.

Election meeting **19.—(1)** In each year, the Board shall call an election meeting of the inhabitants to be held in the Board area after the 1st day of August and before the 30th day of September for the purpose of electing a new Board.

Notice (2) At least two weeks before the election meeting, the secretary shall post up notice of the place, date and time of the election meeting in at least six conspicuous places in the Board area and shall send a copy of the notice by registered mail to the Minister.

Chairman (3) The chairman of the Board shall act as chairman of the election meeting.

Failure to call meeting (4) If the Board fails to call an election meeting before the 10th day of September, the secretary shall immediately call such a meeting by giving notice as provided in subsection 2 and shall act as the chairman of the meeting notwithstanding that the chairman of the Board attends the meeting.

(5) If in any year both the Board and the secretary fail to call an election meeting before the 15th day of September, any ten inhabitants may call a meeting and may appoint one of their number to act as chairman of the meeting and such inhabitant shall act as chairman notwithstanding that the chairman of the Board attends the meeting. Idem

(6) Any inhabitant is eligible to be elected as a member of the Board. Qualifications

(7) For all elections after the first election, the Board shall determine all matters related to the conduct of elections. Conduct of elections

**20.** Where the eligibility of any inhabitant to vote or to seek office is challenged, the chairman shall require that the inhabitant whose eligibility has been challenged swear an affidavit before him in Form 2 and, where the inhabitant swears such affidavit, he may thereupon vote at the meeting or be eligible to seek office. Challenge to eligibility

**21.** The Board shall hold its first meeting after the election meeting not later than the 10th day of October, and at such meeting shall elect one of its members as chairman. First meeting

**22.** On or before the 15th day of October in each year, the Minister of Revenue shall cause to be sent to the secretary of every Board a copy of that portion of the Provincial Land Tax Register showing the lands in the Board area liable to assessment and taxation under *The Provincial Land Tax Act* and the amount of the assessment. Provincial Land Tax Register  
R.S.O. 1970,  
c. 370

**23.—(1)** Before the 1st day of December in each year, the Board shall prepare and, after public discussion, adopt annual estimates of all amounts required for the purposes of the Board for operating and capital expenditures for the current fiscal year. Annual estimates

(2) In preparing the estimates, the Board shall take into account any surplus from the previous year that will be available in the current year, any operating deficit from the previous year and any debt owing to the Crown payable in the current year. Matters to be taken into account

(3) The estimates shall set out, Contents of estimates

(a) the amounts to be raised;

(b) the manner in which the amounts are to be raised; and

(c) the rate or rates, if any, which the Board proposes be added to the provincial land tax in the whole or any part of the Board area.

Where rates  
to be added  
under  
R.S.O. 1970,  
c. 370

(4) No rate shall be imposed under *The Provincial Land Tax Act* for the purposes of the Board, unless the rate, the purpose for which it is to be levied, and the area in which the rate is to be levied, are approved by a majority vote of the inhabitants present and voting at a meeting called for that purpose.

Copy to  
Minister

(5) Before the 10th day of December in each year, the secretary shall send a copy of the estimates and the by-law adopting the estimates to the Minister by registered mail.

Payment  
to Board

**24.**—(1) The Minister shall pay to the Board annually out of moneys appropriated therefor by the Legislature such amount as he considers appropriate after taking into account the estimates of the Board, the moneys paid to the Board by the Minister of Revenue under section 26, the fees collected by the Board for the supply of services or the use of facilities and such other amounts as by the initiatives of the inhabitants have been raised and granted to the Board.

Idem

(2) The Minister may pay to the Board annually out of moneys appropriated therefor by the Legislature an amount equal to the amount that the rate or rates levied under section 26 would produce if levied in respect of the improved Crown land within the Board area.

Rates under  
R.S.O. 1970,  
c. 370

**25.**—(1) Where in any year the inhabitants have approved a rate or rates to be levied under *The Provincial Land Tax Act* as provided for in section 23, the Board may by by-law passed before the 1st day of December in that year request the Minister of Revenue to levy and collect under that Act in the next ensuing calendar year, such rate or rates in respect of properties taxable under *The Provincial Land Tax Act*.

Copy of  
by-law to  
Minister  
of Revenue

(2) The secretary shall send a copy of the by-law passed under subsection 1 to the Minister of Revenue by registered mail immediately after the passing of the by-law.

Levy under  
R.S.O. 1970,  
c. 370

**26.**—(1) Where the Minister of Revenue receives a by-law passed under subsection 1 of section 25, he shall levy in the calendar year for which the by-law was passed the rate or rates set out in the by-law in respect of the property taxable under *The Provincial Land Tax Act* in the whole or such part of the Board area to which the rate or rates apply, and such rate or rates and the amounts imposed are deemed to be a tax and shall be shown on the tax bill for such property as "Taxes for the purposes of The Local Services Board of . . . (naming the Board)", and shall be collected as though it were for all purposes provincial land tax.

Exemption

(2) Notwithstanding section 3 of *The Provincial Land Tax Act*, land belonging to the Board is exempt from taxation under *The Provincial Land Tax Act*.

(3) The Minister of Revenue shall pay to the Board the amounts collected under subsection 1. Payment to Board

**27.** The Board may by by-law establish such reserves from its revenues as the Board considers appropriate for expenditure in a subsequent fiscal year or years. Reserves

**28.** A Board shall not incur any debt, except a debt owed to the Crown in right of Ontario, the payment of which extends beyond the term of office of the Board. Debt

**29.**—(1) A Board shall engage a public accountant licensed as a municipal auditor under *The Municipal Affairs Act* to audit its accounts and transactions and to make a report to it annually or more often as the board requires. Audit  
R.S.O. 1970,  
c. 118

(2) The fiscal year of a Board is the year commencing on the 1st day of October and expiring with the 30th day of September next following. Fiscal year

(3) The secretary shall send a copy of the annual audit report by registered mail to the Minister. Copy of report to Minister

(4) The secretary shall permit any inhabitant at any reasonable time to examine and copy the audit report. Examination of report

(5) The Minister may at any time cause the accounts and transactions of a Board to be audited. Audit required by Minister

**30.** Where the Minister determines that a Board is misusing its funds or is not administering its affairs in a proper and straightforward manner or cannot or is unlikely to be able to meet its obligations as they fall due, the Minister may by order, Minister may dissolve Board

(a) dissolve the Board and call a new election;

(b) dissolve the Board and assume the powers of the Board;  
or

(c) dissolve the Board and the Board area and subsection 3 of section 32 applies to the order.

**31.**—(1) Where a Board considers it desirable that the boundaries of the Board area be altered or the powers of the Board be varied, the Board shall put the proposal to a vote of the inhabitants at a meeting called for that purpose, and the notice of such meeting shall outline the proposal. Proposal to alter boundaries or vary powers

(2) Where it is proposed that the Board area be enlarged, the secretary shall post within the area proposed to be added the Notice

notice mentioned in subsection 1 and inhabitants in the area proposed to be added may attend the meeting and vote upon the proposal.

Recording  
of vote

(3) Where it is proposed that the boundaries of a Board area be altered, the secretary shall record separately the vote of the inhabitants within the area that it is proposed to be added to, or to be removed from, the Board area.

Powers of  
Minister

(4) Where a majority of the inhabitants present at the meeting vote in favour of a proposal made under subsection 1, the secretary shall forward to the Minister,

(a) a copy of the proposal as approved at the meeting;

(b) a statement of the results of the vote showing the vote of the inhabitants for and against the proposal; and

(c) where it is proposed that the boundaries of the Board be altered, a statement of the vote of the inhabitants of the area it is proposed be added to or removed from the Board area,

and the Minister may make such order as he considers appropriate.

Proposal to  
dissolve  
Board

**32.**—(1) Where a board or any ten inhabitants propose that the Board be dissolved, the proposal shall be put to a vote of the inhabitants at a meeting called for that purpose, and the notice of such meeting shall outline the proposal.

Powers of  
Minister

(2) Where the majority of inhabitants present at the meeting approve a proposal that the Board be dissolved, the secretary shall send to the Minister a copy of the proposal together with a statement of the vote for and against the proposal, and the Minister, if he considers it appropriate, may by order dissolve the Board and the Board area.

Transfer of  
assets and  
liabilities

(3) In an order for dissolution, the Minister may make such provisions with respect to the transfer of liabilities and assets of the Board as he considers appropriate.

Forms in  
French  
language

**33.** The Minister may by order prescribe a French language version of any form that is prescribed by this Act and provide for its use.

Regula-  
tion

**34.** The Lieutenant Governor in Council may make regulations amending the Schedule hereto.



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

**36.** The short title of this Act is *The Local Services Boards Act, 1979*. Short title

## SCHEDULE

### 1. WATER SUPPLY

The Board may, by by-law,

(a) acquire, establish, operate and maintain works for; or

(b) contract for,

a supply of water and for that purpose may regulate the time, manner, extent and nature of such supply and the persons to whom water may be supplied, and may charge a fee for the cost of such supply.

### 2. FIRE PROTECTION

The Board may, by by-law,

(a) acquire, establish, operate and maintain a fire-hall, fire engines and apparatus and equipment for fire fighting and fire protection, or

(b) contract for fire protection,

and may charge a fee for the cost of such service.

### 3. GARBAGE COLLECTION

The Board may, by by-law,

(a) establish and maintain a system for the collection and removal of garbage; or

(b) contract for the collection, removal and disposal of garbage,

and for that purpose may regulate the occasions, manner, extent and nature of such service and the persons to whom such service may be supplied, and may charge a fee for the cost of such service.

### 4. SEWAGE

The Board may, by by-law,

(a) acquire, establish, operate and maintain sewage works, including sewers, pumping plants, treatment works and other like works necessary for a sewage collection and treatment system; or

(b) contract for the collection and treatment of sewage,

and for such purposes may charge a fee for such service or add a surcharge to the fee, if any, for water supply, or,

(c) upon such terms and conditions as the Board considers appropriate and with the approval of a majority of the inhabitants at a meeting called for that purpose, financially assist by grant or loan the installation of private septic tank systems or other systems

approved by the Ministry of the Environment for the benefit of any inhabitant or inhabitants.

5. STREET OR AREA LIGHTING

The Board may, by by-law,

- (a) contract with Ontario Hydro or any person for the provision of street or area lighting in the Board area; or
- (b) contract with Ontario Hydro or any person for the provision of power and acquire by purchase or lease lights, light standards and lighting equipment in order to provide street or area lighting in the Board area,

and may charge a fee for the cost of such service, but no Board shall generate its own power.

6. RECREATION

The Board may, by by-law,

- (a) contract for the use of recreation facilities or participation in programs of recreation;
- (b) provide for the carrying out of programs of recreation; or
- (c) acquire, establish, construct, operate and maintain recreation facilities.

and may charge fees in respect of the programs of recreation or the recreation facilities, and the Board shall be deemed to be an approved corporation for the purposes of *The Community Recreation Centres Act, 1974*.

FORM 1

NOTICE OF MEETING

TAKE NOTICE that a meeting will be held to consider the desirability of establishing a Local Services Board in the \_\_\_\_\_ area.

The proposed Board area to be considered at the meeting is \_\_\_\_\_

\_\_\_\_\_  
(describe boundaries of proposed Board area or attach a

\_\_\_\_\_  
drawing or map depicting the proposed Board area).

The meeting will take place:

at \_\_\_\_\_  
(time)

on \_\_\_\_\_  
(day)

in \_\_\_\_\_  
(place)

Date of Notice:

Signature of Person calling the meeting \_\_\_\_\_

FORM 2

AFFIDAVIT OF ELIGIBILITY TO VOTE

I, \_\_\_\_\_, of  
(print name)

\_\_\_\_\_ make oath and say as follows:

- 1. I am a Canadian Citizen;
- 2. I am of the full age of eighteen years;

(complete either 3 or 4)

3. I do permanently reside at \_\_\_\_\_

If person making affidavit is a permanent resident

(a brief description of the property's location)

in the Board area.

OR

4. I am the owner of \_\_\_\_\_  
(legal description, or if unavailable,

If person making affidavit is not a permanent resident but owns property within the Board Area

\_\_\_\_\_ a brief description of property's location)

located in the Board area.

And I do verily believe that I am an inhabitant as defined by section 1(c) of *The Local Services Boards Act, 1970*.

Sworn before me in the

District of

in the Province of Ontario,

this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Signature of person making affidavit

\_\_\_\_\_  
Chairman,  
the Local Services Board of

\_\_\_\_\_  
(Name of Local Services Board)

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An Act to provide  
for the Establishment of  
Local Services Boards

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*1st Reading*

June 7th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. L. BERNIER  
Minister of Northern Affairs

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for the  
Establishment of Local Services Boards**

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**THE HON. L. BERNIER**  
Minister of Northern Affairs

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

#### EXPLANATORY NOTE

The Bill empowers the Minister of Northern Affairs, upon the recommendation of the inhabitants of a community located in territory without municipal organization, to establish an incorporated Board to exercise some or all of the powers set out in the Schedule to the Bill. Depending upon the scope of the order establishing the Board, a Board may exercise jurisdiction over water supply, sewage collection and treatment, garbage collection, street or area lighting, fire protection and recreation.

A Board will consist of either three members or five members, as provided for in the order of the Minister, the members to be elected annually from amongst the inhabitants of the area.

Each Board will establish its own procedure and determine how the elections shall be conducted. The Board is required to conduct as many public meetings as are necessary to involve the public in the conduct of the Board's affairs.

The Board, with the approval of the inhabitants, may authorize the Minister of Revenue to add a surcharge to the provincial land tax collected in the Board area and the amount of the surcharge is remitted to the Board for its purposes. Additionally, the Minister of Northern Affairs may make grants to a Board in respect of its operating expenses after taking into account the estimates prepared by the Board, fees received by the Board for services provided by it and the funds made available to the Board by the initiatives of the inhabitants.

BILL 122

1979

## An Act to provide for the Establishment of Local Services Boards

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

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means a Local Services Board established under this Act;
- (b) "Board area" means the geographical area within which the Board may exercise its jurisdiction;
- (c) "inhabitant", except for the purposes of sections 3 and 31, means a permanent resident of a Board area or an owner of property situate in a Board area, who is a Canadian citizen and who has attained the full age of eighteen years;
- (d) "Minister" means the Minister of Northern Affairs;
- (e) "owner" means a person entitled to convey land and whose interest in the land is defined and whose name is specified in an instrument registered in the proper land registry office.

**2.** This Act applies only in territory without municipal organization. Application

**3.—(1)** In this section and in section 31, "inhabitant" means a permanent resident of a proposed Board area or an owner of property situate in a proposed Board area, who is a Canadian citizen and who has attained the full age of eighteen years. Interpre-  
tation

(2) Any ten inhabitants desiring the establishment of a Local Services Board may, in writing, authorize and name one of their number to call a meeting of the inhabitants to consider the desirability of establishing a Local Services Board. Calling of  
meeting

- Notice (3) Where the person named does not call a meeting within ten days after being authorized to do so, any person who signed the authorization may call a meeting.
- Idem (4) The notice calling the meeting,
- (a) shall be in Form 1;
  - (b) shall set forth by description or drawing the proposed Board area and the place, date, time and purpose of the meeting;
  - (c) shall be posted up in at least six conspicuous places in the proposed Board area;
  - (d) shall be sent by registered mail to the Minister; and
  - (e) may be published in a newspaper having general circulation in the proposed area,
- and the day named in the notice shall be at least fourteen days from the date of the last posting or mailing, whichever occurs later.
- Meeting (5) The meeting shall take place at the time and place set forth in the notice, and the person named to call the meeting shall preside at the meeting as chairman, but, if he is absent or declines to act, the inhabitants who are present at the meeting shall elect one of their number to act as chairman.
- Recording secretary (6) The chairman shall appoint from among the inhabitants present a recording secretary who shall,
- (a) record the proceedings of the meeting;
  - (b) post up copies of the record of the proceedings in at least six conspicuous places in the proposed Board area; and
  - (c) shall send a signed copy of the record of the proceedings, including the recommendations agreed upon by the meeting under subsection 8, by registered mail to the Minister.
- Voting (7) Any recommendation or other matter to be determined at the meeting shall be determined by a vote of the majority of the inhabitants present and voting, and the chairman shall decide how the voting shall be conducted.
- Recommendations (8) The inhabitants shall make recommendations to the Minister in respect of,
- (a) the desirability of establishing a Local Services Board;



- (b) the boundaries of the Board area;
- (c) the name of the Board;
- (d) whether the number of Board members should be three or five;
- (e) the powers, chosen from those set out in the Schedule hereto, which the Board should have; and
- (f) such other matters as the inhabitants consider appropriate.

(9) The recommended boundaries of the proposed Board area shall not include a greater area than the area described in the notice calling the meeting. Boundaries

4. Where the Minister receives the recommendations made under section 3, the Minister may, by order, Powers of Minister

- (a) establish a Local Services Board under the name of "The Local Services Board of .....";
- (b) establish the boundaries of the Board area;
- (c) establish the number of Board members;
- (d) establish the term of office of the first Board;
- (e) designate the powers from those listed in the Schedule hereto that the Board may exercise;
- (f) provide for all matters necessary to conduct the election for the first Board members; and
- (g) provide for such other matters as the Minister considers appropriate.

5. Except as may be provided for by order of the Minister made under section 4, the term of office of a Board member shall be for one year from the 1st day of October in any year to the 30th day of September in the next year. Term of office

6.—(1) A Board is a corporation but *The Corporations Act* does not apply to the Board. Board is corporation  
R.S.O. 1970,  
c. 89

(2) A Board is not a municipality or a local board for the purposes of any Act. Board not municipality  
or local board

- Powers            **7.**—(1) A Board may exercise the powers designated in the order of the Minister and in the exercise of those powers may do all things and make all arrangements necessary to provide, maintain and improve services in the Board area.
- Areas            (2) Where, in the exercise of its powers, a Board provides a service, the Board may,
- (a) provide the service to the whole of the Board area or to one or more parts of the Board area designated by the Board; or
- (b) provide a different level of the service to different designated parts of the Board area,
- provided that no fee shall be charged and no levy shall be imposed in respect of a service or a level of service in any part of the Board area in which the service or the level of service is not provided.
- Review            (3) A Board may at any time apply to the Minister for a review of the powers being exercised by the Board.
- Committees      (4) The Board may appoint such committees to advise it in the conduct of its affairs as the Board considers appropriate.
- Insurance        (5) The Board shall, by by-law, contract for insurance against risks that may involve pecuniary loss or liability on the part of the Board and provide for the payment of premiums therefor.
- Limitation on actions      (6) No action shall be brought against a Board or any member of a Board for damage caused by any failure by the Board to exercise any of its powers or to provide any service.
- Assignment of contracts  
R S O 1970, c. 89      (7) A Board may by by-law accept the assignment of any contract or agreement entered into by a corporation incorporated under Part III of *The Corporations Act* where the subject-matter of the contract or agreement is consistent with the powers of the Board.
- Acquisition of land      **8.** In the exercise of its powers, a Board may acquire land by purchase or lease for its purposes and, when the land is no longer required for the purposes of the Board, dispose of it.
- Chairman head of Board      **9.**—(1) The chairman is the head of the Board and shall preside at all meetings of the Board.
- Absence, etc. of chairman      (2) In the absence of the chairman, or if his office is vacant, or if he refuses to act, the Board may, from among its members, appoint an acting chairman who, during such absence, vacancy or refusal to act, shall act in the place of the chairman and preside at the meetings of the Board.

(3) If a member of the Board ceases to be an inhabitant, fails to attend any three consecutive meetings of the Board, refuses to act or dies, the remaining Board members may by by-law call a public meeting to elect an inhabitant of the Board area to serve for the remainder of the term of such member and the provisions of subsections 2, 3, 6 and 7 of section 19 apply. Failure to attend meetings, etc.

**10.**—(1) A majority of members of the Board constitutes a quorum. Quorum

(2) The concurrent vote of the majority of the whole number of Board members is necessary to pass any by-law or approve any measure. Voting

(3) All meetings of the Board shall be open to the public. Meetings open

**11.** Subject to the provisions of this Act, the Board shall by by-law establish its own procedures. Procedures

**12.**—(1) All by-laws of the Board shall be under seal. Seal

(2) The Board shall by by-law authorize the secretary and one or more members of the Board to be signing officers on behalf of the Board. Signing officers

**13.** A Board member shall not be paid any remuneration for the performance of his duties as a Board member. No remuneration

**14.**—(1) The Board shall appoint a secretary, Secretary

(a) who may be a member of the Board other than the chairman; and

(b) who shall hold office at the pleasure of the Board.

(2) The secretary before entering on the duties of office shall give security in a form and on such terms as the Minister may approve for the faithful performance of such duties and for duly accounting for and paying over all moneys that come into his hands. Security

(3) The premiums in respect of the security shall be paid by the Board. Premiums

(4) In addition to the other duties prescribed by this Act, the secretary shall, Duties

(a) attend all meetings of the Board;

(b) keep minutes of such meetings;

- (c) ensure that copies of the minutes of meetings are posted up in at least six conspicuous places;
- (d) post up notices of meetings called by the Board;
- (e) carry on correspondence as directed by the Board;
- (f) receive and safely keep all moneys paid to the Board;
- (g) maintain books of account and other records as may be required by the Board or by the Minister; and
- (h) perform such other duties as the Board may assign.

**Honorarium**      **15.** The Board may pay to the secretary such honorarium as the Board by by-law determines.

**Public meetings**      **16.** A Board shall conduct sufficient public meetings so that the inhabitants may,

- (a) participate in a discussion of the current and proposed programs of the Board;
- (b) participate in the preparation of the annual estimates of the Board; and
- (c) participate in a discussion of the annual audit report.

**Notice**      **17.** A notice of a public meeting other than a meeting called under section 3 or 19 shall contain the place, date, time and purpose of the meeting, the signature of the secretary or the person or persons calling the meeting, and copies of the notice shall be posted up in at least six conspicuous places in the Board area at least one week in advance of the meeting.

**Improper conduct**      **18.** The chairman may expel or exclude from any meeting any person including a Board member for improper conduct at the meeting.

**Election meeting**      **19.—(1)** In each year, the Board shall call an election meeting of the inhabitants to be held in the Board area after the 1st day of August and before the 30th day of September for the purpose of electing a new Board.

**Notice**      (2) At least two weeks before the election meeting, the secretary shall post up notice of the place, date and time of the election meeting in at least six conspicuous places in the Board area and shall send a copy of the notice by registered mail to the Minister.

(3) The chairman of the Board shall act as chairman of the election meeting. Chairman

(4) If the Board fails to call an election meeting before the 10th day of September, the secretary shall immediately call such a meeting by giving notice as provided in subsection 2 and shall act as the chairman of the meeting notwithstanding that the chairman of the Board attends the meeting. Failure to call meeting

(5) If in any year both the Board and the secretary fail to call an election meeting before the 15th day of September, any ten inhabitants may call a meeting and may appoint one of their number to act as chairman of the meeting and such inhabitant shall act as chairman notwithstanding that the chairman of the Board attends the meeting. Idem

(6) Any inhabitant is eligible to be elected as a member of the Board. Qualifications

(7) For all elections after the first election, the Board shall, subject to subsection 8, determine all matters relating to the conduct of elections. Conduct of elections

(8) Voting for the election of members of the Board shall be by way of secret ballot. Voting

**20.** Where the eligibility of any inhabitant to vote or to seek office is challenged, the chairman shall require that the inhabitant whose eligibility has been challenged swear an affidavit before him in Form 2 and, where the inhabitant swears such affidavit, he may thereupon vote at the meeting or be eligible to seek office. Challenge to eligibility

**21.** The Board shall hold its first meeting after the election meeting not later than the 10th day of October, and at such meeting shall elect one of its members as chairman. First meeting

**22.** On or before the 15th day of October in each year, the Minister of Revenue shall cause to be sent to the secretary of every Board a copy of that portion of the Provincial Land Tax Register showing the lands in the Board area liable to assessment and taxation under *The Provincial Land Tax Act* and the amount of the assessment. Provincial Land Tax Register  
R.S.O. 1970,  
c. 370

**23.**—(1) Before the 1st day of December in each year, the Board shall prepare and, after public discussion, adopt annual estimates of all amounts required for the purposes of the Board for operating and capital expenditures for the current fiscal year. Annual estimates

(2) In preparing the estimates, the Board shall take into account any surplus from the previous year that will be available Matters to be taken into account

in the current year, any operating deficit from the previous year and any debt owing to the Crown payable in the current year.

Contents of estimates

- (3) The estimates shall set out,
- (a) the amounts to be raised;
  - (b) the manner in which the amounts are to be raised; and
  - (c) the rate or rates, if any, which the Board proposes be added to the provincial land tax in the whole or any part of the Board area.

Where rates to be added under R.S.O. 1970, c. 370

(4) No rate shall be imposed under *The Provincial Land Tax Act* for the purposes of the Board, unless the rate, the purpose for which it is to be levied, and the area in which the rate is to be levied, are approved by a majority vote of the inhabitants present and voting at a meeting called for that purpose.

Copy to Minister

(5) Before the 10th day of December in each year, the secretary shall send a copy of the estimates and the by-law adopting the estimates to the Minister by registered mail.

Payment to Board

**24.**—(1) The Minister shall pay to the Board annually out of moneys appropriated therefor by the Legislature such amount as he considers appropriate after taking into account the estimates of the Board, the moneys paid to the Board by the Minister of Revenue under section 26, the fees collected by the Board for the supply of services or the use of facilities and such other amounts as by the initiatives of the inhabitants have been raised and granted to the Board.

Idem

(2) The Minister may pay to the Board annually out of moneys appropriated therefor by the Legislature an amount equal to twice the amount that the rate or rates levied under section 26 would produce if levied in respect of the improved Crown land within the Board area.

Rates under R.S.O. 1970, c. 370

**25.**—(1) Where in any year the inhabitants have approved a rate or rates to be levied under *The Provincial Land Tax Act* as provided for in section 23, the Board may by by-law passed before the 1st day of December in that year request the Minister of Revenue to levy and collect under that Act in the next ensuing calendar year, such rate or rates in respect of properties taxable under *The Provincial Land Tax Act*.

Copy of by-law to Minister of Revenue

(2) The secretary shall send a copy of the by-law passed under subsection 1 to the Minister of Revenue by registered mail immediately after the passing of the by-law.

Levy under R.S.O. 1970, c. 370

**26.**—(1) Where the Minister of Revenue receives a by-law passed under subsection 1 of section 25, he shall levy in the

calendar year for which the by-law was passed the rate or rates set out in the by-law in respect of the property taxable under *The Provincial Land Tax Act* in the whole or such part of the Board area to which the rate or rates apply, and such rate or rates and the amounts imposed are deemed to be a tax and shall be shown on the tax bill for such property as "Taxes for the purposes of The Local Services Board of . . . (naming the Board)", and shall be collected as though it were for all purposes provincial land tax.

(2) Notwithstanding section 3 of *The Provincial Land Tax Act*, land belonging to the Board is exempt from taxation under *The Provincial Land Tax Act*. Exemption

(3) The Minister of Revenue shall pay to the Board the amounts collected under subsection 1. Payment to Board

**27.** The Board may by by-law establish such reserves from its revenues as the Board considers appropriate for expenditure in a subsequent fiscal year or years. Reserves

**28.** A Board may incur a debt for the purposes of the Board but shall not incur any debt the payment of which is not provided for in the estimates for the current fiscal year of the Board unless, Debt

(a) it is a debt owed to the Crown in right of Ontario; or

(b) the purpose for which the debt is to be incurred and the amount thereof is approved by a majority vote of the inhabitants present and voting at a meeting called for that purpose and the approval of the Minister to the incurring of the debt is obtained.

**29.—(1)** A Board shall engage a public accountant licensed as a municipal auditor under *The Municipal Affairs Act* to audit its accounts and transactions and to make a report to it annually or more often as the board requires. Audit  
R.S.O. 1970,  
c. 118

(2) The fiscal year of a Board is the year commencing on the 1st day of October and expiring with the 30th day of September next following. Fiscal year

(3) The secretary shall send a copy of the annual audit report by registered mail to the Minister. Copy of report to Minister

(4) The secretary shall permit any inhabitant at any reasonable time to examine and copy the audit report. Examination of report

(5) The Minister may at any time cause the accounts and transactions of a Board to be audited. Audit required by Minister

Minister  
may  
dissolve  
Board

**30.** Where the Minister determines that a Board is misusing its funds or is not administering its affairs in a proper and straightforward manner or cannot or is unlikely to be able to meet its obligations as they fall due, the Minister may by order,

- (a) dissolve the Board and call a new election;
- (b) dissolve the Board and assume the powers of the Board;  
or
- (c) dissolve the Board and the Board area and subsection 3 of section 32 applies to the order.

Proposal  
to alter  
boundaries  
or vary  
powers

**31.—(1)** Where a Board considers it desirable that the boundaries of the Board area be altered or the powers of the Board be varied, the Board shall put the proposal to a vote of the inhabitants at a meeting called for that purpose, and the notice of such meeting shall outline the proposal.

Notice

(2) Where it is proposed that the Board area be enlarged, the secretary shall post within the area proposed to be added the notice mentioned in subsection 1 and inhabitants in the area proposed to be added may attend the meeting and vote upon the proposal.

Recording  
of vote

(3) Where it is proposed that the boundaries of a Board area be altered, the secretary shall record separately the vote of the inhabitants within the area that it is proposed to be added to, or to be removed from, the Board area.

Powers of  
Minister

(4) Where a majority of the inhabitants present at the meeting vote in favour of a proposal made under subsection 1, the secretary shall forward to the Minister,

- (a) a copy of the proposal as approved at the meeting;
- (b) a statement of the results of the vote showing the vote of the inhabitants for and against the proposal; and
- (c) where it is proposed that the boundaries of the Board be altered, a statement of the vote of the inhabitants of the area it is proposed be added to or removed from the Board area,

and the Minister may make such order as he considers appropriate.

Proposal to  
dissolve  
Board

**32.—(1)** Where a board or any ten inhabitants propose that the Board be dissolved, the proposal shall be put to a vote of the



inhabitants at a meeting called for that purpose, and the notice of such meeting shall outline the proposal.

(2) Where the majority of inhabitants present at the meeting approve a proposal that the Board be dissolved, the secretary shall send to the Minister a copy of the proposal together with a statement of the vote for and against the proposal, and the Minister, if he considers it appropriate, may by order dissolve the Board and the Board area. Powers of Minister

(3) In an order for dissolution, the Minister may make such provisions with respect to the transfer of liabilities and assets of the Board as he considers appropriate. Transfer of assets and liabilities

**33.** The Minister may by order prescribe a French language version of any form that is prescribed by this Act and provide for its use. Forms in French language

**34.** The Lieutenant Governor in Council may make regulations amending the Schedule hereto. Regulations

**35.** Section 21 of *The Provincial Land Tax Act*, being chapter 370 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: R.S.O. 1970, c. 370, s. 21, amended

(4) In determining for the purposes of subsection 3 the annual tax imposed under this Act no account shall be taken of any tax imposed pursuant to *The Local Services Boards Act, 1979*. Idem 1979, c.

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

**37.** The short title of this Act is *The Local Services Boards Act, 1979*. Short title

## SCHEDULE

### 1. WATER SUPPLY

The Board may, by by-law,

(a) acquire, establish, operate and maintain works for; or

(b) contract for,

a supply of water and for that purpose may regulate the time, manner, extent and nature of such supply and the persons to whom water may be supplied, and may charge a fee for the cost of such supply.

### 2. FIRE PROTECTION

The Board may, by by-law,

(a) acquire, establish, operate and maintain a fire-hall, fire engines and apparatus and equipment for fire fighting and fire protection; or

(b) contract for fire protection,

and may charge a fee for the cost of such service.

### 3. GARBAGE COLLECTION

The Board may, by by-law,

(a) establish and maintain a system for the collection and removal of garbage; or

(b) contract for the collection, removal and disposal of garbage,

and for that purpose may regulate the occasions, manner, extent and nature of such service and the persons to whom such service may be supplied, and may charge a fee for the cost of such service.

### 4. SEWAGE

The Board may, by by-law,

(a) acquire, establish, operate and maintain sewage works, including sewers, pumping plants, treatment works and other like works necessary for a sewage collection and treatment system; or

(b) contract for the collection and treatment of sewage,

and for such purposes may charge a fee for such service or add a surcharge to the fee, if any, for water supply, or,

(c) upon such terms and conditions as the Board considers appropriate and with the approval of a majority of the inhabitants at a meeting called for that purpose, financially assist by grant or loan the installation of private septic tank systems or other systems approved by the Ministry of the Environment for the benefit of any inhabitant or inhabitants.

### 5. STREET OR AREA LIGHTING

The Board may, by by-law,

- (a) contract with Ontario Hydro or any person for the provision of street or area lighting in the Board area; or
- (b) contract with Ontario Hydro or any person for the provision of power and acquire by purchase or lease lights, light standards and lighting equipment in order to provide street or area lighting in the Board area,

and may charge a fee for the cost of such service, but no Board shall generate its own power.

6. RECREATION

The Board may, by by-law,

- (a) contract for the use of recreation facilities or participation in programs of recreation;
- (b) provide for the carrying out of programs of recreation; or
- (c) acquire, establish, construct, operate and maintain recreation facilities,

and may charge fees in respect of the programs of recreation or the recreation facilities, and the Board shall be deemed to be an approved corporation for the purposes of *The Community Recreation Centres Act, 1974*.

FORM 1

NOTICE OF MEETING

TAKE NOTICE that a meeting will be held to consider the desirability of establishing a Local Services Board in the .....area.

The proposed Board area to be considered at the meeting is \_\_\_\_\_

\_\_\_\_\_  
(describe boundaries of proposed Board area or attach a

\_\_\_\_\_  
drawing or map depicting the proposed Board area).

The meeting will take place:

at \_\_\_\_\_  
(time)

on \_\_\_\_\_  
(day)

in \_\_\_\_\_  
(place)

Date of Notice:

Signature of Person calling the meeting \_\_\_\_\_

FORM 2

AFFIDAVIT OF ELIGIBILITY TO VOTE

I, \_\_\_\_\_, of  
(print name)

\_\_\_\_\_ make oath and say as follows:

- 1. I am a Canadian Citizen;
  - 2. I am of the full age of eighteen years;
- (complete either 3 or 4)

If person making affidavit is a permanent resident

3. I do permanently reside at \_\_\_\_\_

\_\_\_\_\_ (a brief description of the property's location)

in the Board area.

OR

If person making affidavit is not a permanent resident but owns property within the Board Area

4. I am the owner of \_\_\_\_\_ (legal description, or if unavailable,

\_\_\_\_\_ a brief description of property's location)

located in the Board area.

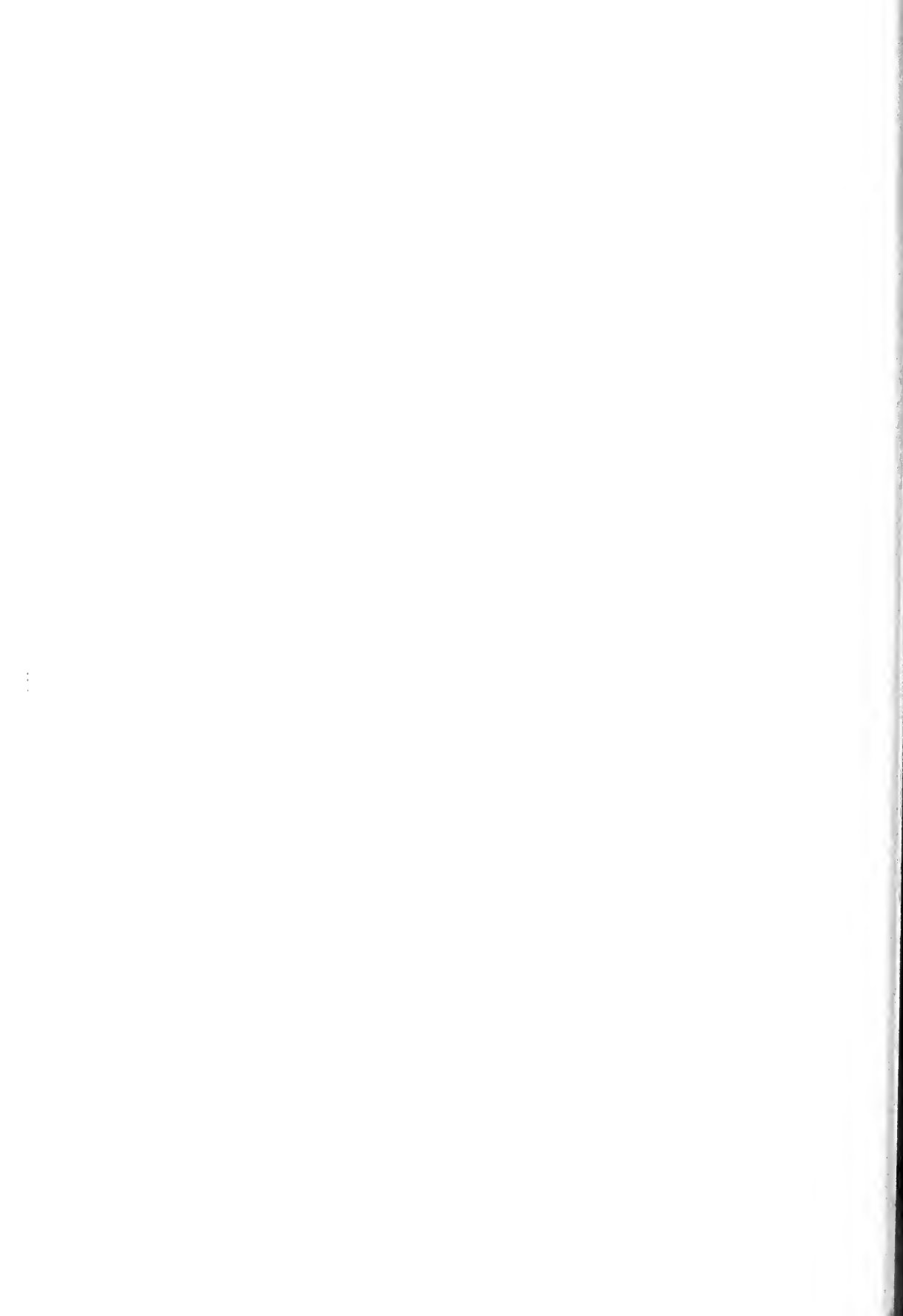
And I do verily believe that I am an inhabitant as defined by section 1 (c) of *The Local Services Boards Act, 1979.*

Sworn before me in the  
District of  
in the Province of Ontario,  
this      day of      , 19      .

\_\_\_\_\_  
Signature of person making affidavit

\_\_\_\_\_  
Chairman,  
the Local Services Board of  
\_\_\_\_\_  
(Name of Local Services Board)







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An Act to provide  
for the Establishment of  
Local Services Boards

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*1st Reading*

June 7th, 1979

*2nd Reading*

November 13th, 1979

*3rd Reading*

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THE HON. L. BERNIER  
Minister of Northern Affairs

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



# BILL 122

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to provide for the Establishment of Local Services Boards

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THE HON. L. BERNIER  
Minister of Northern Affairs

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BILL 122

1979

## An Act to provide for the Establishment of Local Services Boards

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

1. In this Act,

Interpre-  
tation

- (a) "Board" means a Local Services Board established under this Act;
- (b) "Board area" means the geographical area within which the Board may exercise its jurisdiction;
- (c) "inhabitant", except for the purposes of sections 3 and 31, means a permanent resident of a Board area or an owner of property situate in a Board area, who is a Canadian citizen and who has attained the full age of eighteen years;
- (d) "Minister" means the Minister of Northern Affairs;
- (e) "owner" means a person entitled to convey land and whose interest in the land is defined and whose name is specified in an instrument registered in the proper land registry office.

2. This Act applies only in territory without municipal organi- Application  
zation.

3.—(1) In this section and in section 31, "inhabitant" means a permanent resident of a proposed Board area or an owner of property situate in a proposed Board area, who is a Canadian citizen and who has attained the full age of eighteen years. Interpretation

(2) Any ten inhabitants desiring the establishment of a Local Services Board may, in writing, authorize and name one of their number to call a meeting of the inhabitants to consider the desirability of establishing a Local Services Board. Calling of meeting

Notice (3) Where the person named does not call a meeting within ten days after being authorized to do so, any person who signed the authorization may call a meeting.

Idem

(4) The notice calling the meeting,

(a) shall be in Form 1;

(b) shall set forth by description or drawing the proposed Board area and the place, date, time and purpose of the meeting;

(c) shall be posted up in at least six conspicuous places in the proposed Board area;

(d) shall be sent by registered mail to the Minister; and

(e) may be published in a newspaper having general circulation in the proposed area,

and the day named in the notice shall be at least fourteen days from the date of the last posting or mailing, whichever occurs later.

Meeting

(5) The meeting shall take place at the time and place set forth in the notice, and the person named to call the meeting shall preside at the meeting as chairman, but, if he is absent or declines to act, the inhabitants who are present at the meeting shall elect one of their number to act as chairman.

Recording secretary

(6) The chairman shall appoint from among the inhabitants present a recording secretary who shall,

(a) record the proceedings of the meeting;

(b) post up copies of the record of the proceedings in at least six conspicuous places in the proposed Board area; and

(c) shall send a signed copy of the record of the proceedings, including the recommendations agreed upon by the meeting under subsection 8, by registered mail to the Minister.

Voting

(7) Any recommendation or other matter to be determined at the meeting shall be determined by a vote of the majority of the inhabitants present and voting, and the chairman shall decide how the voting shall be conducted.

Recommendations

(8) The inhabitants shall make recommendations to the Minister in respect of,

(a) the desirability of establishing a Local Services Board;

- (b) the boundaries of the Board area;
- (c) the name of the Board;
- (d) whether the number of Board members should be three or five;
- (e) the powers, chosen from those set out in the Schedule hereto, which the Board should have; and
- (f) such other matters as the inhabitants consider appropriate.

(9) The recommended boundaries of the proposed Board area shall not include a greater area than the area described in the notice calling the meeting. Boundaries

4. Where the Minister receives the recommendations made under section 3, the Minister may, by order, Powers of Minister

- (a) establish a Local Services Board under the name of "The Local Services Board of .....";
- (b) establish the boundaries of the Board area;
- (c) establish the number of Board members;
- (d) establish the term of office of the first Board;
- (e) designate the powers from those listed in the Schedule hereto that the Board may exercise;
- (f) provide for all matters necessary to conduct the election for the first Board members; and
- (g) provide for such other matters as the Minister considers appropriate.

5. Except as may be provided for by order of the Minister made under section 4, the term of office of a Board member shall be for one year from the 1st day of October in any year to the 30th day of September in the next year. Term of office

6.—(1) A Board is a corporation but *The Corporations Act* does not apply to the Board. Board is corporation  
R.S.O. 1970,  
c. 89

(2) A Board is not a municipality or a local board for the purposes of any Act. Board not municipality  
or local board

- Powers**            **7.**—(1) A Board may exercise the powers designated in the order of the Minister and in the exercise of those powers may do all things and make all arrangements necessary to provide, maintain and improve services in the Board area.
- Areas**            (2) Where, in the exercise of its powers, a Board provides a service, the Board may,
- (a) provide the service to the whole of the Board area or to one or more parts of the Board area designated by the Board; or
- (b) provide a different level of the service to different designated parts of the Board area,
- provided that no fee shall be charged and no levy shall be imposed in respect of a service or a level of service in any part of the Board area in which the service or the level of service is not provided.
- Review**            (3) A Board may at any time apply to the Minister for a review of the powers being exercised by the Board.
- Committees**      (4) The Board may appoint such committees to advise it in the conduct of its affairs as the Board considers appropriate.
- Insurance**        (5) The Board shall, by by-law, contract for insurance against risks that may involve pecuniary loss or liability on the part of the Board and provide for the payment of premiums therefor.
- Limitation on actions**    (6) No action shall be brought against a Board or any member of a Board for damage caused by any failure by the Board to exercise any of its powers or to provide any service.
- Assignment of contracts**  
R S O 1970, c 89      (7) A Board may by by-law accept the assignment of any contract or agreement entered into by a corporation incorporated under Part III of *The Corporations Act* where the subject-matter of the contract or agreement is consistent with the powers of the Board.
- Acquisition of land**      **8.** In the exercise of its powers, a Board may acquire land by purchase or lease for its purposes and, when the land is no longer required for the purposes of the Board, dispose of it.
- Chairman head of Board**    **9.**—(1) The chairman is the head of the Board and shall preside at all meetings of the Board.
- Absence, etc., of chairman**    (2) In the absence of the chairman, or if his office is vacant, or if he refuses to act, the Board may, from among its members, appoint an acting chairman who, during such absence, vacancy or refusal to act, shall act in the place of the chairman and preside at the meetings of the Board.

(3) If a member of the Board ceases to be an inhabitant, fails to attend any three consecutive meetings of the Board, refuses to act or dies, the remaining Board members may by by-law call a public meeting to elect an inhabitant of the Board area to serve for the remainder of the term of such member and the provisions of subsections 2, 3, 6 and 7 of section 19 apply. Failure to attend meetings, etc.

**10.**—(1) A majority of members of the Board constitutes a quorum. Quorum

(2) The concurrent vote of the majority of the whole number of Board members is necessary to pass any by-law or approve any measure. Voting

(3) All meetings of the Board shall be open to the public. Meetings open

**11.** Subject to the provisions of this Act, the Board shall by by-law establish its own procedures. Procedures

**12.**—(1) All by-laws of the Board shall be under seal. Seal

(2) The Board shall by by-law authorize the secretary and one or more members of the Board to be signing officers on behalf of the Board. Signing officers

**13.** A Board member shall not be paid any remuneration for the performance of his duties as a Board member. No remuneration

**14.**—(1) The Board shall appoint a secretary, Secretary

(a) who may be a member of the Board other than the chairman; and

(b) who shall hold office at the pleasure of the Board.

(2) The secretary before entering on the duties of office shall give security in a form and on such terms as the Minister may approve for the faithful performance of such duties and for duly accounting for and paying over all moneys that come into his hands. Security

(3) The premiums in respect of the security shall be paid by the Board. Premiums

(4) In addition to the other duties prescribed by this Act, the secretary shall, Duties

(a) attend all meetings of the Board;

(b) keep minutes of such meetings;

- (c) ensure that copies of the minutes of meetings are posted up in at least six conspicuous places;
- (d) post up notices of meetings called by the Board;
- (e) carry on correspondence as directed by the Board;
- (f) receive and safely keep all moneys paid to the Board;
- (g) maintain books of account and other records as may be required by the Board or by the Minister; and
- (h) perform such other duties as the Board may assign.

**Honorarium**      **15.** The Board may pay to the secretary such honorarium as the Board by by-law determines.

**Public meetings**      **16.** A Board shall conduct sufficient public meetings so that the inhabitants may,

- (a) participate in a discussion of the current and proposed programs of the Board;
- (b) participate in the preparation of the annual estimates of the Board; and
- (c) participate in a discussion of the annual audit report.

**Notice**      **17.** A notice of a public meeting other than a meeting called under section 3 or 19 shall contain the place, date, time and purpose of the meeting, the signature of the secretary or the person or persons calling the meeting, and copies of the notice shall be posted up in at least six conspicuous places in the Board area at least one week in advance of the meeting.

**Improper conduct**      **18.** The chairman may expel or exclude from any meeting any person including a Board member for improper conduct at the meeting.

**Election meeting**      **19.—(1)** In each year, the Board shall call an election meeting of the inhabitants to be held in the Board area after the 1st day of August and before the 30th day of September for the purpose of electing a new Board.

**Notice**      (2) At least two weeks before the election meeting, the secretary shall post up notice of the place, date and time of the election meeting in at least six conspicuous places in the Board area and shall send a copy of the notice by registered mail to the Minister.



(3) The chairman of the Board shall act as chairman of the election meeting. Chairman

(4) If the Board fails to call an election meeting before the 10th day of September, the secretary shall immediately call such a meeting by giving notice as provided in subsection 2 and shall act as the chairman of the meeting notwithstanding that the chairman of the Board attends the meeting. Failure to call meeting

(5) If in any year both the Board and the secretary fail to call an election meeting before the 15th day of September, any ten inhabitants may call a meeting and may appoint one of their number to act as chairman of the meeting and such inhabitant shall act as chairman notwithstanding that the chairman of the Board attends the meeting. Idem

(6) Any inhabitant is eligible to be elected as a member of the Board. Qualifications

(7) For all elections after the first election, the Board shall, subject to subsection 8, determine all matters relating to the conduct of elections. Conduct of elections

(8) Voting for the election of members of the Board shall be by way of secret ballot. Voting

**20.** Where the eligibility of any inhabitant to vote or to seek office is challenged, the chairman shall require that the inhabitant whose eligibility has been challenged swear an affidavit before him in Form 2 and, where the inhabitant swears such affidavit, he may thereupon vote at the meeting or be eligible to seek office. Challenge to eligibility

**21.** The Board shall hold its first meeting after the election meeting not later than the 10th day of October, and at such meeting shall elect one of its members as chairman. First meeting

**22.** On or before the 15th day of October in each year, the Minister of Revenue shall cause to be sent to the secretary of every Board a copy of that portion of the Provincial Land Tax Register showing the lands in the Board area liable to assessment and taxation under *The Provincial Land Tax Act* and the amount of the assessment. Provincial Land Tax Register  
R.S.O. 1970,  
c. 370

**23.—(1)** Before the 1st day of December in each year, the Board shall prepare and, after public discussion, adopt annual estimates of all amounts required for the purposes of the Board for operating and capital expenditures for the current fiscal year. Annual estimates

(2) In preparing the estimates, the Board shall take into account any surplus from the previous year that will be available Matters to be taken into account

in the current year, any operating deficit from the previous year and any debt owing to the Crown payable in the current year.

Contents of estimates

- (3) The estimates shall set out,
- (a) the amounts to be raised;
  - (b) the manner in which the amounts are to be raised; and
  - (c) the rate or rates, if any, which the Board proposes be added to the provincial land tax in the whole or any part of the Board area.

Where rates to be added under R.S.O. 1970, c. 370

(4) No rate shall be imposed under *The Provincial Land Tax Act* for the purposes of the Board, unless the rate, the purpose for which it is to be levied, and the area in which the rate is to be levied, are approved by a majority vote of the inhabitants present and voting at a meeting called for that purpose.

Copy to Minister

(5) Before the 10th day of December in each year, the secretary shall send a copy of the estimates and the by-law adopting the estimates to the Minister by registered mail.

Payment to Board

**24.**—(1) The Minister shall pay to the Board annually out of moneys appropriated therefor by the Legislature such amount as he considers appropriate after taking into account the estimates of the Board, the moneys paid to the Board by the Minister of Revenue under section 26, the fees collected by the Board for the supply of services or the use of facilities and such other amounts as by the initiatives of the inhabitants have been raised and granted to the Board.

Idem

(2) The Minister may pay to the Board annually out of moneys appropriated therefor by the Legislature an amount equal to twice the amount that the rate or rates levied under section 26 would produce if levied in respect of the improved Crown land within the Board area.

Rates under R.S.O. 1970, c. 370

**25.**—(1) Where in any year the inhabitants have approved a rate or rates to be levied under *The Provincial Land Tax Act* as provided for in section 23, the Board may by by-law passed before the 1st day of December in that year request the Minister of Revenue to levy and collect under that Act in the next ensuing calendar year, such rate or rates in respect of properties taxable under *The Provincial Land Tax Act*.

Copy of by-law to Minister of Revenue

(2) The secretary shall send a copy of the by-law passed under subsection 1 to the Minister of Revenue by registered mail immediately after the passing of the by-law.

Levy under R.S.O. 1970, c. 370

**26.**—(1) Where the Minister of Revenue receives a by-law passed under subsection 1 of section 25, he shall levy in the

calendar year for which the by-law was passed the rate or rates set out in the by-law in respect of the property taxable under *The Provincial Land Tax Act* in the whole or such part of the Board area to which the rate or rates apply, and such rate or rates and the amounts imposed are deemed to be a tax and shall be shown on the tax bill for such property as "Taxes for the purposes of The Local Services Board of . . . (naming the Board)", and shall be collected as though it were for all purposes provincial land tax.

(2) Notwithstanding section 3 of *The Provincial Land Tax Act*, land belonging to the Board is exempt from taxation under *The Provincial Land Tax Act*. Exemption

(3) The Minister of Revenue shall pay to the Board the amounts collected under subsection 1. Payment to Board

**27.** The Board may by by-law establish such reserves from its revenues as the Board considers appropriate for expenditure in a subsequent fiscal year or years. Reserves

**28.** A Board may incur a debt for the purposes of the Board but shall not incur any debt the payment of which is not provided for in the estimates for the current fiscal year of the Board unless, Debt

(a) it is a debt owed to the Crown in right of Ontario; or

(b) the purpose for which the debt is to be incurred and the amount thereof is approved by a majority vote of the inhabitants present and voting at a meeting called for that purpose and the approval of the Minister to the incurring of the debt is obtained.

**29.—(1)** A Board shall engage a public accountant licensed as a municipal auditor under *The Municipal Affairs Act* to audit its accounts and transactions and to make a report to it annually or more often as the board requires. Audit  
R.S.O. 1970,  
c. 118

(2) The fiscal year of a Board is the year commencing on the 1st day of October and expiring with the 30th day of September next following. Fiscal year

(3) The secretary shall send a copy of the annual audit report by registered mail to the Minister. Copy of report to Minister

(4) The secretary shall permit any inhabitant at any reasonable time to examine and copy the audit report. Examination of report

(5) The Minister may at any time cause the accounts and transactions of a Board to be audited. Audit required by Minister

Minister  
may  
dissolve  
Board

**30.** Where the Minister determines that a Board is misusing its funds or is not administering its affairs in a proper and straightforward manner or cannot or is unlikely to be able to meet its obligations as they fall due, the Minister may by order,

- (a) dissolve the Board and call a new election;
- (b) dissolve the Board and assume the powers of the Board;  
or
- (c) dissolve the Board and the Board area and subsection 3 of section 32 applies to the order.

Proposal  
to alter  
boundaries  
or vary  
powers

**31.**—(1) Where a Board considers it desirable that the boundaries of the Board area be altered or the powers of the Board be varied, the Board shall put the proposal to a vote of the inhabitants at a meeting called for that purpose, and the notice of such meeting shall outline the proposal.

Notice

(2) Where it is proposed that the Board area be enlarged, the secretary shall post within the area proposed to be added the notice mentioned in subsection 1 and inhabitants in the area proposed to be added may attend the meeting and vote upon the proposal.

Recording  
of vote

(3) Where it is proposed that the boundaries of a Board area be altered, the secretary shall record separately the vote of the inhabitants within the area that it is proposed to be added to, or to be removed from, the Board area.

Powers of  
Minister

(4) Where a majority of the inhabitants present at the meeting vote in favour of a proposal made under subsection 1, the secretary shall forward to the Minister,

- (a) a copy of the proposal as approved at the meeting;
- (b) a statement of the results of the vote showing the vote of the inhabitants for and against the proposal; and
- (c) where it is proposed that the boundaries of the Board be altered, a statement of the vote of the inhabitants of the area it is proposed be added to or removed from the Board area,

and the Minister may make such order as he considers appropriate.

Proposal to  
dissolve  
Board

**32.**—(1) Where a board or any ten inhabitants propose that the Board be dissolved, the proposal shall be put to a vote of the

inhabitants at a meeting called for that purpose, and the notice of such meeting shall outline the proposal.

(2) Where the majority of inhabitants present at the meeting approve a proposal that the Board be dissolved, the secretary shall send to the Minister a copy of the proposal together with a statement of the vote for and against the proposal, and the Minister, if he considers it appropriate, may by order dissolve the Board and the Board area. Powers of Minister

(3) In an order for dissolution, the Minister may make such provisions with respect to the transfer of liabilities and assets of the Board as he considers appropriate. Transfer of assets and liabilities

**33.** The Minister may by order prescribe a French language version of any form that is prescribed by this Act and provide for its use. Forms in French language

**34.** The Lieutenant Governor in Council may make regulations amending the Schedule hereto. Regulations

**35.** Section 21 of *The Provincial Land Tax Act*, being chapter 370 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: R.S.O. 1970, c. 370, s. 21, amended

(4) In determining for the purposes of subsection 3 the annual tax imposed under this Act no account shall be taken of any tax imposed pursuant to *The Local Services Boards Act, 1979*. Idem 1979, c. ...

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

**37.** The short title of this Act is *The Local Services Boards Act, 1979*. Short title

## SCHEDULE

### 1. WATER SUPPLY

The Board may, by by-law,

- (a) acquire, establish, operate and maintain works for; or
- (b) contract for,

a supply of water and for that purpose may regulate the time, manner, extent and nature of such supply and the persons to whom water may be supplied, and may charge a fee for the cost of such supply.

### 2. FIRE PROTECTION

The Board may, by by-law,

- (a) acquire, establish, operate and maintain a fire-hall, fire engines and apparatus and equipment for fire fighting and fire protection; or
- (b) contract for fire protection,

and may charge a fee for the cost of such service.

### 3. GARBAGE COLLECTION

The Board may, by by-law,

- (a) establish and maintain a system for the collection and removal of garbage; or
- (b) contract for the collection, removal and disposal of garbage,

and for that purpose may regulate the occasions, manner, extent and nature of such service and the persons to whom such service may be supplied, and may charge a fee for the cost of such service.

### 4. SEWAGE

The Board may, by by-law,

- (a) acquire, establish, operate and maintain sewage works, including sewers, pumping plants, treatment works and other like works necessary for a sewage collection and treatment system; or
- (b) contract for the collection and treatment of sewage,

and for such purposes may charge a fee for such service or add a surcharge to the fee, if any, for water supply, or,

- (c) upon such terms and conditions as the Board considers appropriate and with the approval of a majority of the inhabitants at a meeting called for that purpose, financially assist by grant or loan the installation of private septic tank systems or other systems approved by the Ministry of the Environment for the benefit of any inhabitant or inhabitants.

### 5. STREET OR AREA LIGHTING

The Board may, by by-law,

(a) contract with Ontario Hydro or any person for the provision of street or area lighting in the Board area; or

(b) contract with Ontario Hydro or any person for the provision of power and acquire by purchase or lease lights, light standards and lighting equipment in order to provide street or area lighting in the Board area,

and may charge a fee for the cost of such service, but no Board shall generate its own power.

6. RECREATION

The Board may, by by-law,

(a) contract for the use of recreation facilities or participation in programs of recreation;

(b) provide for the carrying out of programs of recreation; or

(c) acquire, establish, construct, operate and maintain recreation facilities,

and may charge fees in respect of the programs of recreation or the recreation facilities, and the Board shall be deemed to be an approved corporation for the purposes of *The Community Recreation Centres Act, 1974*.

FORM 1

NOTICE OF MEETING

TAKE NOTICE that a meeting will be held to consider the desirability of establishing a Local Services Board in the .....area.

The proposed Board area to be considered at the meeting is \_\_\_\_\_

\_\_\_\_\_  
(describe boundaries of proposed Board area or attach a

\_\_\_\_\_  
drawing or map depicting the proposed Board area).

The meeting will take place:

at \_\_\_\_\_  
(time)

on \_\_\_\_\_  
(day)

in \_\_\_\_\_  
(place)

Date of Notice:

Signature of Person  
calling the meeting \_\_\_\_\_

FORM 2

AFFIDAVIT OF ELIGIBILITY TO VOTE

I, \_\_\_\_\_, of  
(print name)

\_\_\_\_\_ make oath and say as follows:

- 1. I am a Canadian Citizen;
- 2. I am of the full age of eighteen years;

(complete either 3 or 4)

If person making affidavit is a permanent resident

3. I do permanently reside at \_\_\_\_\_

\_\_\_\_\_ (a brief description of the property's location)

in the Board area.

OR

If person making affidavit is not a permanent resident but owns property within the Board Area

4. I am the owner of \_\_\_\_\_ (legal description, or if unavailable,

\_\_\_\_\_ a brief description of property's location)

located in the Board area.

And I do verily believe that I am an inhabitant as defined by section 1(c) of *The Local Services Boards Act, 1979*.

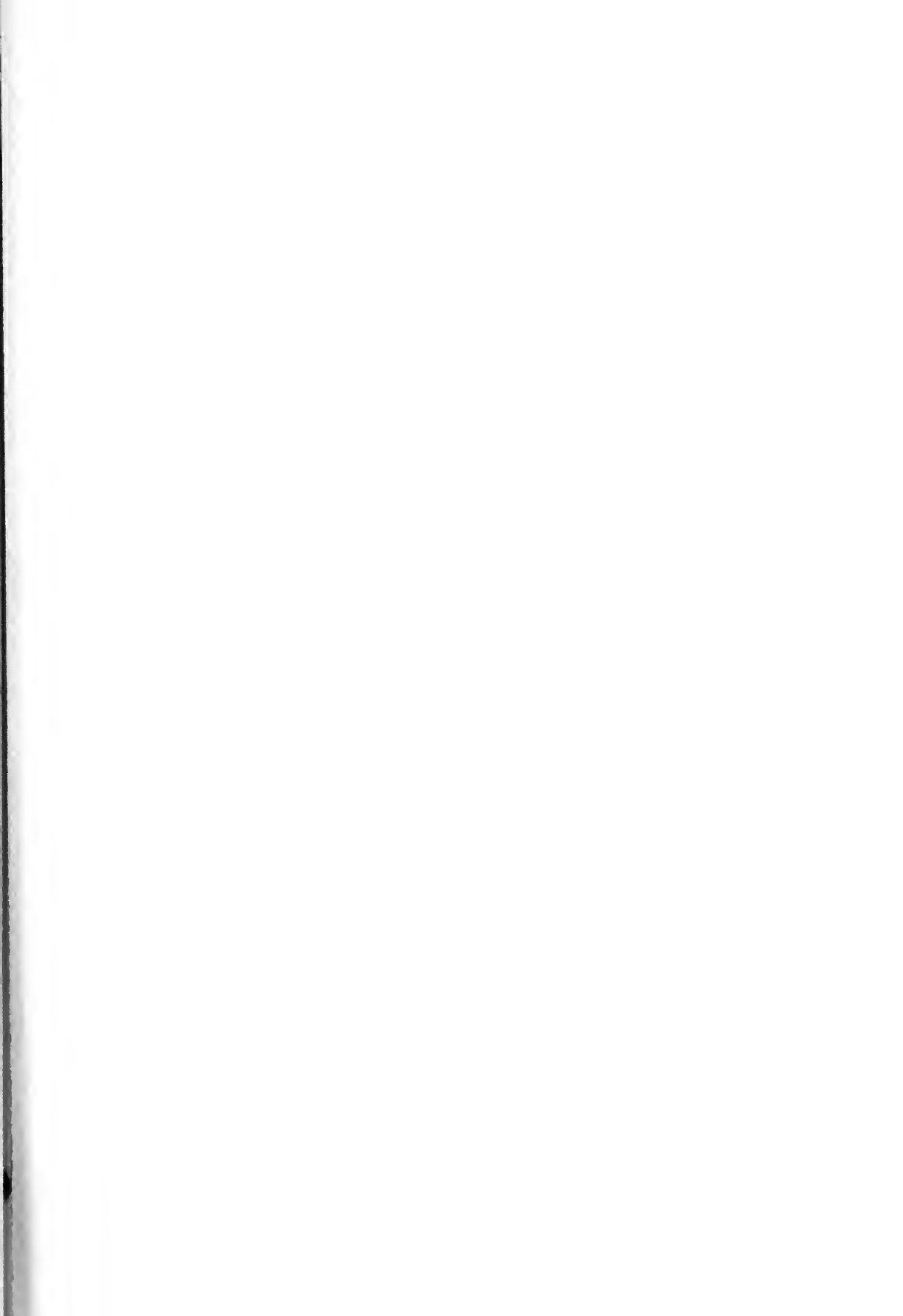
Sworn before me in the  
District of  
in the Province of Ontario,  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Signature of person making affidavit

\_\_\_\_\_  
Chairman,  
the Local Services Board of

\_\_\_\_\_  
(Name of Local Services Board)









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An Act to provide  
for the Establishment of  
Local Services Boards

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*1st Reading*

June 7th, 1979

*2nd Reading*

November 13th, 1979

*3rd Reading*

November 26th, 1979

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THE HON. L. BERNIER  
Minister of Northern Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for Municipal Hydro-Electric Service  
in The Regional Municipality of Durham**

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THE HON. J. A. C. AULD  
Minister of Energy

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#### EXPLANATORY NOTE

The Bill establishes new hydro-electric commissions for the municipalities of Ajax, Brock, Newcastle, Pickering, Scugog, Uxbridge and Whitby and a public utilities commission for the City of Oshawa.

A transitional period is provided before the new commissions become fully operational.

The control and management of the bus transportation system of the City of Oshawa is transferred to the commission established by the Bill for the City of Oshawa.

For the new Pickering Hydro-Electric Commission, the date for the commencement of the distribution and supply of power and for other related matters will be six months after the commencement date for the other new commissions, and the term of the first commissioners of the Pickering Hydro-Electric Commission will extend to the 30th day of November, 1982.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30th, 1980 (November 30th, 1982 in Pickering), the members of its commission should be elected or appointed.

All customers in Ajax, Oshawa, Pickering and Whitby will be supplied with power by the new commissions.

Existing customers of Ontario Hydro in Brock, Newcastle, Scugog and Uxbridge will continue to be supplied with power by Ontario Hydro until the council of the area municipality, with the consent of Ontario Hydro, directs the new commission to supply power in all areas of the municipality. In the interim, the councils are required to review the distribution and supply of power at least once in every three years.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 123

1979

An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Durham

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

1. In this Act,

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the City of Oshawa, the Town of Ajax, the Town of Newcastle, the Town of Pickering, the Town of Whitby, the Township of Brock, the Township of Scugog and the Township of Uxbridge;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Durham Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 78  
R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;

(f) "regulations" means the regulations made under this Act;

(g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each area municipality is hereby established.

Application of R.S.O. 1970, cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Ajax Hydro-Electric Commission.
2. Brock Hydro-Electric Commission.
3. Newcastle Hydro-Electric Commission.
4. Oshawa Public Utilities Commission.
5. Pickering Hydro-Electric Commission.
6. Scugog Hydro-Electric Commission.
7. Uxbridge Hydro-Electric Commission.
8. Whitby Hydro-Electric Commission.

Composition

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

1977, c. 62

When area municipality may determine size of commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First commission. Ajax

(6) For the term expiring with the 30th day of November, 1980, the Ajax Hydro-Electric Commission established by sub-



section 1 shall consist of the mayor of the Town of Ajax and the following additional members who shall be appointed by the council of the Town of Ajax:

1. Two members of the Hydro-Electric Commission of the Town of Ajax as it existed immediately before the coming into force of this Act.
2. One member of the Public Utilities Commission of the Village of Pickering as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Ajax supplied with power by a municipal commission immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1980, the Brock Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Brock and the following additional members who shall be appointed by the council of the Township of Brock:

First  
commission,  
Brock

1. One member of the Hydro-Electric Commission of the Village of Beaverton as it existed immediately before the coming into force of this Act.
2. One member of the Hydro-Electric Commission of the Village of Cannington as it existed immediately before the coming into force of this Act.
3. One member of the Hydro-Electric Commission of Sunderland as it existed immediately before the coming into force of this Act.
4. One person who resides outside the part of the Township of Brock supplied with power by a municipal commission immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1980, the Newcastle Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Newcastle and the following four additional members who shall be appointed by the council of the Town of Newcastle:

First  
commission,  
Newcastle

1. One member of the Public Utilities Commission of the Town of Bowmanville as it existed immediately before the coming into force of this Act.

2. One member of the Public Utilities Commission of the Village of Newcastle as it existed immediately before the coming into force of this Act.
3. One member of the Hydro-Electric Commission of Orono as it existed immediately before the coming into force of this Act.
4. One person who resides outside the part of the Town of Newcastle supplied with power by a municipal commission immediately before the coming into force of this Act.

First  
commission,  
Oshawa

(9) For the term expiring with the 30th day of November, 1980, the Oshawa Public Utilities Commission established by subsection 1 shall consist of the mayor of the City of Oshawa and four additional members who shall be appointed by the council of the City of Oshawa, at least three of whom shall be as follows:

1. Two members of the Public Utilities Commission of the City of Oshawa as it existed immediately before the coming into force of this Act.
2. One person who resides outside the part of the City of Oshawa supplied with power by a municipal commission immediately before the coming into force of this Act.

First  
commission,  
Pickering

(10) For a term commencing on the day this Act comes into force and expiring with the 30th day of November, 1982, the Pickering Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Pickering and four additional members who shall be appointed by the council of the Town of Pickering.

First  
commission,  
Scugog

(11) For the term expiring with the 30th day of November, 1980, the Scugog Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Scugog and additional members who shall be appointed by the council of the Township of Scugog as follows:

1. At least one-half of the additional members shall be members of the Hydro-Electric Commission of the Village of Port Perry as it existed immediately before the coming into force of this Act.
2. At least one of the additional members shall be a person who resides outside the part of the Township of Scugog supplied with power by a municipal commission immediately before the coming into force of this Act.

(12) For the term expiring with the 30th day of November, 1980, the Uxbridge Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Uxbridge and additional members who shall be appointed by the council of the Township of Uxbridge as follows:

First  
commission,  
Uxbridge

1. At least one-half of the additional members shall be members of the Public Utilities Commission of the Township of Uxbridge as it existed immediately before the coming into force of this Act.
2. At least one of the additional members shall be a person who resides outside the part of the Township of Uxbridge supplied with power by a municipal commission immediately before the coming into force of this Act.

(13) For the term expiring with the 30th day of November, 1980, the Whitby Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Whitby and the members, other than *ex officio* members, of the Public Utilities Commission of the Town of Whitby as it existed immediately before the coming into force of this Act.

First  
commission,  
Whitby

(14) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Additional  
members  
of first  
commission  
1977, c. 62

(15) For terms commencing after the 30th day of November, 1980, or, for the Pickering Hydro-Electric Commission, the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980 or, for the Pickering Hydro-Electric Commission, the 1st day of July, 1982, the council of the area municipality provides by by-law that the additional members shall be appointed by the council or that the additional members shall be elected by wards.

Additional  
members of  
subsequent  
commissions

(16) Where, under subsection 15, the council of an area municipality provides that the additional members shall be elected by wards and the number of additional members is greater than the number of wards, one of the additional members shall be elected from each ward and the balance of the additional members

Election  
by wards

shall be elected by general vote of the electors in the area municipality.

Idem

(17) Notwithstanding subsection 15, where the number of additional members is less than the number of wards, the council of the area municipality shall not provide that the additional members be elected by wards.

Eligibility  
of members  
of council

(18) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of  
office

(19) Subject to subsection 10, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(20) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary of  
first  
commissions

(21) The salaries of the members of the commissions established by subsection 1 for the period expiring with the 30th day of November, 1980 shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Durham Act, 1973* on the 1st day of January, 1979.

1973, c 78

Resignations

(22) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of  
commissions  
R S O 1970,  
c 390

**3.—(1)** Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to  
distribute  
and supply  
power

(2) Subject to sections 4 and 5, on and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting  
contracts

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for

the supply of power made under section 70 of *The Power Corporation Act*. R.S.O. 1970, c. 354

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission. Contract with Ontario Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*. Idem R.S.O. 1970, c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2. Application of R.S.O. 1970, c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established. Direct customers

4.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Newcastle, and the townships of Brock, Scugog and Uxbridge that Ontario Hydro served immediately before the coming into force of this Act. Where Ontario Hydro to distribute and supply power

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under clause a of subsection 1 of section 5. Termination of duty to distribute and supply power

(3) Sections 7 and 10 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality until the passing of the by-law referred to in subsection 2. Assets and employees

5.—(1) The council of each of the Town of Newcastle and the townships of Brock, Scugog and Uxbridge, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law, Supply of power in all areas of municipalities of Brock, Newcastle, Scugog, Uxbridge

(a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 7 and 10 shall apply with neces-

sary modifications to the assets and employees of Ontario Hydro in the municipality; or

(b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,

(i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and

(ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of  
distribution  
and supply  
of power

(2) Until such time as the power conferred by subsection 1 has been exercised,

(a) the council of each of the Town of Newcastle and the townships of Brock, Scugog and Uxbridge shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

(b) where the council of the Town of Newcastle or the townships of Brock, Scugog and Uxbridge determines as provided in clause a that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

Transfer of  
assets and  
liabilities

6.—(1) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transitional

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1980 to the commission established by section 2 in respect of the area municipality.

Purchase  
of retail  
distribution  
facilities  
from Ontario  
Hydro

7.—(1) On or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the

area municipality served by the commission, and Ontario Hydro shall sell to the commission the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers. Leased equipment

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of, Purchase price

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

(4) If the purchase price under subsection 3 is not determined before the 1st day of January, 1981, either of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration. Where price to be determined by arbitration

(5) Where a request is made under subsection 4 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration. Where parties unable to agree on single arbitrator

(6) Where a request is made under subsection 4 or 5 that the purchase price be determined by a board of arbitration, Arbitration board

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

Application of  
R.S.O. 1970,  
c. 25

(7) Except as otherwise provided in this section, *The Arbitrations Act* applies to subsections 4, 5 and 6.

Interpre-  
tation

(8) In subsections 4, 5 and 6, "parties" means Ontario Hydro and, in each case, the commission established by section 2.

Vesting  
of real  
property

**8.—(1)** All real property transferred by section 6 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
1973, c. 78,

**9.** Except as otherwise provided in this Act, sections 100 to 121 of *The Regional Municipality of Durham Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-  
tation

**10.—(1)** In this section, "transfer date", when used in respect of an employee of a municipal commission or Ontario Hydro,



means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

(2) On or before the 31st day of December, 1979, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer of employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Participation in O M E R S.

R.S.O. 1970, c. 324

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Supplementary agreements

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees

Transfer of pension credits from Ontario Hydro Plan

Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension  
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

(a) was employed by Ontario Hydro immediately before his transfer date; and

(b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

Group life  
insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Idem

(9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Sick leave

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life  
insurance  
provided to  
pensioners

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by

a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination  
for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special  
circum-  
stances

**11.**—(1) On and after the 1st day of January, 1980, the control and management of the bus transportation system operated by the Public Utilities Commission of the City of Oshawa is entrusted to the Oshawa Public Utilities Commission established by section 2. Oshawa bus  
transporta-  
tion system

(2) Sections 6 and 10 apply with necessary modifications in respect of the bus transportation system operated by the Public Utilities Commission of the City of Oshawa. Application  
of ss. 6, 10

**12.** With respect to the Pickering Hydro-Electric Commission established by section 2, each date mentioned in sections 3, 7 and 10 shall be deemed to be a date six months after the mentioned date. Pickering  
Hydro-  
Electric  
Commission

**13.** For the purposes of section 143 of *The Regional Municipality of Durham Act, 1973*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Durham Act, 1973*, and on that date the municipal commissions are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution  
of existing  
commissions  
1973, c. 78  
  
R.S.O. 1970,  
c. 390

**14.** The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 7 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,

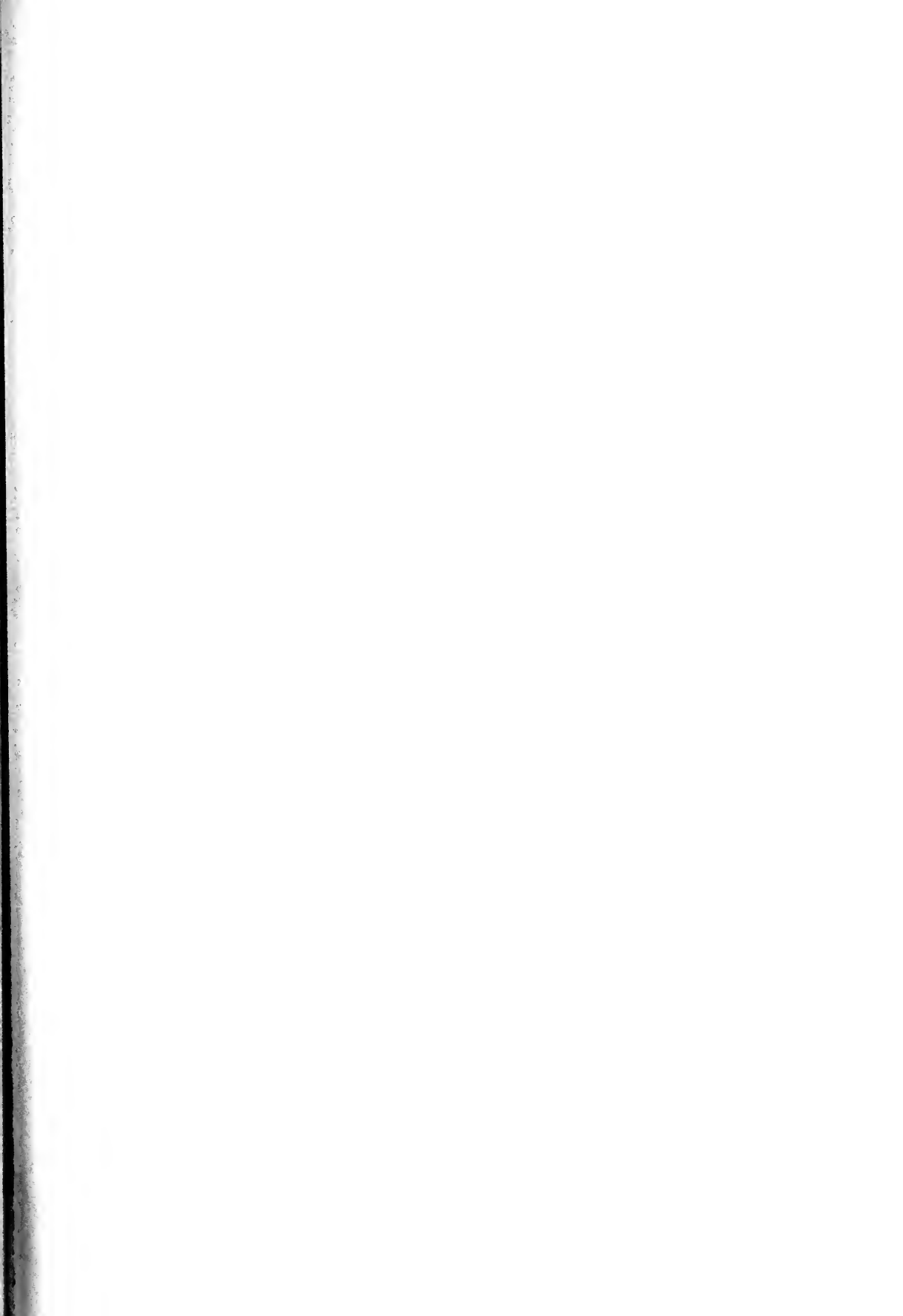
- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
  - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
  - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
  - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 10, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-  
ment

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

Short title

**16.** The short title of this Act is *The Durham Municipal Hydro-Electric Service Act, 1979*.







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An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Durham

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*1st Reading*

June 7th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Energy

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*(Government Bill)*

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# BILL 123

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Durham

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THE HON. J. A. C. AULD  
Minister of Energy

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BILL 123

1979

**An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Durham**

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

**1.** In this Act,

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the City of Oshawa, the Town of Ajax, the Town of Newcastle, the Town of Pickering, the Town of Whitby, the Township of Brock, the Township of Scugog and the Township of Uxbridge;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Durham Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 78  
R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;

(f) "regulations" means the regulations made under this Act;

(g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each area municipality is hereby established.

Application of R.S.O. 1970, cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Ajax Hydro-Electric Commission.
2. Brock Hydro-Electric Commission.
3. Newcastle Hydro-Electric Commission.
4. Oshawa Public Utilities Commission.
5. Pickering Hydro-Electric Commission.
6. Scugog Hydro-Electric Commission.
7. Uxbridge Hydro-Electric Commission.
8. Whitby Hydro-Electric Commission.

Composition

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

1977, c 62

When area municipality may determine size of commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First commission, Ajax

(6) For the term expiring with the 30th day of November, 1980, the Ajax Hydro-Electric Commission established by sub-

section 1 shall consist of the mayor of the Town of Ajax and the following additional members who shall be appointed by the council of the Town of Ajax:

1. Two members of the Hydro-Electric Commission of the Town of Ajax as it existed immediately before the coming into force of this Act.
2. One member of the Public Utilities Commission of the Village of Pickering as it existed immediately before the coming into force of this Act.
3. One person who resides outside the part of the Town of Ajax supplied with power by a municipal commission immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1980, the Brock Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Brock and the following additional members who shall be appointed by the council of the Township of Brock: <sup>First commission, Brock</sup>

1. One member of the Hydro-Electric Commission of the Village of Beaverton as it existed immediately before the coming into force of this Act.
2. One member of the Hydro-Electric Commission of the Village of Cannington as it existed immediately before the coming into force of this Act.
3. One member of the Hydro-Electric Commission of Sunderland as it existed immediately before the coming into force of this Act.
4. One person who resides outside the part of the Township of Brock supplied with power by a municipal commission immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1980, the Newcastle Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Newcastle and the following four additional members who shall be appointed by the council of the Town of Newcastle: <sup>First commission, Newcastle</sup>

1. One member of the Public Utilities Commission of the Town of Bowmanville as it existed immediately before the coming into force of this Act.

2. One member of the Public Utilities Commission of the Village of Newcastle as it existed immediately before the coming into force of this Act.
3. One member of the Hydro-Electric Commission of Orono as it existed immediately before the coming into force of this Act.
4. One person who resides outside the part of the Town of Newcastle supplied with power by a municipal commission immediately before the coming into force of this Act.

First  
commission,  
Oshawa

(9) For the term expiring with the 30th day of November, 1980, the Oshawa Public Utilities Commission established by subsection 1 shall consist of the mayor of the City of Oshawa and four additional members who shall be appointed by the council of the City of Oshawa, at least three of whom shall be as follows:

1. Two members of the Public Utilities Commission of the City of Oshawa as it existed immediately before the coming into force of this Act.
2. One person who resides outside the part of the City of Oshawa supplied with power by a municipal commission immediately before the coming into force of this Act.

First  
commission,  
Pickering

(10) For a term commencing on the day this Act comes into force and expiring with the 30th day of November, 1982, the Pickering Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Pickering and four additional members who shall be appointed by the council of the Town of Pickering.

First  
commission,  
Scugog

(11) For the term expiring with the 30th day of November, 1980, the Scugog Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Scugog and additional members who shall be appointed by the council of the Township of Scugog as follows:

1. At least one-half of the additional members shall be members of the Hydro-Electric Commission of the Village of Port Perry as it existed immediately before the coming into force of this Act.
2. At least one of the additional members shall be a person who resides outside the part of the Township of Scugog supplied with power by a municipal commission immediately before the coming into force of this Act.

(12) For the term expiring with the 30th day of November, 1980, the Uxbridge Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Uxbridge and additional members who shall be appointed by the council of the Township of Uxbridge as follows:

First  
commission,  
Uxbridge

1. At least one-half of the additional members shall be members of the Public Utilities Commission of the Township of Uxbridge as it existed immediately before the coming into force of this Act.
2. At least one of the additional members shall be a person who resides outside the part of the Township of Uxbridge supplied with power by a municipal commission immediately before the coming into force of this Act.

(13) For the term expiring with the 30th day of November, 1980, the Whitby Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Whitby and the members, other than *ex officio* members, of the Public Utilities Commission of the Town of Whitby as it existed immediately before the coming into force of this Act.

First  
commission,  
Whitby

(14) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Additional  
members  
of first  
commission  
1977, c. 62

(15) For terms commencing after the 30th day of November, 1980, or, for the Pickering Hydro-Electric Commission, the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980 or, for the Pickering Hydro-Electric Commission, the 1st day of July, 1982, the council of the area municipality provides by by-law that the additional members shall be appointed by the council or that the additional members shall be elected by wards.

Additional  
members of  
subsequent  
commissions

(16) Where, under subsection 15, the council of an area municipality provides that the additional members shall be elected by wards and the number of additional members is greater than the number of wards, one of the additional members shall be elected from each ward and the balance of the additional members

Election  
by wards

shall be elected by general vote of the electors in the area municipality.

Idem

(17) Notwithstanding subsection 15, where the number of additional members is less than the number of wards, the council of the area municipality shall not provide that the additional members be elected by wards.

Eligibility  
of members  
of council

(18) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of  
office

(19) Subject to subsection 10, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(20) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary of  
first  
commissions

(21) The salaries of the members of the commissions established by subsection 1 for the period expiring with the 30th day of November, 1980 shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Durham Act, 1973* on the 1st day of January, 1979.

1973, c. 78

Resignations

(22) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of  
commissions  
R.S.O. 1970,  
c. 390

**3.—**(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to  
distribute  
and supply  
power

(2) Subject to sections 4 and 5, on and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting  
contracts

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for



the supply of power made under section 70 of *The Power Corporation Act*. R S O. 1970,  
c. 354

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission. Contract with Ontario Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*. Idem  
R S O. 1970,  
c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2. Application of R S O. 1970,  
c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established. Direct customers

4.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Newcastle, and the townships of Brock, Scugog and Uxbridge that Ontario Hydro served immediately before the coming into force of this Act. Where Ontario Hydro to distribute and supply power

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under clause a of subsection 1 of section 5. Termination of duty to distribute and supply power

(3) Sections 7 and 10 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality until the passing of the by-law referred to in subsection 2. Assets and employees

5.—(1) The council of each of the Town of Newcastle and the townships of Brock, Scugog and Uxbridge, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law, Supply of power in all areas of municipalities of Brock, Newcastle, Scugog, Uxbridge

(a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 7 and 10 shall apply with neces-

sary modifications to the assets and employees of Ontario Hydro in the municipality; or

- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
  - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
  - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of  
distribution  
and supply  
of power

(2) Until such time as the power conferred by subsection 1 has been exercised,

- (a) the council of each of the Town of Newcastle and the townships of Brock, Scugog and Uxbridge shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Town of Newcastle or the townships of Brock, Scugog and Uxbridge determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

Transfer of  
assets and  
liabilities

**6.**—(1) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transitional

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1980 to the commission established by section 2 in respect of the area municipality.

Purchase  
of retail  
distribution  
facilities  
from Ontario  
Hydro

**7.**—(1) On or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the

area municipality served by the commission, and Ontario Hydro shall sell to the commission the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers. Leased equipment

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of, Purchase price

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

(4) If the purchase price under subsection 3 is not determined before the 1st day of January, 1981, either of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration. Where price to be determined by arbitration

(5) Where a request is made under subsection 4 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration. Where parties unable to agree on single arbitrator

(6) Where a request is made under subsection 4 or 5 that the purchase price be determined by a board of arbitration, Arbitration board

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

Application of  
R.S.O. 1970,  
c. 25

(7) Except as otherwise provided in this section, *The Arbitrations Act* applies to subsections 4, 5 and 6.

Interpre-  
tation

(8) In subsections 4, 5 and 6, "parties" means Ontario Hydro and, in each case, the commission established by section 2.

Vesting  
of real  
property

**8.—(1)** All real property transferred by section 6 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
1973, c. 78.

**9.** Except as otherwise provided in this Act, sections 100 to 121 of *The Regional Municipality of Durham Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-  
tation

**10.—(1)** In this section, "transfer date", when used in respect of an employee of a municipal commission or Ontario Hydro,

means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

(2) On or before the 31st day of December, 1979, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer of employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Participation in O.M.E.R.S.

R.S.O. 1970, c. 324

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Supplementary agreements

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees

Transfer of pension credits from Ontario Hydro Plan

Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension  
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

(a) was employed by Ontario Hydro immediately before his transfer date; and

(b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

Group life  
insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Item

(9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Sick leave

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life  
insurance  
provision

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by

a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination  
for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special  
circum-  
stances

**11.**—(1) On and after the 1st day of January, 1980, the control and management of the bus transportation system operated by the Public Utilities Commission of the City of Oshawa is entrusted to the Oshawa Public Utilities Commission established by section 2. Oshawa bus  
transporta-  
tion system

(2) Sections 6 and 10 apply with necessary modifications in respect of the bus transportation system operated by the Public Utilities Commission of the City of Oshawa. Application  
of ss. 6, 10

**12.** With respect to the Pickering Hydro-Electric Commission established by section 2, each date mentioned in sections 3, 7 and 10 shall be deemed to be a date six months after the mentioned date. Pickering  
Hydro-  
Electric  
Commission

**13.** For the purposes of section 143 of *The Regional Municipality of Durham Act, 1973*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Durham Act, 1973*, and on that date the municipal commissions are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution  
of existing  
commissions  
1973, c. 78  
  
R.S.O. 1970,  
c. 390

**14.** The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 7 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,

- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
  - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
  - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
  - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 10, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-  
ment

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

Short title

**16.** The short title of this Act is *The Durham Municipal Hydro-Electric Service Act, 1979*.









An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Durham

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*1st Reading*

June 7th, 1979

*2nd Reading*

June 19th, 1979

*3rd Reading*

June 19th, 1979

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THE HON. J. A. C. ATLD  
Minister of Energy

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Municipal Act**

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**MR. ISAACS**

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#### EXPLANATORY NOTE

The purpose of the Bill is to require a municipal council to hold a by-election to fill a vacancy on the council where a vacancy occurs when more than thirteen months remains in the term of office. In cases where a vacancy occurs with less than thirteen months remaining in the term of office, a municipal council continues to have the option of filling the vacancy by election or by appointment unless the vacancy occurs after the 31st day of March in an election year, in which case, the council may only fill the vacancy by appointment.

## An Act to amend The Municipal Act

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

1. Section 45 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 121, section 11, is repealed and the following substituted therefor:
 

s. 45.  
re-enacted

45.—(1) In this section, “election year” means a year in which a regular election is held in accordance with the provisions of *The Municipal Elections Act, 1977*.
 

Interpre-  
tation  
1977, c. 62

(2) Where a vacancy occurs in the office of a member of the council of a local municipality before the 1st day of November in the year before an election year, the council shall by by-law require an election to be held to fill the vacancy, and, where the council passes such a by-law, the clerk of the municipality shall hold a new election in accordance with the provisions of *The Municipal Elections Act, 1977*.
 

Filling vacancy  
by election

(3) Where a vacancy occurs in the office of a member of the council of a local municipality on or after the 1st day of November in the year before an election year and before the 31st day of March in the election year, the council may by by-law require an election to be held to fill the vacancy, and, where the council passes such a by-law, the clerk of the municipality shall hold a new election in accordance with the provisions of *The Municipal Elections Act, 1977*.
 

Idem

(4) Where a vacancy occurs in the office of a member of the council of a local municipality after the 31st day of March in an election year, the vacancy shall not be filled by a new election but the council may fill such vacancy in accordance with the provisions of section 44.
 

Vacancy after  
March 31st of  
election year

Election directed in judicial proceedings

(5) Subject to subsection 3, where a direction is given in any judicial proceedings to hold an election to fill a vacancy on a council, the clerk of the municipality shall hold a new election to fill the vacancy in accordance with *The Municipal Elections Act, 1977*.

Commencement

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

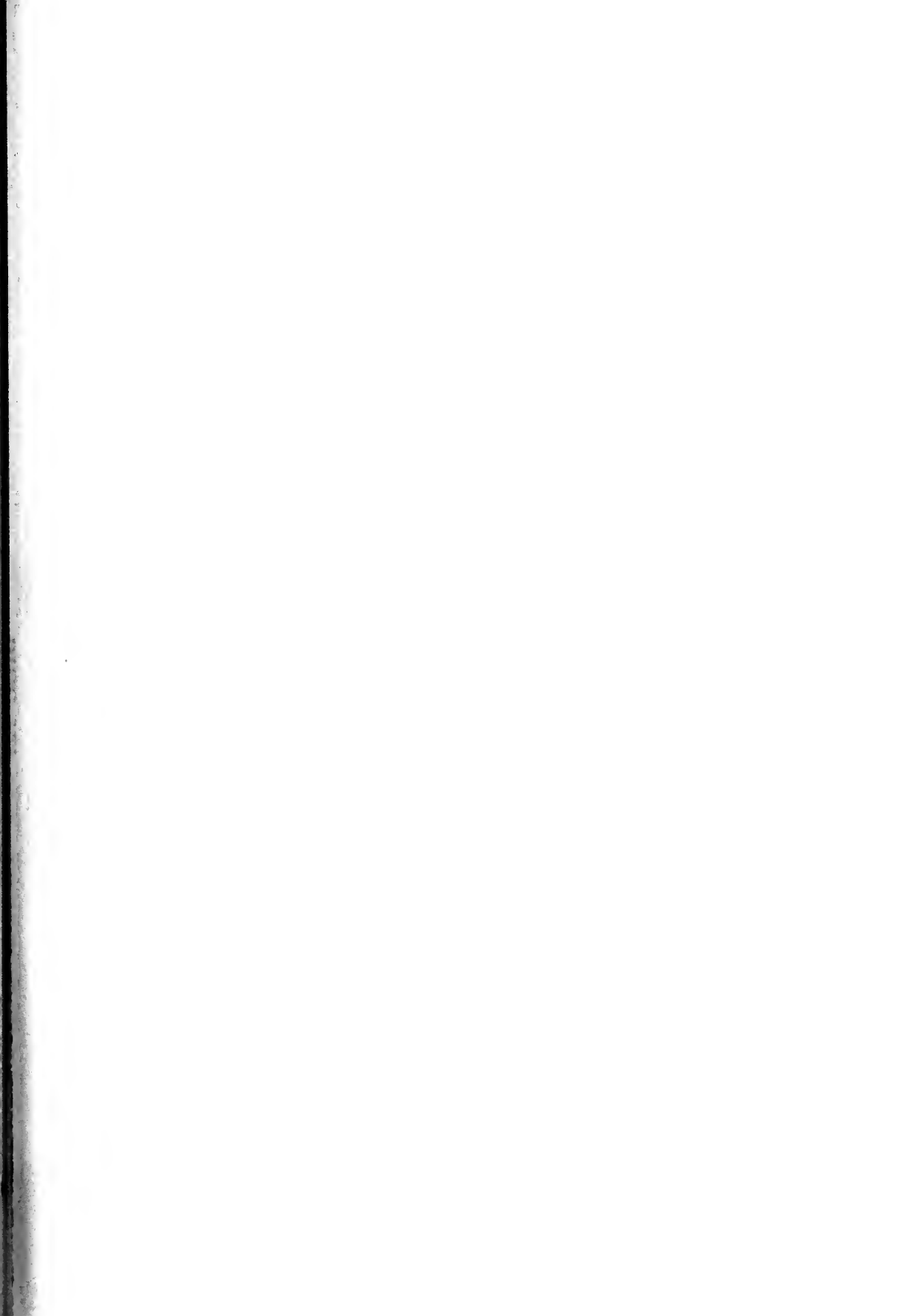
Short title

**3.** The short title of this Act is *The Municipal Amendment Act, 1979*.









An Act to amend  
The Municipal Act

---

*1st Reading*

June 7th, 1979

*2nd Reading*

*3rd Reading*

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MR. ISACS

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Ontario Water Resources Act**

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MR. GERMA

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#### EXPLANATORY NOTE

The purpose of the Bill is to prohibit mining activity in bodies of water that serve or are likely to serve as sources of community drinking water. The Bill provides for the issuance of permits to authorize any mining activity that is in the public interest. Mining activity undertaken without the authority of a licence is constituted as an offence.

**An Act to amend  
The Ontario Water Resources Act**

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

1. Section 1 of *The Ontario Water Resources Act*, being chapter 332 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, 1973, chapter 90, section 1, 1974, chapter 19, section 1 and 1975, chapter 71, section 1, is further amended by relettering clause *qa*, as enacted by the Statutes of Ontario, 1974, chapter 19, section 1, as clause *qb* and by adding thereto the following clause:
 

s. 1.  
amended

(*qa*) "source of community drinking water" means any body of water that is used or is likely to be used as a public source of drinking water by any municipality or other community in Ontario.
  
2. The said Act is amended by adding thereto the following section:
 

s. 39a.  
enacted

39a.—(1) The Ministry shall prepare and publish in *The Ontario Gazette* a list of the names of all sources of community drinking water in Ontario.
 

List of  
sources of  
community  
drinking  
water

(2) No person shall prospect, mine or stake out any mining claim in the bed of any body of water listed as a source of community drinking water in *The Ontario Gazette* without a permit issued by a Director.
 

Mining of  
bed of listed  
water sources  
prohibited

(3) A Director, where he considers it advisable and in the public interest, may issue a permit referred to in subsection 2, and the Director may, in his discretion, refuse to issue or cancel a permit, may impose such terms and conditions in issuing a permit as he considers proper and may alter the terms and conditions of a permit after it is issued.
 

Permit

(4) Every person who knowingly contravenes subsection 2 or any of the terms and conditions of a permit issued by a
 

Offence

Director is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 for every day the contravention continues.

**Commence-  
ment**

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

**Short title**

**4.** The short title of this Act is *The Ontario Water Resources Amendment Act, 1979*.









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An Act to amend  
The Ontario Water Resources Act

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*1st Reading*

June 12th, 1979

*2nd Reading*

*3rd Reading*

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MR. GERMA

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Employment Standards Act, 1974**

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**MR. CHARLTON**

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EXPLANATORY NOTE

The purpose of the Bill is to extend to persons who are employed as domestic servants the minimum standards of employment established by Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974*

SECTION 1. Section 3(f) of Ontario Regulation 803/75 currently reads as follows:

3. *Parts IV, V, VI, VII and VIII of the Act do not apply to a person employed,*

*(f) as a domestic servant; or*

The effect of section 1 of the Bill will be to revoke this provision in the regulations.

SECTION 2.—Subsection 1. Section 40 (1) (a) of the Act currently reads as follows:

40 —(1) *No Employer shall terminate the employment of an employee who has been employed for three months or more unless he gives,*

*(a) one week's notice in writing to the employee if his period of employment is less than two years;*

The provision, as amended, provides for a two week notice prior to termination.

Subsection 2. This provision is complementary to the amendment contained in section 2 (1) of the Bill

BILL 126

1979

**An Act to amend  
The Employment Standards Act, 1974**

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

1. It is hereby declared that Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974*, being chapter 112, apply to a person who is employed as a domestic servant and clause *f* of section 3 of Ontario Regulation 803/75 is revoked. Declaration re Parts IV to VIII of 1974, c 112, O Reg 803/75, s 3 (f), revoked
- 2.—(1) Clause *a* of subsection 1 of section 40 of the said Act is repealed and the following substituted therefor:
  - (a) two weeks notice in writing to the employee if his period of employment is less than five years. s 40 (1) (a), re-enacted
  - (2) Clause *b* of subsection 1 of the said section 40 is repealed. s 40 (1) (b), repealed
3. This Act comes into force on the day it receives Royal Assent. Commencement
4. The short title of this Act is *The Employment Standards Amendment Act, 1979*. Short title

An Act to amend  
The Employment Standards Act, 1974

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*1st Reading*

June 12th, 1979

*2nd Reading*

*3rd Reading*

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MR. CHARLTON

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*(Private Member's Bill)*



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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to revise  
The Pits and Quarries Control Act, 1971**

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**THE HON. J. A. C. AULD  
Minister of Natural Resources**

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#### EXPLANATORY NOTES

This Bill flows from the Report of the Ontario Mineral Aggregate Working Party that was submitted to the Minister of Natural Resources in December, 1976.

The Working Party was established to recommend an effective and broadly acceptable mineral aggregate resource management policy for the Province of Ontario.

Many of the features of the Report and of this Bill are the result of the experience gained by the various interests concerned with *The Pits and Quarries Control Act, 1971*.

The new Act has three purposes:

1. To provide for the management of the aggregate and Crown aggregate resources of Ontario
2. To control and regulate pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries.
3. To require the rehabilitation of land from which aggregate or Crown aggregate has been excavated.

BILL 127

1979

**An Act to revise  
The Pits and Quarries Control  
Act, 1971**

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

**1.** In this Act,

Interpre-  
tation

- (a) "aggregate" means gravel, sand, clay, shale, stone, earth or other prescribed material but does not include Crown aggregate;
- (b) "Board" means the Ontario Municipal Board;
- (c) "Commissioner" means the Mining and Lands Commissioner;
- (d) "Crown aggregate" means gravel, sand, clay, shale, limestone, dolomite, sandstone, marble, granite, quartz, feldspar, fluorspar, gypsum, diatomaceous earth, marl, peat or other prescribed material that is the property of the Crown, but does not include aggregate;
- (e) "Crown aggregate pit or quarry" means land from which consolidated or unconsolidated Crown aggregate, as the case may be, has been, is being or may be excavated;
- (f) "established pit or quarry" means a pit or quarry or a wayside pit or quarry from which, in the opinion of the Minister, a substantial amount of aggregate has been excavated within the two-year period immediately before the part of Ontario in which the pit or quarry or wayside pit or quarry is located was designated under subsection 2 of section 5;
- (g) "final rehabilitation" means rehabilitation done in accordance with this Act, the regulations, the conditions

of the licence or permit and the requirements of the site plan, after the excavation of aggregate or Crown aggregate, as the case may be, and the progressive rehabilitation, if any, have been completed;

R.S.O. 1970,  
c. 201

- (h) "highway" has the same meaning as in *The Public Transportation and Highway Improvement Act* and includes an unopened road allowance;
- (i) "inspector" means any employee of the Ministry who is designated in writing by the Minister as an inspector for the purposes of this Act;
- (j) "licence" means a licence for a pit or quarry issued under this Act;
- (k) "licensee" means a person who holds a licence;
- (l) "Minister" means the Minister of Natural Resources;
- (m) "Ministry" means the Ministry of Natural Resources;
- (n) "permit" means a permit for a wayside pit or quarry or a Crown aggregate pit or quarry issued under this Act;
- (o) "permittee" means a person who holds a permit;
- (p) "pit" means land from which unconsolidated aggregate has been, is being or may be excavated, but does not include,
  - (i) an excavation for a building, a structure or a project of any kind that in the opinion of the Minister is not a pit, or
  - (ii) a wayside pit;
- (q) "prescribed" means prescribed by the regulations;
- (r) "progressive rehabilitation" means rehabilitation done sequentially in accordance with this Act, the regulations, the conditions of the licence or permit and the requirements of the site plan during the period that aggregate or Crown aggregate is being excavated;
- (s) "public authority" includes the Crown, a Crown agency within the meaning of *The Crown Agency Act*, a municipality or local board as defined in *The Municipal Affairs Act*, an authority within the meaning of *The Conservation Authorities Act*, and Ontario Hydro;

R.S.O. 1970,  
c. 100, 118,  
78

- (t) "quarry" means land from which consolidated aggregate has been, is being or may be excavated, but does not include,
- (i) an excavation for a building, a structure or a project of any kind that in the opinion of the Minister is not a quarry, or
  - (ii) a wayside quarry;
- (u) "regional municipality" includes a district municipality and The Municipality of Metropolitan Toronto;
- (v) "regulations" means the regulations made under this Act;
- (w) "rehabilitate" means to treat land from which aggregate or Crown aggregate has been excavated so that the use or condition of the land,
- (i) is restored to its former use or condition, or
  - (ii) is changed to another use or condition that is or will be compatible with the use of adjacent land,
- and "rehabilitation" has a corresponding meaning;
- (x) "site" means the land to which a licence or permit or an application therefor relates;
- (y) "Treasurer" means the Treasurer of Ontario and Minister of Economics;
- (z) "wayside pit or quarry" means land from which consolidated or unconsolidated aggregate, as the case may be, has been, is being or may be excavated for use in a project of a public authority and that is located outside the limits of the right of way of a highway, but does not include a pit or quarry. 1971, c. 96, s. 1, *amended*.

## PART I

### GENERAL

#### 2. The purposes of this Act are,

Purposes  
of Act

- (a) to provide for the management of the aggregate and Crown aggregate resources of Ontario;

- (b) to control and regulate pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries; and
- (c) to require the rehabilitation of the land from which aggregate or Crown aggregate has been excavated. *New.*

Administration  
of Act

**3.**—(1) The Minister is responsible for the administration of this Act and the regulations.

Idem

(2) In administering this Act, the Minister may,

- (a) conduct research related to technical matters pertaining to the aggregate industry, including the transportation of aggregates and the rehabilitation of pits and quarries;
- (b) locate geological deposits that may yield aggregate of commercial qualities and quantities;
- (c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;
- (d) collect, analyze and publish statistics related to the aggregate industry;
- (e) conduct studies related to the uses of aggregates and the economics and operations of the aggregate industry;
- (f) advise ministries and municipalities on planning matters related to aggregates, including the preparation and approval of official plans and restricted area by-laws;
- (g) conduct studies related to abandoned pits and quarries;
- (h) conduct studies on environmental matters related to pits and quarries;
- (i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;
- (j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries; and
- (k) employ any person to perform work in connection with any matter mentioned in this Act. *New.*



4.—(1) The Minister may designate in writing any employee of the Ministry as an inspector for the purposes of this Act. 1971, c. 96, s. 1 (c), *amended*. Designation of inspectors

(2) An inspector may, for the purpose of carrying out his duties, Powers of inspectors

- (a) enter any land or business premises at any reasonable time;
- (b) require the production of a licence, a permit, a record respecting aggregate or Crown aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof; and
- (c) alone, or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material. 1971, c. 96, s. 13 (1), *amended*.

5.—(1) This Act and the regulations apply only in the parts of Ontario that have been designated under *The Pits and Quarries Control Act, 1971* or that are designated under subsection 2. *New*. Present designated parts continued 1971, c. 96

(2) The Lieutenant Governor in Council may designate parts of Ontario in which this Act and the regulations apply. 1971, c. 96, s. 2, *amended*. Designation of parts

6. This Act, except Part V and, subject to subsection 2 of section 47, Part VI, binds the Crown and its agents. *New*. Act binds the Crown

## PART II

### PIT AND QUARRY LICENCES

7.—(1) Any person may apply to the Minister in the prescribed form, Application for licence

- (a) for a Class A licence to excavate annually more than 20,000 tonnes of aggregate from a pit or quarry; or
- (b) for a Class B licence to excavate annually 20,000 tonnes or less of aggregate from a pit or quarry.

(2) Every application for a licence shall be accompanied by, Idem

- (a) five copies of the site plan referred to in section 8;

- (b) if the application is for a Class A licence, five copies of the report referred to in section 9;
- (c) the information referred to in section 10; and
- (d) the prescribed application fee. 1971, c. 96, s. 4, *amended*.

Additional  
information

(3) The Minister may require an applicant for a licence to furnish him with additional information in such form and manner as he considers necessary, and, until the information is furnished to his satisfaction, he may refuse to consider the application further. *New*.

Site plans  
for Class A  
licences

**8.—(1)** The site plan accompanying an application for a Class A licence shall show,

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and the use of the buildings and other structures within 150 metres of the site;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location of fences and any significant natural features;
- (h) the location of tree screens and the species and types of the trees;
- (i) the location of earth berms and their height and slope;
- (j) the topography of the site including existing and estimated final contours and spot elevations;
- (k) every entrance to and exit from the site;
- (l) all roads on the site;

- (m) the water table and any existing and proposed drainage facilities on the site;
- (n) the location of water wells within 150 metres of the site;
- (o) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (p) the sequence or direction of operation; and
- (q) the progressive rehabilitation and final rehabilitation plans,

and may show such other information as the applicant considers advisable. 1971, c. 96, s. 4 (2), *amended*.

(2) The information required under subsection 1 shall be presented under three headings on at least three separate sheets of paper as follows: <sup>idem</sup>

1. Existing Features
2. Sequence or Direction of Operation
3. Rehabilitation Plans,

and shall be at a scale of 1:2000, 1:5000 or in any particular case at such other scale as the Minister may approve.

(3) Every site plan accompanying an application for a Class A licence shall be certified by a professional engineer who is a member of the Association of Professional Engineers of the Province of Ontario, an Ontario land surveyor, who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or any other qualified person approved in writing by the Minister that the site plan has been prepared by him. <sup>Certification</sup> *New*.

(4) The site plan accompanying an application for a Class B licence shall be in the prescribed form and shall show, <sup>Site plans for Class B licences</sup>

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the existing and estimated final elevations of the site;

- (e) the use of the land and the location and use of the buildings and other structures within 150 metres of the site;
- (f) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (g) the location of the excavation setback limits;
- (h) the location of fences and any significant natural features;
- (i) the location of tree screens and the species and types of the trees;
- (j) the location of earth berms and their height and slope;
- (k) every entrance to and exit from the site;
- (l) existing and proposed drainage facilities on the site;
- (m) the sequence or direction of operation; and
- (n) the progressive rehabilitation and final rehabilitation plans,

and may show such other information as the applicant considers advisable. 1971, c. 96, s. 4 (3), amended.

Signature

(5) Every site plan accompanying an application for a Class B licence shall be signed by the applicant. *New.*

Report

9. The report accompanying an application for a Class A licence shall provide information,

- (a) as to the suitability of the rehabilitation plans having regard to the character of the surrounding lands;
- (b) respecting the quality and quantity of the aggregate on the site;
- (c) as to the main haulage routes to and from the site and the traffic density thereon;
- (d) supplementing clause *m* of subsection 1 of section 8;
- (e) describing the location and size of existing and proposed stockpiles of aggregate, topsoil and subsoil; and

(f) respecting any planning and land use considerations, and may provide such other information as the applicant considers advisable. *New.*

**10.** An applicant for a licence shall furnish information in a manner satisfactory to the Minister showing that the location of the land described in the site plan accompanying the application complies with any relevant restricted area by-law, but if the Minister is of the opinion that doubt exists as to whether or not there is compliance, he may require the applicant to refer the matter to the Supreme Court for a declaratory judgement on the matter. *New.*

Compliance with restricted area by-laws

**11.** The Minister in considering an application for a licence shall have regard to,

Matters to be considered by Minister

- (a) any comments provided by the municipalities in which the site is located;
- (b) proper management of the aggregate resources of the Province;
- (c) the rehabilitation of the site;
- (d) the main haulage routes to and from the site and the traffic density thereon;
- (e) any possible effects on ground and surface water patterns;
- (f) any related planning and land use considerations;
- (g) the effect of the operation on nearby communities; and
- (h) such other matters as he considers appropriate. 1971, c. 96, s. 6 (1), *amended.*

**12.—(1)** Where the Minister is satisfied that an application for a licence and the documents accompanying it comply with this Act and the regulations, he shall serve a copy of it and the documents accompanying it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information and comment. *New.*

Copies to municipalities

(2) On the day that the Minister serves a copy of an application and the accompanying documents under subsection 1, he shall fix a day forty-five days hence as the last day upon which objections in writing may be served upon him. 1971, c. 96, s. 5 (1), *amended.*

Last day for filing objections

Notice by  
Minister

(3) On the day that the Minister serves a copy of an application and the accompanying documents under subsection 1, the Minister shall serve the applicant with notice that the applicant must cause notice of his application in the prescribed form to be published forthwith in two successive issues of a newspaper having general circulation in the locality in which the site is located. 1971, c. 96, s. 5 (2), *amended*.

Notice of  
publication

(4) As soon as the publication of the notice has been completed, the applicant shall notify the Minister thereof. *New*.

Notice of  
objection

(5) Any person, including any municipality, may serve upon the Minister on or before the day fixed under subsection 2 a notice that he or it objects to the issue of the licence applied for and the reasons therefor.

Notice  
requiring  
hearing

(6) Any person who has served a notice under subsection 5 may, in addition, serve upon the Minister on or before the day fixed under subsection 2 a notice that he requires a hearing of the matter before the Board.

Reference  
to Board  
for a  
hearing

(7) Upon receipt of a notice under subsection 6 that in the opinion of the Minister discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, he shall refer the application and the objections to the Board for a hearing. 1971, c. 96, s. 5 (3), *amended*.

Idem

(8) The Minister may, on his own motion, refer an application and the objections, if any, to the Board for a hearing. 1971, c. 96, s. 5 (4), *amended*.

What Board  
may consider  
at hearing  
R S O 1970,  
c. 349

(9) Where, under *The Planning Act*, an application for an amendment to any relevant restricted area by-law is before the Board for a hearing and an application under this Act is referred to the Board under subsection 7 or 8, the Board may consider both matters at one hearing. *New*.

Issue of  
licences

**13.**—(1) The Minister may in his discretion issue a licence subject to such conditions as he considers necessary.

Changes of  
conditions

(2) The Minister may at any time add a condition to a licence or rescind or vary a condition of a licence.

Restricted  
area  
by laws

(3) The Minister may, subject to subsection 4 of section 64 and subsection 5 of section 65, issue a licence only if the location of the pit or quarry complies with any relevant restricted area by-law. 1971, c. 96, s. 6 (2), *amended*.

Copies to  
municipalities

(4) Where the Minister has issued a licence, he shall serve a copy of it upon the clerk of the regional municipality or county, as

the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

**14.**—(1) Every licensee shall pay to the Treasurer on or before the 15th day of March in each year his annual licence fee for the previous year calculated in accordance with the regulations and, if it is not so paid, the Minister may revoke the licence. Annual licence fees

(2) When a licence is revoked under subsection 1, subsections 2 to 6 of section 21 do not apply. No notice or hearing

(3) The prescribed percentage of the total of the annual licence fees shall be disbursed to such municipalities and in such amounts and manner as are prescribed. Disbursal of annual licence fees

(4) The prescribed percentage of the total of the annual licence fees shall be set apart as a fund for the purposes mentioned in subsection 2 of section 33. *New.* Rehabilitation of abandoned pits and quarries

**15.** Every licensee shall operate his pit or quarry in accordance with this Act, the regulations, the conditions of his licence and the requirements of his site plan. 1971, c. 96, ss. 3, 4 (4), *part, amended.* Duties of licensees

**16.**—(1) The Minister may at any time require a licensee to amend his site plan. *New.* Amendment of site plans

(2) A licensee may, with the approval in writing of the Minister, at any time amend his site plan. 1971, c. 96, s. 4 (4), *part, amended.* Idem

**17.**—(1) The Minister at least once a year shall, Annual inspection and review

(a) inspect each site; and

(b) review each site plan and the conditions of each licence,

for the purpose of assessing the licensee's compliance with this Act, the regulations, the conditions of the licence and the requirements of the site plan. 1971, c. 96, s. 7 (1), *amended.*

(2) For the purpose of each fifth review under subsection 1, the Minister shall request in writing the council of the regional municipality or county, as the case may be, and the council of the local municipality in which each pit or quarry is located to send to him within forty-five days after receiving the request their comments respecting each pit or quarry. Municipal comments every five years

(3) Where a site plan is served upon the Minister under subsection 5 of section 64, each fifth year for the purpose of subsection 2 Idem

shall be calculated from the year in which such service is made upon the Minister. *New.*

Transfer of licences

**18.**—(1) Upon application in the prescribed form accompanied by the prescribed transfer fee and the documents required under clauses *a* and *b* of subsection 2 of section 7, the Minister may consent to the transfer of a licence. 1971, c. 96, s. 14, *amended.*

Transfer of rehabilitation security

(2) Upon the transfer of a licence, any sum in the rehabilitation security account of the transferor shall be transferred to an account in the name of the transferee and the right, title and interest in such sum vest in the transferee. *New.*

Surrender of licences

**19.**—(1) Upon being satisfied that a licensee's annual fee and his rehabilitation security are not in arrears and that his rehabilitation work has been done in accordance with this Act, the regulations, the conditions of his licence and the requirements of his site plan, the Minister may accept the surrender of his licence.

Disposition of surplus rehabilitation moneys

(2) Where any sum remains in the former licensee's rehabilitation security account when the Minister accepts the surrender of his licence, the sum so remaining shall be paid by the Treasurer to the former licensee. *New.*

Death of licensee

**20.** One year after a sole licensee dies, his licence expires unless within that period his personal representative applies to the Minister to allow him to operate the pit or quarry for such period as in the opinion of the Minister, having regard to the circumstances of the particular case, is sufficient to allow the personal representative to dispose of the pit or quarry and, if the pit or quarry is not disposed of within that period, or within such further period as the Minister may allow, the Minister shall revoke the licence. *New.*

Refusal to issue and refusal to transfer of licences

**21.**—(1) The Minister may in his discretion refuse to issue or refuse to consent to the transfer of a licence.

Revocation of licences

(2) The Minister may revoke a licence for any contravention of this Act, the regulations, the conditions of the licence or the requirements of the site plan. 1971, c. 96, s. 7 (2), *amended.*

Notice to licensee

(3) Where the Minister has,

- (a) refused to issue a licence and the application has not been referred to the Board for a hearing under section 12;
- (b) refused to consent to the transfer of a licence;
- (c) revoked a licence;
- (d) required a site plan to be amended; or



- (e) after the issue of a licence, added a condition to a licence or rescinded or varied a condition of a licence,

he shall serve forthwith notice thereof including the reasons therefor upon the applicant or licensee, and upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located.

(4) Any action of the Minister under subsection 3 is effective as soon as the notice mentioned in that subsection is served upon the applicant or licensee and, notwithstanding that the applicant or licensee requires a hearing by the Board, remains effective until the Minister takes action after considering the report of the Board.

Time of taking effect

(5) The notice under subsection 3 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he serves, within thirty days after the notice under subsection 3 is served upon him, the Minister with notice that he requires a hearing.

Notice requiring a hearing

(6) Where the applicant or licensee serves the Minister with notice under subsection 5, the Minister shall refer the matter to the Board for a hearing. 1971, c. 96, s. 8, *amended*.

Hearing

**22.**—(1) Where a matter is referred to the Board under section 12 or 21, the Board shall hold a hearing and the applicant or licensee, the Minister and such other persons as the Board specifies shall be parties to the proceeding.

Hearing by Board

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under *The Ontario Municipal Board Act*, except that section 94 of that Act does not apply.

Procedure

R.S.O. 1970, c. 323

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister which shall set out its findings and its recommendations as to the issue to which the hearing relates and shall send a copy of its report to each party to the proceedings.

Report of Board

(4) After considering the report of the Board, the Minister may take such action as he considers appropriate and shall serve notice of his decision and the reasons therefor upon the other parties to the proceedings and upon the municipalities served under subsection 1 of section 12 or subsection 3 of section 21, as the case may be.

Decision of Minister

(5) The decision of the Minister is final. 1971, c. 96, s. 9, *amended*.

Decision final

**23.**—(1) The Minister may suspend a licence for any period of time, not exceeding three months, for any contravention of this

Suspension of licences

Act, the regulations, the conditions of the licence or the requirements of the site plan, effective as soon as the notice mentioned in subsection 2 is served upon the licensee. 1971, c. 96, s. 8 (4), *amended*.

Notice of  
suspension

(2) Where the Minister has suspended a licence, he shall serve notice thereof, including the reasons therefor, upon the licensee and upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located.

Further  
particulars  
of notice

(3) The notice mentioned in subsection 2 shall, in addition to the particulars mentioned therein, notify the licensee of the period of the suspension, of the action he must take or desist from taking before the suspension will be removed, that the suspension will be removed as soon as he has complied with the notice to the satisfaction of the Minister, and that if he does not comply with the notice within the period of the suspension, the Minister may revoke the licence.

Revocation

(4) Where a licensee whose licence has been suspended has not taken the required remedial action within the period of the suspension, the Minister may exercise his power under subsection 2 of section 21 and revoke the licence, in which case subsections 3 to 6 of that section apply. *New*.

### PART III

#### WAYSIDE PIT AND QUARRY PERMITS

Application  
for permit

**24.**—(1) Any public authority that has a project that requires aggregate or any person who has a contract with a public authority for such a project may apply to the Minister in the prescribed form for a wayside pit or quarry permit. 1971, c. 96, s. 12 (1) *part*, *amended*.

Idem

(2) Every application for a wayside pit or quarry permit to excavate aggregate shall be accompanied by five copies of the site plan referred to in section 25 and the prescribed application fee.

Additional  
information

(3) The Minister may require an applicant for a wayside pit or quarry permit to furnish him with additional information in such form and manner as he considers necessary and, until the information is furnished to his satisfaction, he may refuse to consider the application further.

Copies to  
municipalities

(4) When the Minister is satisfied that an application for a wayside pit or quarry permit and the documents accompanying it

comply with this Act and the regulations, he shall serve a copy of it and the documents accompanying it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

**25.** The site plan accompanying an application for a wayside pit or quarry permit shall be prepared by the applicant or by a person on his behalf and shall be in the prescribed form and shall show, Site plans for wayside pits and quarries

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the public authority that is a party to the contract and the number of the project;
- (d) the location of the project;
- (e) the name and address of the owner of the site;
- (f) the hectarage of the site and the area to be excavated;
- (g) the existing and estimated final elevations of the site;
- (h) the use of the land and the location and use of the buildings and other structures within 150 metres of the site;
- (i) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (j) every entrance to and exit from the site;
- (k) any significant natural features;
- (l) proposed drainage facilities on the site;
- (m) the sequence or direction of operation; and
- (n) the rehabilitation plans,

and may show such other information as the applicant considers advisable. *New.*

**26.** The Minister in considering an application for a wayside pit or quarry permit shall have regard to, Criteria

- (a) any information provided by the municipalities in which the site is located;
- (b) the estimated cost of transporting the aggregate to the project as compared with that of any alternative source of supply;
- (c) proper management of the aggregate resources of the area;
- (d) any previous permits for the site;
- (e) the rehabilitation of the site;
- (f) any proposed aesthetic improvements to the landscape; and
- (g) such other matters as he considers appropriate. 1971, c. 96, s. 12 (2), *amended*.

Issue  
of  
permits

**27.**—(1) The Minister may in his discretion issue a wayside pit or quarry permit subject to such conditions as he considers necessary and whether or not its location complies with any relevant restricted area by-law. 1971, c. 96, s. 12 (3), *amended*.

Idem

(2) Where the location of a wayside pit or quarry for which a wayside pit and quarry permit has been issued contravenes any relevant restricted area by-law, the permit prevails and the by-law does not apply to the wayside pit or quarry. *New*.

Copies to  
municipalities

**28.** Where the Minister has issued a wayside pit or quarry permit, he shall serve a copy of it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New*.

Duties of  
permittees

**29.** Every wayside pit or quarry permittee shall operate his wayside pit or quarry in accordance with this Act, the regulations, the conditions of his permit and the requirements of his site plan. 1971, c. 96, ss. 3, 4 (4), *part, amended*.

Variation  
of  
conditions

**30.** The Minister may at any time add a condition to a wayside pit or quarry permit or rescind or vary any condition of such a permit. *New*.

Expiration  
of  
permits

**31.** A wayside pit or quarry permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. 1971, c. 96, s. 12 (4), *amended*.

**32.** The Minister may, at any time, suspend or revoke a wayside pit or quarry permit for any contravention of this Act, the regulations, the conditions of the permit or the requirements of the site plan. 1971, c. 96, s. 12 (5), *amended*. Suspension and revocation

## PART IV

### ABANDONED PITS AND QUARRIES

**33.**—(1) Where there is an unlicensed pit or quarry, the Minister may, Abandoned pits and quarries

- (a) after receiving the consent of the person assessed for the land on which the pit or quarry is located; and
- (b) after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located,

declare the pit or quarry to be abandoned for the purposes of subsection 2.

(2) The Minister may disburse any part of the fund mentioned in subsection 4 of section 14 for, Disbursal of fund

- (a) pre-program surveys or studies respecting the rehabilitation of abandoned pits and quarries; or
- (b) the rehabilitation of abandoned pits and quarries. *New.*

## PART V

### CROWN AGGREGATE PERMITS

**34.**—(1) Any person may apply to the Minister in the prescribed form for a Crown aggregate permit to excavate Crown aggregate. Applications for Crown aggregate permits

(2) Any person who holds a Crown aggregate permit may, Idem during the first two months of the four-month period immediately preceding the expiry of his permit, apply to the Minister for another Crown aggregate permit for the same site to come into effect upon the expiry of the permit that he holds.

(3) Every application for a Crown aggregate permit shall be Idem accompanied by,

- (a) two copies of the site plan referred to in section 35; and

(b) the prescribed application fee. *New.*

Site plans

**35.**—(1) The site plan accompanying an application for a Crown aggregate permit shall be in the prescribed form and shall show,

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the existing and estimated final elevations of the site;
- (e) the use of land and the location and use of the buildings and other structures within 150 metres of the site; and
- (f) the rehabilitation plans,

and may show such other information as the applicant considers advisable.

Signature

(2) Every site plan for a Crown aggregate permit shall be signed by the applicant.

Additional information

(3) The Minister may require an applicant for a Crown aggregate permit to furnish him with additional information in such form and manner as he considers necessary and, until the information is furnished to his satisfaction, he may refuse to consider the application further. *New.*

Issue of Crown aggregate permits

**36.**—(1) Subject to section 37, the Minister may in his discretion issue a Crown aggregate permit for a fixed period of not more than five years subject to such conditions as he considers necessary.

Changes in conditions

(2) The Minister may at any time add a condition to a Crown aggregate permit or rescind or vary any condition of such a permit. *New.*

Public authority

**37.** Where in the opinion of the Minister it is in the public interest, he may authorize a public authority which has a project that requires Crown aggregate or any person who has a contract with a public authority for such a project to remove Crown aggregate from a site that is subject to a Crown aggregate permit. *New.*

Personal use

**38.**—(1) Where an individual whose principal residence is in Ontario applies for a Crown aggregate permit and states in his

application that he requires the aggregate for his personal use and not for sale, the Minister may issue the Crown aggregate permit without the necessity of the applicant complying with subsection 3 of section 34 and section 40.

(2) Where a Crown aggregate permit is issued to excavate Crown aggregate for personal use and not for sale, section 42 does not apply. *New.* No transfer

**39.** Every Crown aggregate pit or quarry permittee shall operate his Crown aggregate pit or quarry in accordance with this Act, the regulations, the conditions of his permit and the requirements of his site plan. *New.* Duties of permittees

**40.** Every Crown aggregate pit or quarry permittee shall pay to the Treasurer the prescribed permit fee. *New.* Permit fees

**41.**—(1) The Minister may suspend or revoke a Crown aggregate permit for any contravention of this Act, the regulations, the conditions of the permit or the requirements of the site plan. Suspension and revocation

(2) The Minister may revoke a Crown aggregate permit where in his opinion a substantial amount of Crown aggregate has not been removed from the site during any year of the term of the permit. Idem

(3) The Minister may suspend or revoke a Crown aggregate permit where in his opinion the operation of the Crown aggregate pit or quarry is contrary to the public interest. *New.* Idem

**42.** Upon application in the prescribed form accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a Crown aggregate permit. *New.* Transfer of permits

**43.** The Minister may in his discretion refuse to issue a Crown aggregate permit, refuse to issue another Crown aggregate permit under subsection 2 of section 34 or refuse to consent to the transfer of a Crown aggregate permit. *New.* Refusal to issue or transfer

- 44.**—(1) Where the Minister has, Notice to applicant or permittee
- (a) suspended a Crown aggregate permit;
  - (b) revoked a Crown aggregate permit; or
  - (c) refused to issue another Crown aggregate permit upon an application under subsection 2 of section 34,

he shall serve forthwith notice thereof including the reasons therefor upon the applicant or permittee.

Time of  
taking  
effect

(2) Any action of the Minister under subsection 1 is effective as soon as the notice mentioned in that subsection is served upon the applicant or permittee.

Notice  
requiring  
a hearing

(3) The notice under subsection 1 shall inform the recipient that he is entitled to a hearing by the Commissioner if he serves, within fifteen days after the notice under subsection 1 is served upon him, the Minister with notice that he requires a hearing.

Hearing

(4) Where the recipient serves the Minister with notice under subsection 3 that he requires a hearing, the Minister shall refer the matter to the Commissioner for a hearing.

Idem

(5) Where a matter is referred to the Commissioner, the Commissioner shall hold a hearing to decide whether the Crown aggregate permit should remain suspended or revoked or be issued, as the case may be, and the Commissioner may, after the hearing, so decide.

Idem

(6) Where a matter is referred to the Commissioner under this section, he shall specify the parties to the proceedings.

Notice  
of  
decision

(7) The Commissioner shall serve notice upon the parties to the proceedings of his decision and the reasons therefor.

Appeal

(8) An appeal lies to the Supreme Court from a decision of the Commissioner under this section if a notice of appeal is served by the party appealing upon the other parties to the proceedings within fifteen days after the receipt by him of the notice of the decision. *New.*

Royalties

**45.**—(1) The Minister shall determine the royalty per tonne that each Crown aggregate permittee must pay under subsection 2, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the Crown aggregate and its intended use.

Royalties  
to be paid

(2) Every Crown aggregate permittee shall pay a royalty to the Treasurer on or before the tenth day of the month immediately following the month in which the Crown aggregate is removed from the site at the rate per tonne determined under subsection 1 multiplied by the number of tonnes removed.

Security

(3) The Minister may require a Crown aggregate permittee to give security of the prescribed kind and in an amount or amounts determined by the Minister for the payment of any sum that is due or that may become due under subsection 2.

Recovery  
of royalties  
in default

(4) Where a person defaults in the payment of a royalty under subsection 2, the amount thereof may be recovered by the Crown



from any security given under subsection 3 or as a debt due in any court of competent jurisdiction. *New.*

## PART VI

### REHABILITATION

**46.**—(1) Except as provided in subsection 2, this Part applies to every licensee and permittee. Application of Part

(2) Except as provided in subsection 2 of section 47, this Part does not apply to the Crown and its agents. *New.* Exception

**47.**—(1) Every licensee and every permittee shall rehabilitate his site in accordance with this Act, the regulations, the conditions of his licence or permit and the requirements of his site plan to the satisfaction of the Minister. Duty to rehabilitate site

(2) Where the Crown or its agent excavates Crown aggregate, the Crown or its agent, as the case may be, shall rehabilitate the Crown aggregate pit or quarry to the satisfaction of the Minister. *New.* Crown

**48.**—(1) Every licensee shall pay to the Treasurer on or before the 15th day of March in each year a sum calculated by multiplying the number of tonnes excavated from his site in the previous year by the prescribed rate per tonne of aggregate as security for the rehabilitation of the site. Rehabilitation security payments by licensees

(2) The payments specified in subsection 1 cease when the total to the credit of the licensee in his account reaches the prescribed maximum for each hectare of his site that in the opinion of the Minister requires rehabilitation. 1971, c. 96, s. 11 (1), *amended.* Maximum

**49.** Every person who applies for a permit for a wayside pit or quarry shall before the permit is issued pay to the Treasurer a sum calculated by multiplying the maximum number of tonnes that the permit authorizes by the prescribed rate per tonne of aggregate as security for the rehabilitation of the site. *New.* Rehabilitation security payments by wayside pit permittees

**50.**—(1) Every Crown aggregate permittee shall pay to the Treasurer on or before the tenth day of the month immediately following the month in which the Crown aggregate was removed from the site a sum calculated by multiplying the number of tonnes removed from his site by the prescribed rate per tonne of Crown aggregate as security for the rehabilitation of the site. Rehabilitation security payments by Crown aggregate permittees

(2) The payments specified in subsection 1 cease when the total to the credit of the Crown aggregate permittee in his account Maximum

reaches the prescribed maximum for each hectare of his site that in the opinion of the Minister requires rehabilitation. *New.*

Rehabilitation security accounts

**51.**—(1) Sums paid by a licensee, a wayside pit or quarry permittee or a Crown aggregate permittee under section 48, 49 or 50 shall be held in an account in his name and shall be paid out in accordance with this Part.

Interest payable

(2) Sums paid by a licensee or Crown aggregate permittee under section 48 or 50 shall earn interest at the prescribed rate.

Interest deemed security

(3) Interest earned under subsection 2 shall be deemed to form part of the rehabilitation security. *New.*

Partial refunds

**52.**—(1) Where a licensee or a Crown aggregate permittee submits proof to the satisfaction of the Minister that he has performed progressive rehabilitation on his site in accordance with this Act, the regulations, the conditions of his licence or Crown aggregate permit and the requirements of his site plan, he is entitled to a refund not more than twice a year out of his rehabilitation security account in accordance with the regulations.

Amount

(2) The Minister shall determine the amount of the refund mentioned in subsection 1, but in no case shall the amount of the refund reduce the amount remaining in the rehabilitation security account of the licensee or Crown aggregate permittee to less than the prescribed minimum per hectare requiring rehabilitation. *New.*

Refunds when rehabilitation work fully performed

**53.** Where a licensee or permittee has submitted proof to the satisfaction of the Minister that he has performed his final rehabilitation work in accordance with this Act, the regulations, the conditions of his licence or permit and the requirements of his site plan, the Treasurer shall refund to him the total sum to his credit in his rehabilitation security account. *New.*

When rehabilitation work not performed

**54.**—(1) Where a licence or permit is revoked or a permit expires and the rehabilitation work has not been performed in accordance with this Act, the regulations, the conditions of the licence or permit, and the requirements of the site plan to the satisfaction of the Minister, the Minister may enter upon the site and perform such rehabilitation work as he considers necessary. *New.*

Recovery of cost

(2) The cost of rehabilitation work performed by the Minister under subsection 1 is a debt due to the Crown by the former licensee or permittee and shall be paid by the Treasurer out of the former licensee's or permittee's rehabilitation security account into the Consolidated Revenue Fund. 1971, c. 96, s. 11, *amended.*

(3) Where any sum remains to the credit of the former licensee or permittee in his rehabilitation security account after the cost of rehabilitation work performed by the Minister under subsection 1 has been paid out under subsection 2, the sum so remaining shall be paid by the Treasurer to the former licensee or permittee. Disposition of surplus

(4) Where the sum to the credit of the former licensee or permittee in his rehabilitation security account is insufficient to defray the cost of rehabilitation work performed by the Minister under subsection 1, the amount of the deficiency is a debt due to the Crown by the former licensee or permittee and is recoverable by the Crown in any court of competent jurisdiction. Recovery of deficiency  
*New.*

## PART VII

### OFFENCES AND PENALTIES

**55.**—(1) Every person who operates a pit or quarry without a licence is guilty of an offence. 1971, c. 96, s. 4 (1), *amended*. No operation of pit without licence

(2) Every person who operates a wayside pit or quarry or Crown aggregate pit or quarry without a permit is guilty of an offence. 1971, c. 96, s. 12 (1), *amended*. No operation of wayside pit or Crown aggregate pit without permit

(3) Every licensee who contravenes any condition of his licence or any requirement of his site plan is guilty of an offence. 1971, c. 96, s. 18 (1), *part, amended*. Contravention of licence or site plan

(4) Every permittee who contravenes any condition of his permit or any requirement of his site plan is guilty of an offence. 1971, c. 96, s. 18 (1), *part, amended*. Contravention of permit or site plan

(5) Every person who contravenes any provision of this Act or the regulations is guilty of an offence. 1971, c. 96, s. 18 (1), *part, amended*. Contravention of Act or regulations

(6) Every person who hinders or obstructs an inspector in the performance of his duties or furnishes him with false information or refuses to furnish him with information is guilty of an offence. 1971, c. 96, s. 13 (2), *amended*. Obstruction of inspectors

**56.**—(1) Every person who commits an offence under subsection 1 or 2 of section 55 is liable on summary conviction to a fine of not less than \$1,000 and not more than \$5,000 for each day on which the offence occurs or continues. Penalty

(2) Every person who commits an offence under subsection 3, 4, 5 or 6 of section 55 is liable on summary conviction to a fine of not less than \$200 and not more than \$5,000 for each day on which the offence occurs or continues. 1971, c. 96, s. 18 (1), *amended*. Idem

Consent

**57.** No prosecution for an offence under this Act shall be instituted without the consent of the Minister. 1971, c. 96, s. 18 (2), *amended*.

## PART VIII

## MISCELLANEOUS

Restraining orders

**58.** Where it appears to the Minister that any person does not comply or intend to comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such noncompliance, the Minister may apply to the Supreme Court for an order directing such person to comply with such provision, and upon the application the court may make such order as the court considers proper. 1971, c. 96, s. 15, *amended*.

Service of notices

**59.**—(1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address for service appearing on the records of the Ministry.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, and for cause beyond his control, receive the notice until a later date. 1971, c. 96, s. 16, *amended*.

Conflicts

R.S.O. 1970,  
c. 274

**60.**—(1) The provisions of this Act and the regulations are in addition to and not in substitution for the provisions of Part IX of *The Mining Act* or any provisions substituted therefor at any time.

Idem

(2) In the event of any conflict between any provision of this Act or the regulations and any provision of Part IX of *The Mining Act* or any provision substituted therefor at any time, the provision of this Act prevails. 1971, c. 96, s. 17, *amended*.

Conflicts

**61.** In the event that a provision of this Act or the regulations and a provision of any other Act, regulation or municipal by-law treat the same subject-matter in different ways, the provision of this Act or the regulation, as the case may be, prevails and the provision of the other Act, regulation or by-law is inoperative for the purposes of this Act. 1971, c. 96, s. 17 (2), *amended*.

Regulations

**62.** The Lieutenant Governor in Council may make regulations,

(a) respecting the management of the aggregate and Crown aggregate resources of Ontario;

- (b) prescribing material as aggregate;
- (c) prescribing material that is the property of the Crown as Crown aggregate;
- (d) prescribing duties of inspectors;
- (e) prescribing or providing for the calculation of fees and providing for the payment thereof;
- (f) prescribing the percentage of the total of the annual licence fees that shall be disbursed to municipalities, prescribing the amounts and manner of such disbursements and prescribing the municipalities to which such disbursements shall be made;
- (g) prescribing the percentage of the total of the annual licence fees that shall be set apart as a fund and disbursed for the purposes mentioned in subsection 2 of section 33;
- (h) respecting the control, management and operation of pits and quarries, wayside pits and quarries, and Crown aggregate pits and quarries;
- (i) prescribing the minimum royalty for Crown aggregate and providing for the payment thereof;
- (j) prescribing kinds of security for the purposes of subsection 3 of section 45;
- (k) governing the rehabilitation of pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries;
- (l) respecting the form, terms and conditions of rehabilitation security, prescribing a rate per tonne of aggregate or Crown aggregate for the purpose of calculating rehabilitation security, prescribing maximum and minimum amounts per hectare of rehabilitation security for pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries, prescribing the rate of interest payable thereon and providing for refunds from rehabilitation security accounts;
- (m) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;
- (n) prescribing forms for the purposes of this Act and providing for their use;

(o) designating parts of Ontario in which this Act and the regulations apply; and

(p) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act. 1971, c. 96, s. 19 (1), *amended*.

Relief  
from  
compliance

**63.**—(1) Where in the opinion of the Minister it is not contrary to the public interest, he may in writing relieve any licensee or permittee from compliance in whole or in part with any provision of the regulations, subject to any conditions as he considers necessary. 1971, c. 96, s. 19 (2), *amended*.

Idem

(2) The Minister may at any time rescind or vary any relief granted under subsection 1. *New*.

Pits and  
quarries  
licensed  
under  
1971, c. 96

**64.**—(1) Notwithstanding section 69, *The Pits and Quarries Control Act, 1971* and the regulations thereunder continue to apply to every pit or quarry for which an operator is licensed under that Act for six months after this Act comes into force except where the licence expires under subsection 2.

Application  
for a  
licence under  
this Act

(2) During the first three months of the six-month period mentioned in subsection 1, an application for a licence under this Act accompanied by the prescribed fee may be made by a licensee under *The Pits and Quarries Control Act, 1971* in respect of his pit or quarry and, if an application is not so made, the licence under *The Pits and Quarries Control Act, 1971* expires at the end of such three-month period.

Same site  
for which  
operator is  
licensed

(3) The site that is the subject of an application under subsection 2 must be the same site for which the licensee is licensed under *The Pits and Quarries Control Act, 1971*.

Licence  
to be  
issued

(4) Within the six-month period mentioned in subsection 1 and provided the applicant has paid fees and deposited rehabilitation security as required under *The Pits and Quarries Control Act, 1971*, the Minister shall issue a licence under this Act in respect of every application under subsection 2 even if the requirements of sections 8 and 9 have not been met and whether or not any relevant restricted area by-law is complied with, and as soon as a licence is issued under this Act for a pit or quarry to which this section applies, the licence under *The Pits and Quarries Control Act, 1971* expires and that Act and the regulations thereunder cease to apply, but the site plan under that Act continues in effect until superseded by a site plan under this Act.

When new  
site plan  
requirements  
to be met

(5) The copies of the site plan referred to in section 8 and the report referred to in section 9 must be served upon the Minister within six months after the licensee has been served with a

demand therefor by the Minister or within three years after this Act comes into force, whichever occurs first.

(6) Clauses *a*, *b* and *c* of subsection 2 of section 7 and subsections 2 to 8 of section 12 do not apply to applications made under subsection 2 of this section.

s. 7 (2) (a-c),  
s. 12 (2-8)  
do not apply

(7) Where a licence is issued under this section, all security and interest on deposit or security payable at a future time, as the case may be, under *The Pits and Quarries Control Act, 1971* shall be deemed to be rehabilitation security on deposit or payable as provided under this Act.

Rehabilitation  
security  
1971, c. 96

(8) Where a licence is issued under this section, any rehabilitation that has been carried out in respect of a pit or quarry for which an operator is licensed under *The Pits and Quarries Control Act, 1971* and for which the operator has not received credit under that Act before this Act comes into force shall be deemed to be rehabilitation done for the purpose of this Act.

Credit for  
rehabilitation  
under  
1971, c. 96

(9) Notwithstanding section 69, every permit issued under *The Pits and Quarries Control Act, 1971* that is subsisting when this Act comes into force continues in force as though this Act had not been passed until the expiration of its term. *New.*

Subsisting  
permit under  
1971, c. 96  
continues  
in force

**65.—**(1) Where a part of Ontario is designated for the purpose of this Act under subsection 2 of section 5, all the provisions of this Act and the regulations apply to every established pit and quarry in such part.

Act and  
regulations  
apply to pits  
and quarries  
in newly  
designated  
part of  
Ontario

(2) Notwithstanding subsection 1, where the requirements of section 7, except clause *c* of subsection 2, are complied with during the six-month period next following the date of the designation mentioned in subsection 1, a licence for an established pit or quarry must be issued or refused during the twelve-month period next following the designation.

Licence must  
be issued or  
refused  
during  
twelve-month  
period

(3) Notwithstanding subsection 1 of section 55, a person who applies for a licence during the six-month period next following the date of the designation mentioned in subsection 1 may operate his established pit or quarry without a licence until the licence is either issued or refused or the twelve-month period next following the date of the designation expires, whichever occurs first.

Right to  
operate  
for limited  
period  
without  
licence

(4) Notwithstanding subsection 1, subsections 2 to 8 of section 12 do not apply where an application for a licence for an established pit or quarry is made during the two-year period next following the date of the designation mentioned in subsection 1.

Non-  
application  
of s. 12 (2-8)

Restricted  
area by-law

(5) Notwithstanding subsection 3 of section 13, where an application for a licence for an established pit or quarry is made during the two-year period next following the date of the designation mentioned in subsection 1, the Minister may issue a licence for an established pit or quarry even if its location contravenes any relevant restricted area by-law.

Person deemed  
licensee  
from date of  
designation

(6) For the purposes of this Act and the regulations, where a person has been issued a licence for an established pit or quarry he shall be deemed to be a licensee from the date of the designation mentioned in subsection 1. *New.*

Application  
under  
1971, c. 96  
deemed  
application  
under this  
Act

**66.**—(1) Where an application for a licence to operate a pit or quarry has been made under *The Pits and Quarries Control Act, 1971* but no licence has been issued or refused by the Minister under that Act before this Act comes into force, the application shall be deemed to be an application made under this Act if the applicant has, before this Act comes into force, complied with all the requirements of that Act respecting the application, in which case the applicant shall comply with the requirements of section 7 of this Act within six months after this Act comes into force.

Minister  
may refuse  
to consider  
application

(2) Where in the opinion of the Minister the applicant fails to comply with the requirements of subsection 1, the Minister may refuse to consider the application further.

Hearing  
before the  
Board

(3) Where an applicant complies with the requirements of subsection 1, a hearing pending before the Board or in respect of which the Board has not reported to the Minister respecting a matter referred to it under *The Pits and Quarries Control Act, 1971* shall be deemed to be a hearing for the purposes of this Act. *New.*

R.S.O. 1970,  
c. 274,  
Part VII,  
not  
applicable

**67.** Part VII of *The Mining Act* or any provision substituted therefor at any time does not apply in any part of Ontario to which this Act applies. *New.*

Quarry  
permits

**68.**—(1) Every quarry permit issued under Part VII of *The Mining Act* that is subsisting when this Act comes into force continues in force as though this Act had not been passed until the expiration of its term.

Idem

(2) For the purpose of subsection 2 of section 34, the holder of a quarry permit referred to in subsection 1 shall be deemed to be a Crown aggregate permittee. *New.*

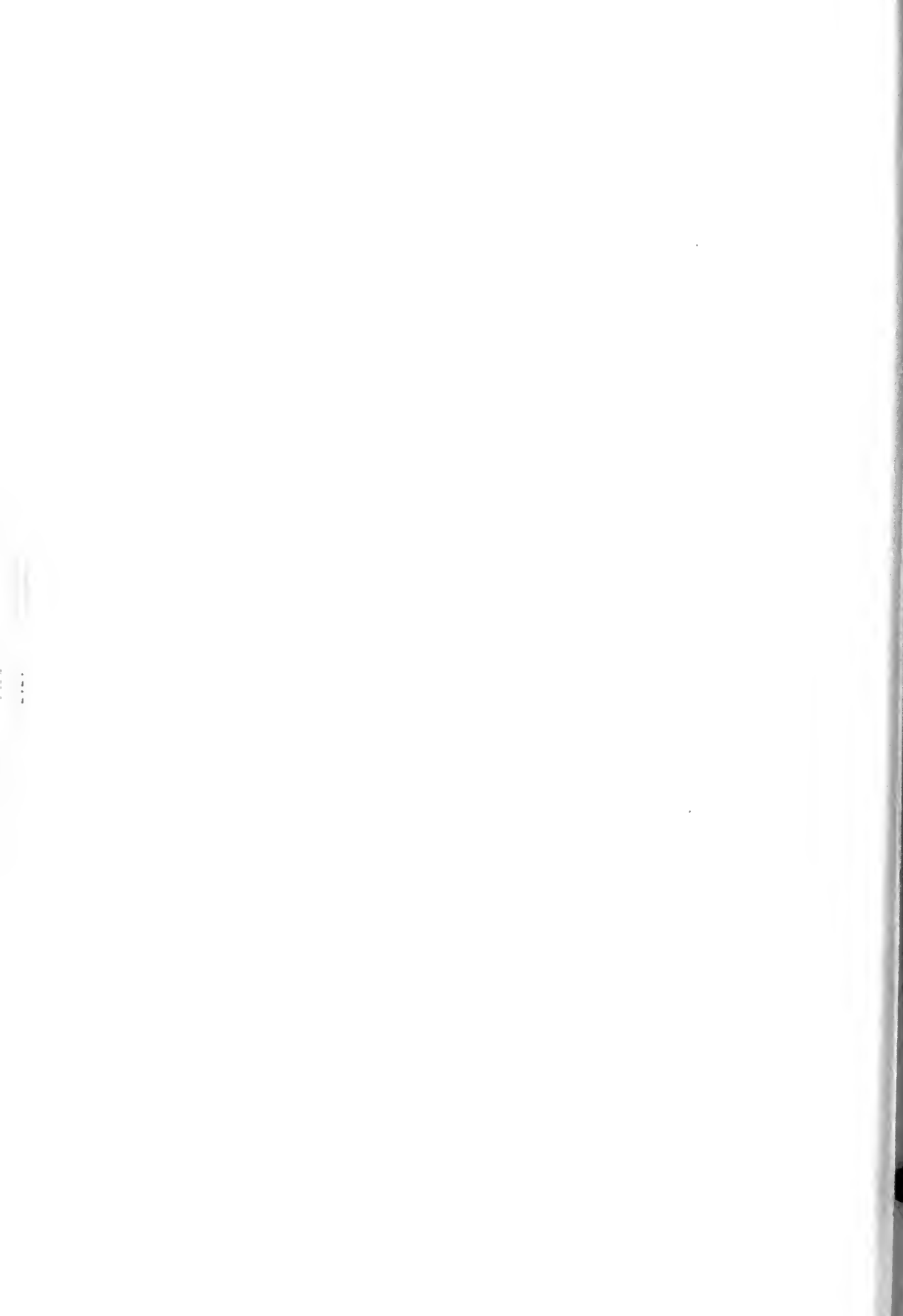
1971, c. 96,  
1978, c. 87,  
29 repealed

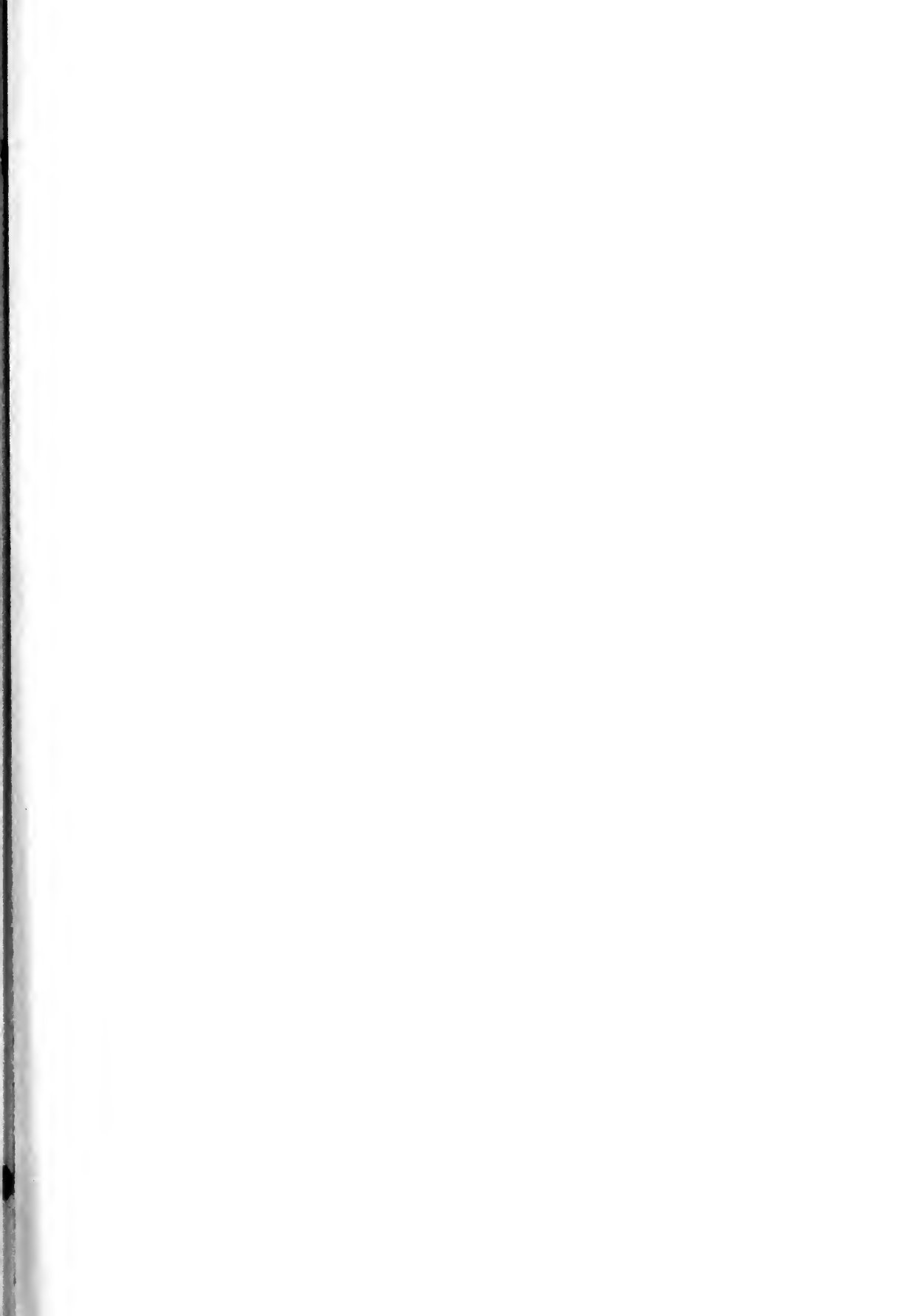
**69.** *The Pits and Quarries Control Act, 1971*, being chapter 96 and section 29 of *The Metric Conversion Statute Law Amendment Act, 1978*, being chapter 87, are repealed.

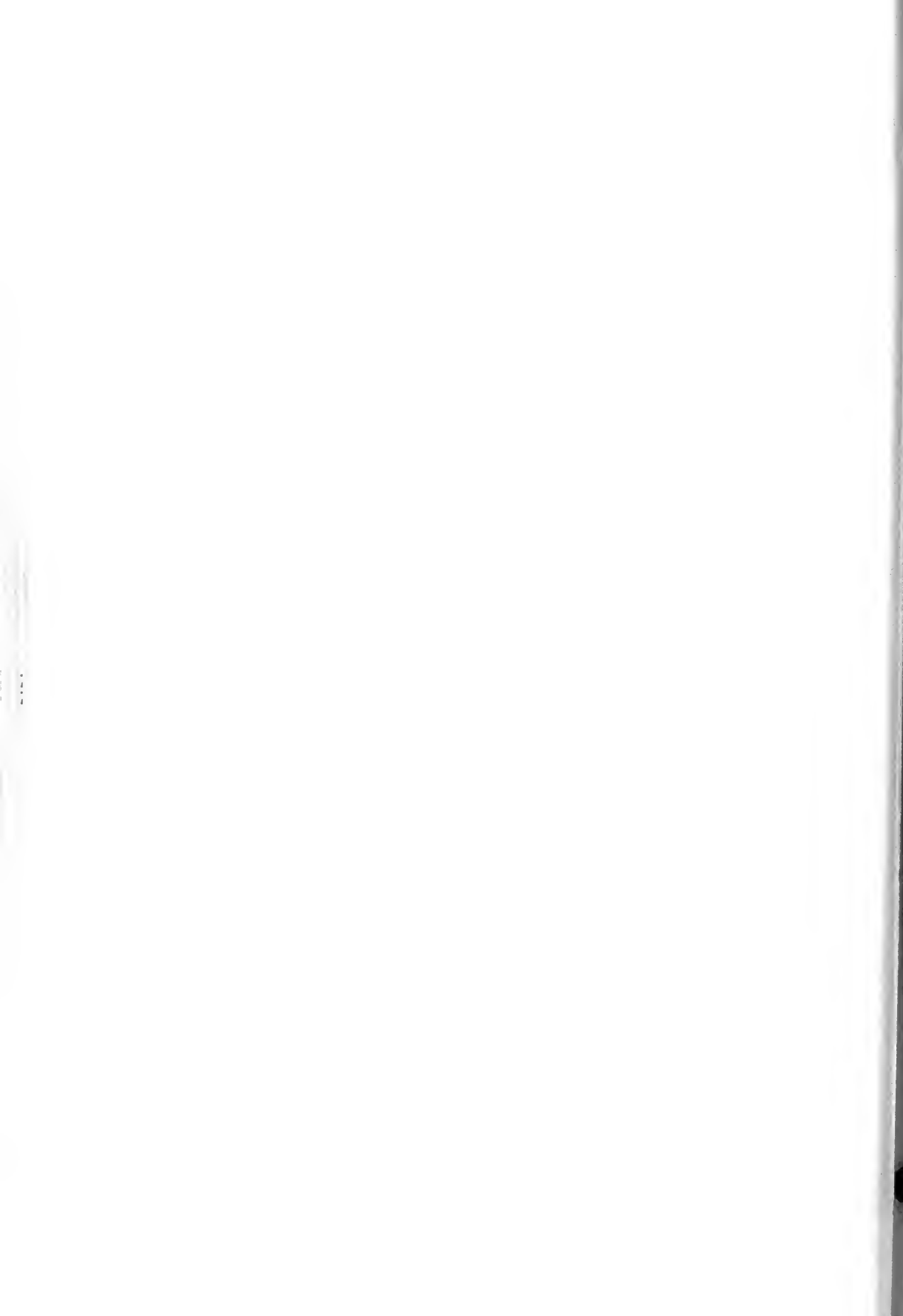


**70.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

**71.** The short title of this Act is *The Aggregates Act, 1979*. Short title













An Act to revise  
The Pits and Quarries Control Act, 1971

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*1st Reading*

June 14, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Natural Resources

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting Small Business in Ontario**

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MR. EAKINS

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#### EXPLANATORY NOTE

The purpose of this Bill is to provide for the preservation and expansion of small business enterprise in Ontario. The Bill provides for government efforts relating to tendering policy, subcontracting, research and development and small business consortia as a means of providing support for small business enterprise.

BILL 128

1979

## An Act respecting Small Business in Ontario

**W**HEREAS the essence of Ontario's socio-economic system <sup>Preamble</sup> is embodied in the principles of free enterprise, competition and diversity; and whereas the preservation and expansion of these principles is essential to the basic welfare and security of the people of the Province of Ontario, as well as to the growth of personal initiative; and whereas this Legislature wishes to grant formal recognition to, and give fair and equitable support for that sector of the economy that most effectively preserves and enhances free, competitive enterprise;

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

1.—(1) In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Industry and Tourism;
- (b) "small business" means a business that is independently owned and operated and is not dominant in its field of operation.

(2) The Minister may by regulation further define a small <sup>Minister may  
determine  
small  
business</sup> business having regard to other criteria including the number of employees and the dollar volume of business.

(3) Where the number of employees is used as one of the <sup>Idem</sup> criteria referred to in subsection 2, the maximum number of employees stated in the definition may vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

**Objects**           **2.**—(1) The Government of Ontario shall aid, counsel, assist and protect, in so far as possible, the interests of small business.

**Government purchases from small businesses**           (2) In order to preserve free competitive enterprise, the Government of Ontario shall,

(a) establish a target of 40 per cent of the total purchases and contracts or subcontracts for goods, services and real property purchased or made by the Government to be placed with small businesses within three years of the date this Act comes into force; and

(b) ensure that a fair proportion of the total sales and leases of Government property be transacted with small businesses.

**Tenders**           **3.**—(1) Where the Government of Ontario or a Government agency invites tenders in respect of a proposed purchase, the Government shall accept the tender of a small business if the tender is valid and contains a bid for an amount that is less than or the same as the amounts bid in every other valid tender.

**Small business certificate**           (2) Where the tender of a small business is not accepted by reason only that the business is not a small business that is in a sound financial and productive position, the Minister may issue, upon application therefor within six days of being notified of the reason for the refusal of the tender, a small business certificate to the business where the Minister is satisfied that the business is a small business that is in a sound financial and productive position.

**Idem**               (3) Where a small business receives a certificate under subsection 2, the tender of the small business shall be accepted if the tender is valid and contains a bid for an amount that is less than or the same as the amount bid in the tender that was initially accepted.

**Notice of proposed purchase**           **4.**—(1) Every ministry or Government agency shall give notice to the Minister of any proposed purchase to be made by it exceeding \$5,000 and every such notice shall be published by the Minister in *The Ontario Gazette* except notices in respect of the following classes of purchases:

(a) purchases, the release of information concerning which would be detrimental to the security of Ontario or Canada;

(b) purchases of perishable subsistence goods;

- (c) purchases of utility services;
- (d) purchases made in accordance with a contract existing on the day this Act comes into force;
- (e) purchases from a ministry or Government agency;
- (f) purchases of personal or professional services;
- (g) purchases of services from educational institutions;
- (h) purchases from suppliers located outside Canada.

(2) The Minister may, by order, dispense with the notice requirements of subsection 1 for any purchase or class of purchase if the Minister is of the opinion that the delay necessary to give notice is not in the public interest or that the giving of notice is not appropriate in the circumstances.

**5.—(1)** The Minister shall develop forthwith a small business subcontracting program containing provisions,

- (a) to enable small businesses to be considered fairly as subcontractors and suppliers to contractors performing work or rendering services as prime contractors or subcontractors under Government procurement contracts; and
- (b) to enable the Ministry to obtain from any Government procurement agency such available or reasonably obtainable information and records concerning subcontracting by its prime contractors and their subcontractors as the Ministry may deem necessary.

(2) Subsection 1 shall not be construed to authorize the Minister,

- (a) to prescribe the extent to which any contractor or subcontractor shall subcontract;
- (b) to specify the businesses to which subcontracts shall be granted; or
- (c) to vest in the Minister authority respecting the administration of individual prime contracts or subcontracts.

(3) The program shall provide that in evaluating bids or in selecting contractors for negotiated contracts the extensive use of subcontractors by a proposed contractor shall be considered a favourable factor.

Small  
business  
loans officer

(4) The program shall provide that any firm awarded a government contract over \$500,000 shall employ a small business liaison officer, who may already be a member of the firm, to be responsible for subcontracting portions of the work to small businesses, wherever possible.

Required  
contractual  
provisions

(5) Every contract for goods, services or real property, including contracts for research and development, maintenance, repair and construction, but not including contracts to be performed entirely outside the Province of Ontario, in excess of \$500,000, made by a Government ministry or agency, that in the opinion of the procuring agency offers substantial subcontracting possibilities, shall require the contractor,

- (a) to conform to the small business subcontracting program; and
- (b) to insert in all subcontracts and purchase orders in excess of \$250,000 that offer substantial possibilities for further subcontracting a provision requiring the subcontractor or supplier to conform to the small business subcontracting program.

Research  
and  
development

6.—(1) It shall be the duty of the Minister and he is hereby empowered,

- (a) to assist small businesses to obtain Government contracts for research and development;
- (b) to instruct Government agencies and ministries to contract out as much research and development work as possible;
- (c) to assist small business to benefit from research and development performed under Government contracts or at Government expense;
- (d) to provide technical assistance to small business and to simplify application procedures in order to accomplish the purposes of this section;
- (e) to give preference to Canadian owner-managed businesses in allocating research grants and loans; and
- (f) to publish information as to facilities available through small businesses for research and development.

Idem

(2) The Minister may consult and co-operate with all Government agencies and make studies and recommendations

to such agencies, and such agencies shall co-operate with the Minister in order to carry out and accomplish the purposes of this section.

7.—(1) The Minister may consult with any representative of <sup>Consortia</sup> one or more small businesses to encourage the formation of consortia formed and capitalized by a group of small businesses with resources provided by them for the provision of central services, or for the purpose of obtaining for the use of such small businesses raw materials, equipment, inventories, supplies or the benefits of research and development, or for establishing facilities to undertake and utilize applied research.

(2) The Minister may certify a consortium as a member of a <sup>Consortia may be certified</sup> special class of small business and may issue the certificate referred to in section 3.

(3) The Minister may provide advisory services respecting the <sup>Idem</sup> establishment of consortia.

8. The Minister may,

<sup>Powers of Minister</sup>

- (a) enter into contracts with any provincial government or the Government of Canada and any ministry, agency, or officer thereof having procurement powers obligating the Minister to furnish articles, equipment, supplies or materials to Ontario, and in any case in which the Minister certifies to any officer of Ontario having procurement powers that the Ministry of Industry and Tourism is competent to perform any specific government procurement contract to be let by any such officer, such officer shall be authorized, in his discretion, to let such procurement contract to the Ministry of Industry and Tourism upon such terms and conditions as may be agreed upon between the Minister and the procurement officer;
- (b) arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Ministry of Industry and Tourism to perform such contracts;
- (c) provide technical and managerial aids to small business concerns, by advising and counselling on matters in connection with Government procurement

and property disposal and on policies, principles, and practices of good management, including but not limited to cost accounting, methods of financing business insurance, accident control, wage incentives, and methods engineering, by,

- (i) co-operating and advising with voluntary business, professional, educational, and other non-profit organizations, associations and institutions and with other governmental agencies,
  - (ii) maintaining a clearinghouse for information concerning the managing, financing and operation of small business enterprises,
  - (iii) disseminating such information, and
  - (iv) such other activities as are deemed appropriate by the Minister;
- (d) co-ordinate and ascertain the means by which the productive capacity of small businesses can be most effectively utilized;
- (e) consult and co-operate with officers of the Government having procurement or property disposal powers in order to utilize the potential productive capacity of plants operated by small businesses;
- (f) obtain information as to methods and practices that government prime contractors utilize in letting subcontracts by prime contractors to small businesses at prices and on conditions and terms which are fair and equitable;
- (g) determine within any industry the concerns, firms, persons, corporations, partnerships, co-operatives, or other business enterprises that may be designated as small businesses for the purposes of this Act;
- (h) serve as a focal point to receive complaints, criticisms and suggestions concerning the policies and activities of the Ministry of Industry and Tourism and any other government agency that affects small business;
- (i) represent the views and interests of small businesses before other agencies whose policies and activities may affect small businesses;



- (j) enlist the co-operation and assistance of public and private agencies, businesses and other organizations in disseminating information about the programs and services provided by the Government that are of benefit to small businesses and information concerning the manner in which small businesses can participate in or make use of such programs and services; and
- (k) receive reports from Government agencies and ministries concerning the progress in procurement and contracting to small business.

**9.** There shall be a standing committee of the Assembly <sup>Standing committee</sup> to be known as the Small Business Committee, that shall report annually to the Assembly if it is in session or, if not, at the next ensuing session, on all aspects meriting legislative attention with respect to small businesses, and that shall consider,

- (a) proposed legislation and legislative reform;
- (b) the state of governmental and private assistance available respecting training, manpower and management development, research, technical and scientific assistance;
- (c) the competitive strength of small business;
- (d) representations from small business groups;
- (e) the proposals for changes in the policies and activities of any agency of the Government that will better fulfill the purposes of this Act and communicate such proposals to the appropriate agencies; and
- (f) such other matters dealing with small businesses as the standing committee in its opinion considers appropriate.

**10.—(1)** The Lieutenant Governor in Council shall make <sup>Regulations</sup> regulations prescribing the criteria for determining whether a small business is in a sound financial and productive position.

(2) The Lieutenant Governor in Council may prescribe <sup>Idem</sup> regulations implementing the small business subcontracting program.

Confiden-  
tiality

**11.** Nothing in this Act shall be construed to authorize any ministry or agency of the Government to disseminate technical data or processes developed by any business under this Act.

Commence-  
ment

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

Short title

**13.** The short title of this Act is *The Small Business Act, 1979*.



An Act respecting  
Small Business in Ontario

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*1st Reading*

June 14th, 1979

*2nd Reading*

*3rd Reading*

---

MR. EAKINS

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting Predator Control in Ontario**

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**MR. RIDDELL**

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#### EXPLANATORY NOTE

The purpose of the Bill is to authorize the establishment of local predator control committees throughout Ontario to develop methods and procedures to protect live stock and poultry from destruction by predators. A committee is established for each predator control area designated by the Minister, and, the committee, within one year of its establishment, must prepare a predator control plan for approval by the Minister. The Bill requires every predator control committee to regularly review the predator control plan and to report to the Minister on an annual basis concerning whether the plan has been effective in reducing the level of predator activity.

BILL 129

1979

## An Act respecting Predator Control in Ontario

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

1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Agriculture and Food;
- (b) "predator" means a wolf of the species *Canis lupus* L. or *Canis latrans* Say or any cross breed thereof or a dog.

2.—(1) The Minister may, by order, designate areas of land in Ontario as predator control areas.

Predator  
control  
areas

(2) Each area of land designated by the Minister under subsection 1 shall be composed predominantly of land that is used for agricultural purposes.

Agricultural  
land

(3) The Minister shall establish a predator control committee for each designated predator control area, which committee shall be composed of members appointed by the Minister as follows:

Predator  
control  
committee

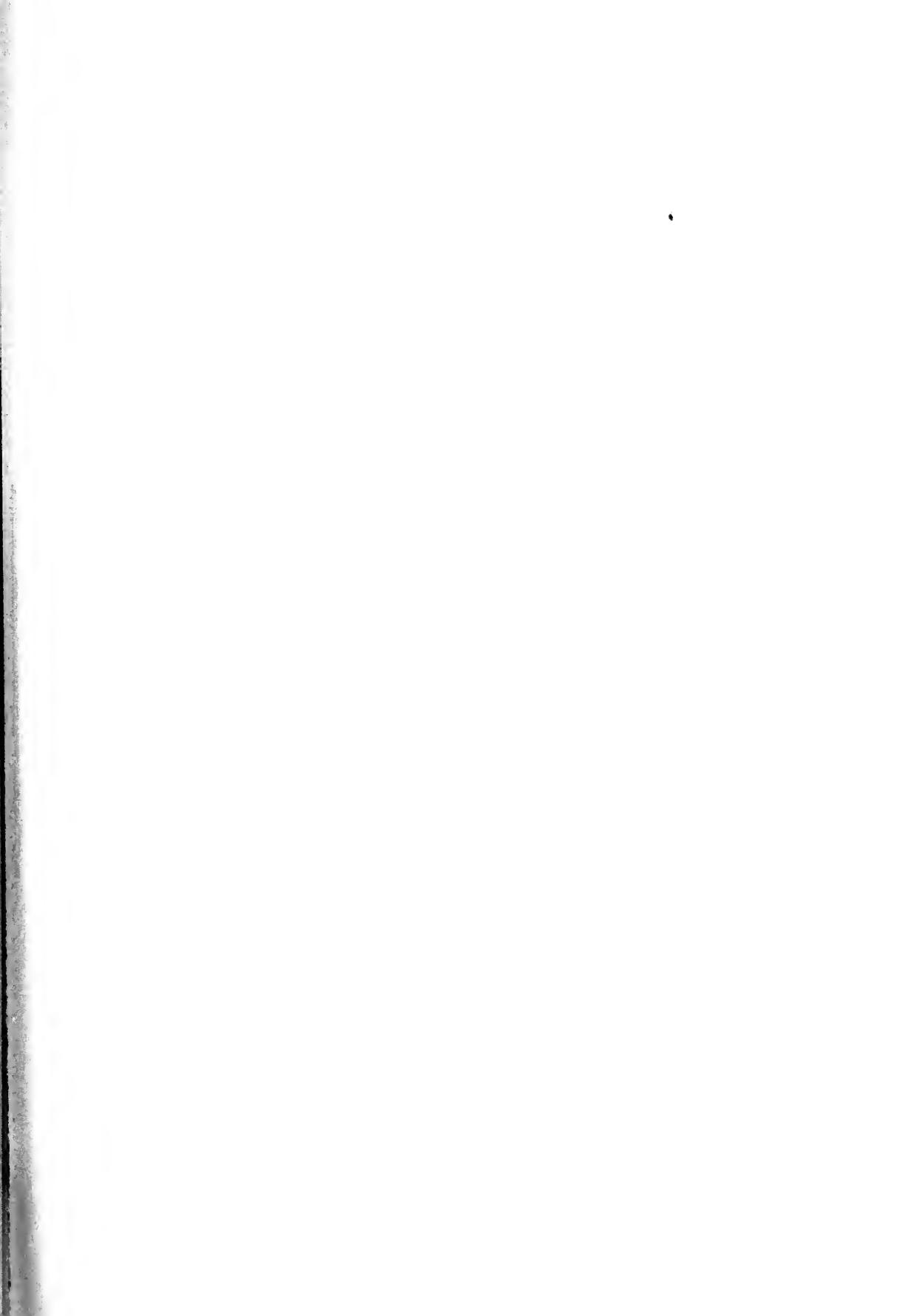
1. One representative of the Ministry of Agriculture and Food.
2. One representative of the Ministry of Natural Resources.
3. One representative of each local municipality situated in the predator control area.
4. One representative of the live stock and poultry producers carrying on business in the predator control area.

- Chairman (4) The chairman of a predator control committee shall be the member appointed as the representative from the Ministry of Agriculture and Food.
- Predator control plan **3.**—(1) Every predator control committee shall, within one year from the day of its establishment, prepare and file with the Minister a predator control plan setting forth methods and procedures designed to protect live stock and poultry from destruction by predators in the predator control area.
- Review (2) No predator control committee shall make any payment in respect of predator control until a predator control plan for the area has been approved by the Minister.
- Amendment (3) Every predator control committee shall make an annual review of the predator control plan and may amend the plan from time to time with the approval of the Minister.
- Annual report **4.** Every predator control committee shall submit a report to the Minister after the end of each calendar year concerning predator control methods and procedures in the predator control area and such report shall include a report on the level and nature of current predator activity, the amount of compensation paid by the committee, if any, during the preceding twelve month period, and an assessment of the effectiveness of the predator control plan in protecting live stock and poultry.
- Commencement **5.** This Act comes into force on the day it receives Royal Assent.
- Short title **6.** The short title of this Act is *The Predator Control Act, 1979*.









An Act respecting  
Predator Control in Ontario

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*1st Reading*

June 14th, 1979

*2nd Reading*

*3rd Reading*

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MR. RIDDELL

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*(Private Member's Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting the  
Sale of Farm Machinery and Equipment in Ontario**

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MR. WILDMAN

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T O R O N T O

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of the Bill is to regulate the sale of farm machinery and equipment in Ontario. The Bill establishes The Farm Machinery and Equipment Board to carry out several tasks respecting the sale of farm machinery and equipment. The Board is given authority to investigate complaints and mediate disputes arising from the sale of farm machinery and equipment and may establish inventory guidelines for vendors and dealers of farm machinery and equipment. The Board may also make recommendations to the Minister concerning safety requirements and parts standardization for farm machinery and equipment.

Among the other principal features of the Bill are the following:

1. Dealers are required to provide certain emergency repair parts on seventy-two hours notice. (s.6)
2. Where a dealer fails to make repair parts available within the times required by the Bill, the dealer is liable to pay to the purchaser an amount equal to one-half the normal rental rate for the farm machinery and equipment. (s.7)
3. The Bill sets out warranties applicable to the sale of farm machinery and equipment. (s.8)

BILL 130

1979

**An Act respecting the  
Sale of Farm Machinery and Equipment  
in Ontario**

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

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means The Farm Machinery and Equipment Board;
- (b) "dealer" means a person operating a retail establishment or business for the sale of new farm machinery and equipment and repair parts and providing repair services for farm machinery and equipment;
- (c) "farm machinery and equipment" means any farm machine or farm equipment,
  - (i) the retail selling price of which is \$200 or more, and
  - (ii) that is used or intended for use in any type of farming operations but does not include a passenger automobile, a farm truck, jeep, snowmobile or all-terrain vehicle;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "part" or "repair part" means a part used or to be used in the repair of farm machinery and equipment;
- (f) "vendor" means a manufacturer or supplier of farm machinery and equipment or repair parts who sells, consigns or delivers farm machinery and equipment or repair parts to a dealer for resale by the dealer.

- Application      **2.** This Act does not apply to sales of farm machinery and equipment,
- (a) by farmers by auction or in the ordinary course of their farming operations; or
- (b) by an executor or administrator of an estate or by a public official acting under judicial process; or
- (c) to a dealer.
- Composition of Board      **3.**—(1) A Board to be known as The Farm Machinery and Equipment Board is hereby established and shall be composed of such members appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council may consider necessary.
- Chairman and vice-chairman      (2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.
- Acting chairman      (3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, and in the absence of the chairman and vice-chairman or vice-chairmen from any meetings of the Board, the members of the Board present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.
- Term of office      (4) Members of the Board shall hold office during pleasure.
- Expert assistance      (5) The Board may appoint from time to time one or more persons having technical or special knowledge of any matter to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.
- Exercise of powers      (6) The powers of the Board shall be exercised by resolution and the Board may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Board and generally dealing with the carrying out of its function.
- Duties      (7) The Board shall perform such duties as are assigned to it by or under this and any other Act and shall administer and enforce this Act and the regulations.
- Powers of Board      (8) The Board may,
- (a) receive and investigate complaints made to it concerning farm machinery and equipment;



- (b) mediate disputes between purchasers and vendors or dealers of farm machinery and equipment arising from the sale of farm machinery and equipment;
- (c) take such action as may be necessary to reduce or correct unreasonable delays in the delivery of repair parts and unreasonable charges for them or recommend to the Minister appropriate action to alleviate such problems;
- (d) make recommendations to the Minister respecting standardization of parts for farm machinery and equipment;
- (e) make recommendations to the Minister with respect to safety requirements for farm machinery and equipment; and
- (f) establish inventory guidelines for vendors and dealers of farm machinery and equipment

**4.**—(1) Every vendor who sells or offers for sale farm machinery and equipment or repair parts in Ontario shall file with the Board, at least once in every twelve month period, all retail price lists with respect to the farm machinery and equipment or repair parts.

Filing  
of retail  
price lists

(2) Every vendor shall file together with the retail price list a list showing the names and addresses of all of the vendor's dealers in Ontario.

Names and  
addresses  
of dealers

**5.** Where a farmer purchases new farm machinery and equipment from a dealer, the dealer and the vendor shall ensure that repair parts for the farm machinery and equipment shall be available for a period of ten years from the date of the purchase and, where within that period the farmer orders repair parts for the farm machinery and equipment purchased by him, the dealer and vendor shall ensure that those repair parts are available to the farmer within fourteen days from the date of the order, unless delivery of the parts cannot be made within that time because of strikes or other conditions beyond the control of the dealer or the vendor.

Repair  
parts  
to be  
available

**6.**—(1) Every contract for the purchase of new,

Emergency  
repair  
parts

- (a) seeding;
- (b) haying;

(c) harvesting; or

(d) milking,

machinery and equipment, shall include a provision to enable the purchaser to order emergency repair parts from the dealer at any time between the hours of 7 o'clock in the morning and 11 o'clock in the evening of any day except Sunday during the season of use of the machinery and equipment.

Posting of  
procedure  
by dealer

(2) The method or procedure for ordering emergency repair parts shall be clearly set out in the contract of purchase.

When  
emergency  
service  
shall be  
used

(3) The emergency repair service shall be used by the purchaser only when the farm machinery and equipment breaks down during the season of use as mentioned in subsection 1 and cannot be operated to perform the intended functional requirements set out in the contract of purchase, with reasonable efficiency.

Notice  
to dealer

(4) The purchaser shall notify the dealer when he is ordering repair parts that the parts are required for emergency repairs and the dealer shall in turn notify the vendor to that effect.

Time for  
supplying  
emergency  
repair  
parts

(5) Where a purchaser orders emergency repair parts from the dealer from whom he purchased the farm equipment and machinery, the dealer and vendor shall ensure that those parts are available at the dealer's place of business to the purchaser within seventy-two hours from the time of the making of the order not including Saturdays, Sundays and holidays unless delivery of the parts cannot be made within that time because of strikes or conditions beyond the control of the dealer or vendor.

Price of  
emergency  
repair  
parts

(6) The price for emergency repair parts shall not exceed the price as set out in the retail list price except that the dealer or the vendor may add a service charge not exceeding \$10.

Payment  
for delay in  
delivering  
repair  
parts

7.—(1) Where a dealer from whom a purchaser orders repair parts fails to obtain those parts within the times specified in section 5 or 6, as the case may be, the dealer shall pay to the purchaser an amount equal to one-half the normal rental rate applicable for the farm machinery and equipment, from the date of the expiry of the time limit for delivery to the date on which the repair parts are made available to the purchaser at the dealer's place of business.

(2) The payment under subsection 1 shall be made only for the time during which the farm machinery and equipment would normally have been used. Payment for normal use

(3) In lieu of making payment as set out in subsections 1 and 2, the dealer may supply the purchaser with other farm machinery and equipment that is suitable and capable of functioning properly at one-half the normal rental rate for that machinery and equipment. Alternative to payment

(4) The normal rental rates mentioned in this section shall be those established by the Board. Normal rate defined

**8.—(1)** All farm machinery and equipment sold by a dealer shall carry a warranty against defects in parts, material and workmanship, Warranty

(a) with respect to a tractor, for a minimum of 1,000 hours of use;

(b) with respect to a self-propelled combine, for a minimum of 300 hours of use; and

(c) for all other farm machinery and equipment, for at least one year,

and the warranty shall include the costs of defective parts, labour and transportation.

(2) In addition to the warranties set out in subsection 1, every new tractor and every new self-propelled combine sold by a dealer, with respect to the engine, transmission and differential or engine and power train, shall carry with it a warranty with respect to parts, labour and transportation on a *pro rata* basis, for an additional 2,000 hours of use for a tractor and 400 hours of use for a self-propelled combine, but in any case the total warranty period shall not extend beyond five years from the date of the original purchase. Additional warranty

(3) Where, during the warranty period, parts in farm machinery and equipment are found to be defective, the dealer or the vendor, as the case may be, shall replace those parts promptly, and where a defective part causes damage to any other part the damaged part shall likewise be replaced by the dealer or vendor. Replacement of defective parts

(4) Where, pursuant to subsection 3, new parts are replaced by a dealer or vendor, the new parts are subject to warranty for a minimum of one year from the date of replacement. Warranty on parts

Non-  
application  
of warranty

- (5) The warranties set out in this section do not apply,
- (a) where the deterioration of parts is due to normal wear and tear; or
  - (b) to any failure of farm machinery and equipment to perform satisfactorily its intended functions that is caused by the negligence of the purchaser or operator thereof.

Liability  
under  
warranty

**9.**—(1) Where a purchaser of new farm machinery and equipment purchases it from a dealer,

- (a) the manufacturer who supplied the machinery and equipment to a wholesaler who sold it to a dealer who sold it to the purchaser; or
- (b) the manufacturer who sold it to the dealer who sold it to the purchaser; and
- (c) the dealer or vendor who sold it to the purchaser,

are jointly and severally liable to observe, keep and perform every warranty set out in this Act.

Reimburse-  
ment by  
vendor

(2) Where the fault for the late delivery of parts or farm machinery and equipment is the fault of the vendor and not of the dealer, and the dealer pursuant to section 7 has made payments to the purchaser or incurred a liability under that section, the vendor shall reimburse the dealer for any payment made by the dealer or liability incurred by the dealer.

Offence

**10.**—(1) Every person who knowingly contravenes any provision of this Act or the regulations and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Regulations

**11.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) requiring the filing of such information and returns with the Board as the Board considers necessary to carry out the purposes of this Act;

(b) providing forms for the purpose of this Act and providing for their use.

**12.** This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent.<sub>ment</sub>

**13.** The short title of this Act is *The Farm Machinery* <sup>Short title</sup> *and Equipment Act, 1979.*





An Act respecting the  
Sale of Farm Machinery and Equipment  
in Ontario

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*1st Reading*

June 14th, 1979

*2nd Reading*

*3rd Reading*

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MR. WILDMAN

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act respecting the Village of Point Edward**

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**THE HON. T. L. WELLS**  
Minister of Intergovernmental Affairs

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#### EXPLANATORY NOTES

SECTION 1. Under this section the real property of the Blue Water Bridge Authority, except the structure known as the Blue Water Bridge, is made subject to the provisions of *The Assessment Act*. At the present time *The Assessment Act* does not apply to the real property of the Bridge Authority.

SECTION 2. This section provides that the Bridge Authority shall pay, with respect to the bridge structure, the amounts set out for the years 1978 to 1983. The payments are in lieu of municipal taxes. Beginning in 1983, *The Assessment Act* will apply to the bridge structure.

BILL 131

1979

### An Act respecting the Village of Point Edward

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

**1.** Notwithstanding any general or special Act, *The Assessment Act* applies to the real property vested in or controlled by the Blue Water Bridge Authority and located in the Village of Point Edward except the structure known as the Blue Water Bridge.

R S O 1970, c 32 to apply to real property of the Blue Water Bridge Authority

**2.—(1)** The Blue Water Bridge Authority shall pay to The Corporation of the Village of Point Edward in lieu of municipal taxes, including school taxes, on the structure known as the Blue Water Bridge located in the Village of Point Edward and in lieu of business assessment in respect thereto for the years 1978, 1979, 1980, 1981 and 1982 the following sums of money:

Payments in lieu of taxes

- 1978 . . . . . \$57,000 plus local improvement rates.
- 1979 . . . . . \$65,000 plus local improvement rates.
- 1980 . . . . . \$70,000 plus local improvement rates.
- 1981 . . . . . \$75,000 plus local improvement rates.
- 1982 . . . . . \$80,000 plus local improvement rates.

(2) The sums of money referred to in subsection 1, shall be deemed to be municipal taxes due upon the structure known as the Blue Water Bridge in the respective years set out in subsection 1 and shall be added to the collector's roll of taxes in the appropriate year and may be collected in the same manner as municipal taxes, together with interest thereon, accruing from the date of being added to the collector's roll at the same rate as interest added by The Corporation of the Village of Point Edward under section 553 of *The Municipal Act* to taxes due and unpaid, and is, until so collected or otherwise paid, a special lien upon the structure as provided for in section 511 of the said Act.

Collection of payments

R S O 1970, c 284

(3) Commencing on the 1st day of January, 1983, *The Assessment Act* applies to the structure known as the Blue Water Bridge.

Application of R S O 1970, c 32 to bridge structure

Repeals

**3.** The following are repealed:

1. *The Blue Water Bridge Act, 1940*, being chapter 2.
2. *The Village of Point Edward Act, 1972*, being chapter 87.

Commence-  
ment

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

Short title

**5.** The short title of this Act is *The Village of Point Edward Act, 1979*.

SECTION 3. Self-explanatory.





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An Act respecting the  
Village of Point Edward

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*1st Reading*

June 15th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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# BILL 131

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

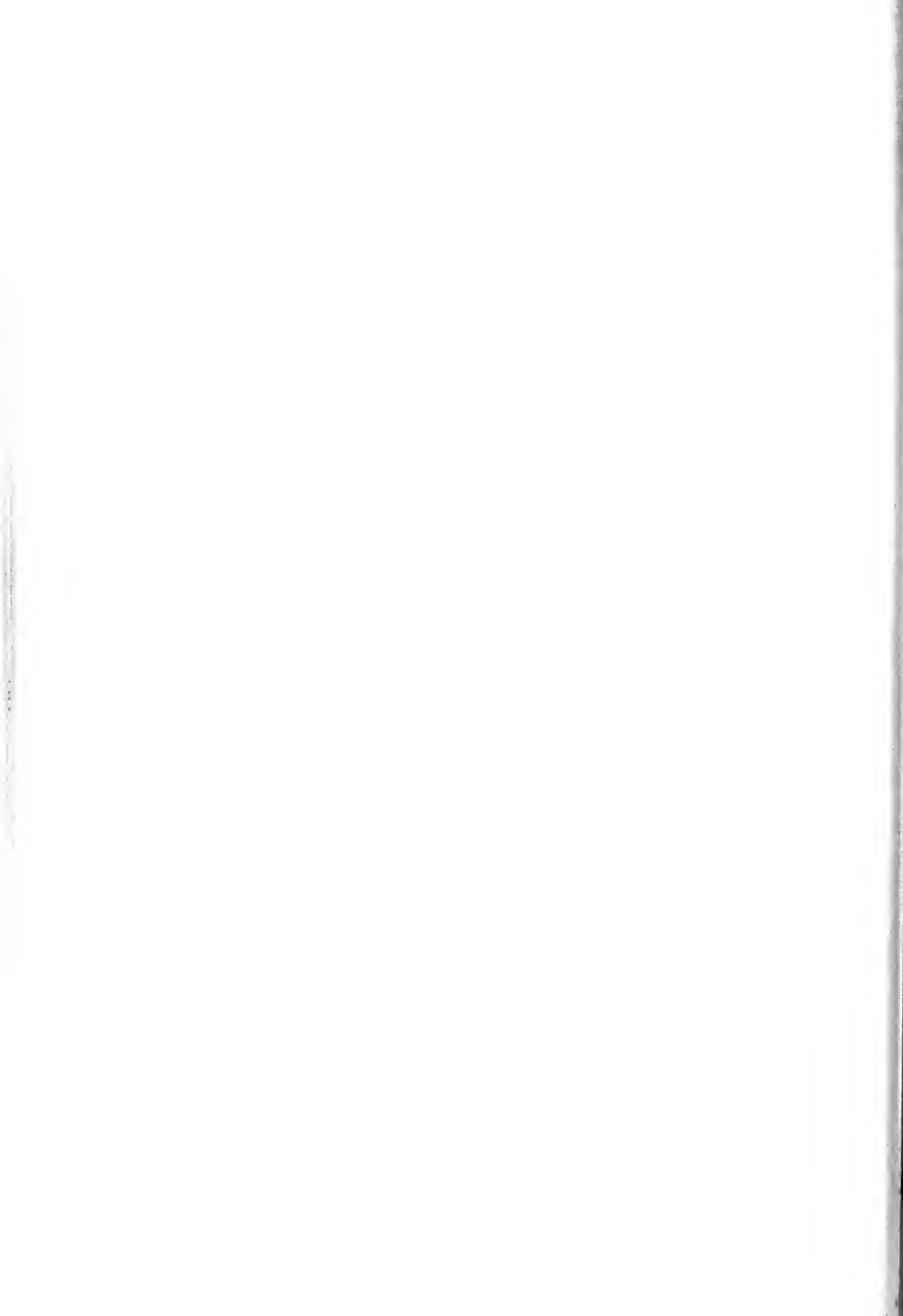
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## An Act respecting the Village of Point Edward

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 131

1979

### An Act respecting the Village of Point Edward

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

1. Notwithstanding any general or special Act, *The Assessment Act* applies to the real property vested in or controlled by the Blue Water Bridge Authority and located in the Village of Point Edward except the structure known as the Blue Water Bridge. R S O 1970, c. 32 to apply to real property of the Blue Water Bridge Authority

2.—(1) The Blue Water Bridge Authority shall pay to The Corporation of the Village of Point Edward in lieu of municipal taxes, including school taxes, on the structure known as the Blue Water Bridge located in the Village of Point Edward and in lieu of business assessment in respect thereto for the years 1978, 1979, 1980, 1981 and 1982 the following sums of money: Payments in lieu of taxes

- 1978 . . . . . \$57,000 plus local improvement rates.
- 1979 . . . . . \$65,000 plus local improvement rates.
- 1980 . . . . . \$70,000 plus local improvement rates.
- 1981 . . . . . \$75,000 plus local improvement rates.
- 1982 . . . . . \$80,000 plus local improvement rates.

(2) The sums of money referred to in subsection 1, shall be deemed to be municipal taxes due upon the structure known as the Blue Water Bridge in the respective years set out in subsection 1 and shall be added to the collector's roll of taxes in the appropriate year and may be collected in the same manner as municipal taxes, together with interest thereon, accruing from the date of being added to the collector's roll at the same rate as interest added by The Corporation of the Village of Point Edward under section 553 of *The Municipal Act* to taxes due and unpaid, and is, until so collected or otherwise paid, a special lien upon the structure as provided for in section 511 of the said Act. Collection of payments

(3) Commencing on the 1st day of January, 1983, *The Assessment Act* applies to the structure known as the Blue Water Bridge. R S O 1970, c. 284 Application of R S O 1970, c. 32 to bridge structure

Repeals

**3.** The following are repealed:

1. *The Blue Water Bridge Act, 1940*, being chapter 2.
2. *The Village of Point Edward Act, 1972*, being chapter 87.

Commence-  
ment

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

Short title

**5.** The short title of this Act is *The Village of Point Edward Act, 1979*.







An Act respecting the  
Village of Point Edward

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*1st Reading*

June 15th, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Securities Act, 1978**

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THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

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## EXPLANATORY NOTES

SECTION 1. Paragraph 24 of subsection 1 of section 1 now reads as follows:

24. "misrepresentation" means,

- i. an untrue statement of material fact, or
- ii. an omission to state a material fact.

The amendment clarifies the nature of an omission that will be interpreted as a misrepresentation.

SECTION 2. The amendment clarifies the powers of the Commission where hearings of the Commission and other securities commissions are combined to deal with circumstances involving identical or similar issues and parties.

SECTION 3. The current wording of section 71 (7) (b) (i) indicates that the notice therein referred to must be filed before each trade. The amendment requires only that the notice be filed before the first trade in the series of trades that may be required to effect the distribution.

SECTION 4.—Subsection 1. Subsection 1 of section 76 now reads as follows:

(1) Every reporting issuer that is not a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement,

- (a) for the three-month period that commenced on the date of incorporation or organization and for each of the two subsequent three-month periods during its first financial year, if the reporting issuer has not completed a financial year; or
- (b) for the three-month period of the current financial year that commenced immediately following the last financial year and for each of the two subsequent three-month periods during the current financial year, including a comparative statement for the corresponding three-month period in the last financial year, if the reporting issuer has completed a financial year,

*made up and certified as required by the regulations and in accordance with generally accepted accounting principles.*

The re-enactment of clauses *a* and *b* clarify that the reporting issuer is required to file, at the end of each three-month period, an interim cumulative financial statement.

BILL 132

1979

## An Act to amend The Securities Act, 1978

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

1. Subparagraph ii of paragraph 24 of subsection 1 of section 1 of *The Securities Act, 1978*, being chapter 47, is repealed and the following substituted therefor:
  - ii. an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.
2. Section 2 of the said Act is amended by adding thereto the following subsection:
  - (4) The Commission may hold hearings in or outside Ontario in conjunction with any other body empowered by statute to administer or regulate trading in securities and may consult with that other body during the course of a hearing.
3. Subclause i of clause *b* of subsection 7 of section 71 of the said Act is amended by striking out "proposed trade" in the fifth line and inserting in lieu thereof "first trade made to carry out the distribution".
- 4.—(1) Clauses *a* and *b* of subsection 1 of section 76 of the said Act are repealed and the following substituted therefor:
  - (a) to the end of each of the three-month, six-month and nine-month periods that commenced on the date of incorporation or organization if the reporting issuer has not completed a financial year; or

s. 1(1),  
par. 24,  
subpar. ii,  
re-enacted

s. 2,  
amended

Hearings in  
conjunction  
with other  
securities  
commissions

s. 71 (7) (b) (i),  
amended

s. 76 (1) (a, b),  
re-enacted

(b) to the end of each of the three-month, six-month and nine-month periods of the current financial year that commenced immediately following the last financial year including a comparative statement to the end of each of the corresponding periods in the last financial year, if the reporting issuer has completed a financial year,

s. 76 (2),  
amended

(2) Subsection 2 of the said section 76 is amended by inserting after "certified" in the tenth line "as required".

s. 88 (2) (d),  
amended

5.—(1) Clause *d* of subsection 2 of section 88 of the said Act is amended by striking out "subsection" in the sixth and seventh lines and inserting in lieu thereof "clause".

s. 88 (3) (a),  
amended

(2) Clause *a* of subsection 3 of the said section 88 is amended by striking out "the terms and conditions" in the second and third lines and inserting in lieu thereof "terms and conditions requiring such purchase, redemption or other acquisition that were".

s. 89 (1),  
par. 10,  
amended

6.—(1) Paragraph 10 of subsection 1 of section 89 of the said Act is amended by adding at the end thereof "but those securities shall be counted in the determination of whether a condition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled".

s. 89 (1),  
par. 12,  
amended

(2) Paragraph 12 of subsection 1 of the said section 89 is amended by striking out "the right to withdraw the offer if" in the second line and inserting in lieu thereof "not to take up and pay for shares deposited if".

s. 89 (1),  
par. 12 (b),  
amended

(3) Clause *b* of paragraph 12 of subsection 1 of the said section 89 is amended by striking out "or" in the fifth line and inserting in lieu thereof "and".

s. 89 (1),  
par. 13,  
amended

(4) Paragraph 13 of subsection 1 of the said section 89 is amended by striking out "making" in the fourth line and inserting in lieu thereof "date".

s. 90 (1),  
re-enacted

7. Subsection 1 of section 90 of the said Act is repealed and the following substituted therefor:

Notice of variation in take-over bid or issuer bid

90.—(1) Where a significant change has occurred in the information contained in a take-over bid circular or issuer bid circular while the offer is still outstanding or where a take-over bid or an issuer bid has been varied by changing any of its terms, every person or company whose shares have not been taken up and paid for and who has been sent the take-over bid circular or issuer bid circular shall be sent notice of such change or variation and,

Subsection 2. The amendment corrects an error.

SECTION 5.—Subsection 1. The amendment corrects an error.

Subsection 2. Clause *a* of subsection 3 of section 88 is set out below, showing underlined the proposed amendment:

*(3) An issuer bid is exempted from the requirements of this Part where,*

*(a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions requiring such purchase, redemption or other acquisition that were agreed to at the time they were issued or subsequently varied by amendment of the documents setting out those terms and conditions, or are acquired to meet sinking fund requirements or from an employee of the issuer or an employee of an affiliate;*

The amendment clarifies the nature of the exemption available under clause *a*

SECTION 6.—Subsection 1. The amendment prevents an offeror from frustrating acceptance of the offer contained in the take-over bid circular by his own purchases in the market.

Subsections 2, 3, 4. The amendments are housekeeping in nature.

SECTION 7. The proposed amendment to section 90 clarifies the manner in which the time available for accepting take-over bids is extended when significant as well as relatively insignificant variations or changes are introduced into the bid.

**SECTION 8.** The proposed amendment to section 99 provides a mechanism for avoiding interjurisdictional conflicts where the time periods in other jurisdictions related to a take-over bid or an issuer bid are different than the time periods set out in sections 89 and 90 of the Act.

**SECTION 9.** Section 131 makes every person or company in a special relationship with a reporting issuer liable for damages resulting from the improper use of his knowledge of a material fact or material change related to the reporting issuer that has not been generally disclosed.

The amendments clarify that it is the person or company in a special relationship with a reporting issuer who is liable for damages under the section

- (a) except where the variation or change is solely an increase in the amount of cash offered or relates to some other matter prescribed in the regulations for purposes of clause *b*, the date of the take-over bid or issuer bid shall, for the purposes of paragraphs 3 and 4 of subsection 1 of section 89, be deemed to be the date of the sending of the notice of such change or variation, and if the twenty-one day period referred to in paragraph 2 of that subsection or the thirty-five day period referred to in paragraphs 7 and 13 of that subsection would otherwise expire less than ten days after the date of the sending of the notice of such change or variation then paragraphs 2, 7 and 13 shall be read as if the periods therein referred to expire on the date which is ten days after the date of the sending of such notice of change or variation; and
- (b) where the variation or change is solely an increase in the amount of cash offered or relates to some other matter prescribed in the regulations for purposes of this clause, then the period in which securities may be deposited shall not expire less than three business days after the sending of the notice of change or variation and the time periods referred to in paragraphs 2, 7 and 13 of subsection 1 of section 89 shall be extended to the extent necessary to permit compliance with this clause,

but a variation in the terms of an offer shall not result in an extension of the thirty-five day period referred to in paragraphs 7 and 13 of subsection 1 of section 89 unless the offeror files with the Commission a certificate of two senior officers duly authorized to execute the certificate that the variation is made for proper business purposes and not merely to obtain an extension of that period.

8. Section 99 of the said Act is amended by relettering clauses *a* to *e* as clauses *b* to *f* and by adding thereto the following clause: s. 99, amended

- (a) change the time periods set out in sections 89 and 90 in their application to take-over bids or issuer bids that are subject to corresponding requirements, but with different time periods, imposed under applicable legislation of Canada or of a province or territory of Canada, and such change shall apply to take-over bids or issuer bids that satisfy the criteria set out in the order of the Commission making the change.

- 9.—(1) Subsections 1 and 2 of section 131 of the said Act are repealed and the following substituted therefor: s. 131 (1, 2), re-enacted

- (1) Every person or company in a special relationship with a reporting issuer who sells the securities of the reporting Liability of person or company in special relationship with a reporting issuer where material fact or change undisclosed

issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with the reporting issuer who, directly or indirectly, and other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter sells securities of the reporting issuer, is liable to compensate the purchaser of the securities for damages as a result of the trade unless,

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the purchaser; or
- (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling the securities or in communicating knowledge of the material fact or material change, as the case may be.

Idem

(2) Every person or company in a special relationship with a reporting issuer who purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with the reporting issuer who, directly or indirectly and, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter purchases securities of the reporting issuer, is liable to compensate the vendor of the securities for damages as a result of the trade unless,

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the vendor; or
- (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be.



(2) Subsections 4 and 5 of the said section 131 are repealed and the following substituted therefor: s. 131 (4, 5), re-enacted

(4) Every person or company in a special relationship with a reporting issuer who acts as described in subsection 1 or subsection 2 who is also an insider of the reporting issuer, or who is an associate or affiliate of such insider, is, in addition to the liability imposed by subsection 1 or 2, accountable to the reporting issuer for any benefit or advantage received or receivable by the insider or associate or affiliate, as the case may be. Accountability for gain

(5) Where more than one person or company in a special relationship with a reporting issuer is liable under subsection 1 or subsection 2 as to the same transaction or series of transactions, their liability is joint and several. Liability joint and several

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

**11.** The short title of this Act is *The Securities Amendment Act, 1979*. Short title





An Act to amend  
The Securities Act, 1978

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*1st Reading*

June 15th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to repeal  
The Income Tax Discounters Act, 1977**

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THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

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**EXPLANATORY NOTE**

The subject-matter of the Act is now governed by federal legislation.

BILL 133

1979

**An Act to repeal  
The Income Tax Discounters Act, 1977**

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

1. *The Income Tax Discounters Act, 1977*, being chapter 55 and *The Income Tax Discounters Amendment Act, 1978*, being chapter 1, are repealed. 1977, c. 55,  
1978, c. 1,  
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Income Tax Discounters Repeal Act, 1979*. Short title

An Act to repeal  
The Income Tax Discounters Act, 1977

---

*1st Reading*

June 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. FRANK DREA  
Minister of Consumer and Commercial  
Relations

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*(Government Bill)*



**BILL 133**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to repeal  
The Income Tax Discounters Act, 1977**

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THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

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BILL 133

1979

**An Act to repeal  
The Income Tax Discounters Act, 1977**

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

1. *The Income Tax Discounters Act, 1977*, being chapter 55 and *The Income Tax Discounters Amendment Act, 1978*, being chapter 1, are repealed. 1977, c 55.  
1978, c 1.  
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Income Tax Discounters Repeal Act, 1979*. Short title

An Act to repeal  
The Income Tax Discounters Act, 1977

---

*1st Reading*

June 15th, 1979

*2nd Reading*

June 21st, 1979

*3rd Reading*

June 21st, 1979

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THE HON. FRANK DREA  
Minister of Consumer and Commercial  
Relations

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to provide for an  
All Ontario Pitch-In Day**

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MR. MILLER  
(Haldimand-Norfolk)

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide for an All Ontario Pitch-In Day. The All Ontario Pitch-In Day would be a day during the year on which all residents of Ontario would be encouraged to undertake special efforts to keep the environment free of litter.

BILL 134

1979

## An Act to provide for an All Ontario Pitch-In Day

**W**HEREAS every resident in Ontario is entitled to enjoy <sup>Preamble</sup> the beauty of an urban and rural landscape that is clean and free of litter; and whereas each resident of Ontario should be encouraged to accept individual responsibility for maintaining a clean environment and to participate actively in an effort to keep the environment free of litter;

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

1. There shall be one day in every year, on a day to be <sup>All Ontario Pitch-In Day</sup> named by proclamation of the Lieutenant Governor, that is known as All Ontario Pitch-In Day and this day shall be celebrated throughout the Province of Ontario.

2.—(1) Every ministry of the Government of Ontario <sup>Government effort to facilitate participation</sup> shall make a reasonable effort to facilitate participation by residents of Ontario in the All Ontario Pitch-In Day and the Government of Ontario, at least thirty days before the All Ontario Pitch-In Day, shall notify the public of programs and services offered by each ministry in support of the Day.

(2) The Ministry of Education shall encourage every school <sup>Ministry of Education</sup> board and school to develop special programs and activities and otherwise participate in the All Ontario Pitch-In Day, and, for the purposes of each school that participates in the Day, the Day shall be considered as a regular school day in the school year.

3. The Government of Ontario shall ensure that an <sup>Disposal stations</sup> adequate number of highway litter and sanitation disposal stations are available throughout the Province of Ontario for the purposes of the residents of Ontario who participate in the All Ontario Pitch-In Day.

Commence-  
ment

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

Short title

**5.** The short title of this Act is *The All Ontario Pitch-In Day Act, 1979*.









An Act to provide for an  
All Ontario Pitch-In Day

---

*1st Reading*

June 15th, 1979

*2nd Reading*

*3rd Reading*

---

MR. MILLER  
(Haldimand-Norfolk)

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Police Act**

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THE HON. R. McMURTRY  
Solicitor General

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#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 2 of section 8 of the Act now reads as follows:

- (2) *The board, except as provided in subsection 3, shall consist of,*
  - (a) *the head of the council;*
  - (b) *a judge of any county or district court designated by the Lieutenant Governor in Council; and*
  - (c) *such person as the Lieutenant Governor in Council may designate.*

The requirement that one of the members of a board of police commissioners shall be a county or district court judge is removed.

Subsection 2. Subsections 3 and 4 of section 8 of the Act now read as follows:

- (3) *Where a vacancy occurs on the board by reason of the death of a member designated by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Solicitor General may in writing appoint some other judge or person, as the case may be, to act as a member of the board for a period of six months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member.*
- (4) *The council shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations, to the members of the board designated by the Lieutenant Governor in Council or appointed by the Solicitor General and may provide for the payment of an allowance to the head of the council.*

The re-enactment of the subsections is complementary to subsection 1

BILL 135

1979

## An Act to amend The Police Act

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

1.—(1) Subsection 2 of section 8 of *The Police Act*, being chapter 351 of the Revised Statutes of Ontario, 1970, is repealed<sup>s. 8 (2). re-enacted</sup> and the following substituted therefor:

(2) The board, except as provided in subsection 3, shall<sup>Composition of board</sup> consist of,

(a) the head of the council; and

(b) two persons appointed by the Lieutenant Governor in Council.

(2) Subsections 3 and 4 of the said section 8, as amended by<sup>s. 8 (3, 4). re-enacted</sup> the Statutes of Ontario, 1972, chapter 1, section 97, are repealed and the following substituted therefor:

(3) Where a vacancy occurs on the board by reason of the<sup>Vacancies</sup> death of a member appointed by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Solicitor General may in writing appoint some other person to act as a member of the board for a period of six months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member.

(4) The council shall provide for the payment of a reason-<sup>Remuneration</sup>able remuneration, not being less than the minimum prescribed by the regulations, to the members of the board appointed by the Lieutenant Governor in Council or the Solicitor General and may provide for the payment of an allowance to the head of the council.

s. 9 (2),  
re-enacted

- 2.** Subsection 2 of section 9 of the said Act is repealed and the following substituted therefor:

Composition  
of board

(2) A joint board established under subsection 1 shall consist of,

(a) the head of the council of each of the municipalities;  
and

(b) such other persons as the Lieutenant Governor in Council may appoint.

Commence-  
ment

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

Short title

- 4.** The short title of this Act is *The Police Amendment Act, 1979*.



SECTION 2. Subsection 2 of section 9 of the Act now reads as follows:

(2) *A joint board established under subsection 1 shall consist of,*

*(a) the head of the council of each of the municipalities;*

*(b) such judge and such other persons as the Lieutenant Governor in Council may designate.*

The re-enactment of the subsection is complementary to section 1 of the Bill.





An Act to amend  
The Police Act

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*1st Reading*

June 18th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. MCMURTRY  
Solicitor General

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*(Government Bill)*

**BILL 135**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Police Act**

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THE HON. R. McMURTRY  
Solicitor General

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BILL 135

1979

## An Act to amend The Police 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 2 of section 8 of *The Police Act*, being chapter 351 of the Revised Statutes of Ontario, 1970, is repealed <sup>s. 8 (2).</sup> re-enacted and the following substituted therefor:

(2) The board, except as provided in subsection 3, shall <sup>Composition</sup> of board consist of,

(a) the head of the council; and

(b) two persons appointed by the Lieutenant Governor in Council.

(2) Subsections 3 and 4 of the said section 8, as amended by <sup>s. 8 (3, 4).</sup> re-enacted the Statutes of Ontario, 1972, chapter 1, section 97, are repealed and the following substituted therefor:

(3) Where a vacancy occurs on the board by reason of the <sup>Vacancies</sup> death of a member appointed by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Solicitor General may in writing appoint some other person to act as a member of the board for a period of six months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member.

(4) The council shall provide for the payment of a reasonable remuneration, not being less than the minimum <sup>Remunera</sup> tion prescribed by the regulations, to the members of the board appointed by the Lieutenant Governor in Council or the Solicitor General and may provide for the payment of an allowance to the head of the council.

s. 9 (2),  
re-enacted

**2.** Subsection 2 of section 9 of the said Act is repealed and the following substituted therefor:

Composition  
of board

(2) A joint board established under subsection 1 shall consist of,

(a) the head of the council of each of the municipalities;  
and

(b) such other persons as the Lieutenant Governor in Council may appoint.

Commence-  
ment

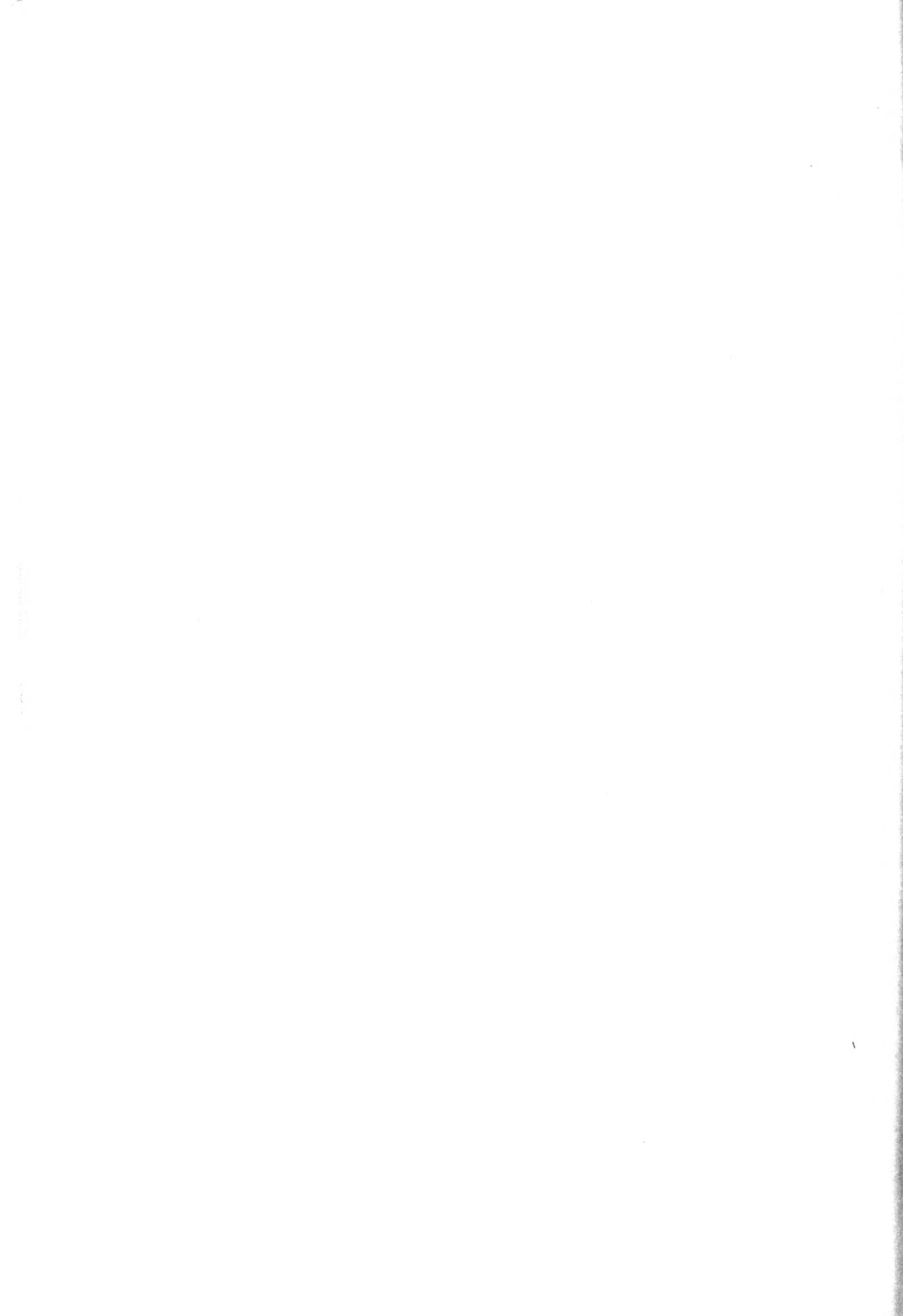
**3.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**4.** The short title of this Act is *The Police Amendment Act, 1979*.









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An Act to amend  
The Police Act

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*1st Reading*

June 18th, 1979

*2nd Reading*

June 21st, 1979

*3rd Reading*

June 21st, 1979

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THE HON. R. MCMURTRY  
Solicitor General

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to stabilize  
Employment of Tradesmen in the Construction Industry**

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THE HON. R. G. ELGIE  
Minister of Labour

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#### EXPLANATORY NOTE

The purpose of the Bill is to enable the Minister, with the approval of the Lieutenant Governor in Council, to issue a code or code of employment practices establishing measures and procedures respecting employment in the construction industry including provisions that tradesmen permanently resident in Ontario be given employment preference.

BILL 136

1979

## An Act to stabilize Employment of Tradesmen in the Construction Industry

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

**1.** In this Act,

Interpre-  
tation

- (a) "construction" means the erection, alteration, repair, extension or demolition of a building, structure, road, pipeline, utility main or sewer, trench or tunnel and includes the installation of any fixtures, materials, services or machinery therein and any work in connection therewith at the construction site;
- (b) "construction industry" means the businesses engaged in construction and includes a person who contracts with any person to undertake all the work on a construction site and an owner who contracts with more than one person for parts of the work on a construction site or undertakes all or part of the work on a construction site himself;
- (c) "employment" means the hiring of or contracting with tradesmen;
- (d) "Minister" means the Minister of Labour;
- (e) "permanently resident in Ontario" means actual residence in Ontario for a period of at least twelve months within the fifteen months immediately prior to employment or actual residence in Ontario with the settled intention of permanently residing in Ontario;
- (f) "tradesmen" means persons who engage in a trade, calling or occupation in construction or who represent themselves as being available to work on a construction site in a trade, calling or occupation.

Minister  
may issue  
code

2.—(1) Where in the opinion of the Minister it is necessary to eliminate or reduce instability in the employment of tradesmen by the construction industry, or to promote employment opportunities therein, the Minister, subject to the approval of the Lieutenant Governor in Council, may issue a code or codes of employment practices establishing measures and procedures respecting the employment of tradesmen in construction, including provisions that tradesmen permanently resident in Ontario shall be given preference in employment.

Application  
of code

(2) A code of employment practices may,

- (a) apply to the whole or any part of Ontario;
- (b) apply to the whole or any part of the construction industry or of construction;
- (c) apply to tradesmen generally or specifically; and
- (d) provide for exemptions therefrom.

Minister  
may amend  
or revoke  
code

(3) The Minister, subject to the approval of the Lieutenant Governor in Council, may amend or revoke any code of employment practices or any provision thereof.

R.S.O. 1970,  
c. 410  
does not  
apply

(4) *The Regulations Act* does not apply to a code of employment practices issued under this Act.

Publication  
of code  
and effect  
of publication

(5) A code of employment practices and any amendment or revocation thereof shall be published in *The Ontario Gazette* and such publication shall be deemed to be notice of its contents to every person and trade union subject to it or affected by it, and judicial notice shall be taken of it, its contents and its publication.

Code to  
bind

3. A code of employment practices binds every person and trade union subject to it or affected by it.

Records to  
be kept

4. An employer to whom a code of employment practices applies shall keep a record of work hours of employment of tradesmen who are permanently resident in Ontario and of tradesmen who are not permanently resident in Ontario.

Offence

5.—(1) Every person or trade union who contravenes or fails to comply with,

- (a) a provision of this Act; or
- (b) a code of employment practices or a provision thereof,



is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

(2) It shall be a defence to a prosecution under clause *b* of subsection 1 for an accused to prove that he took every reasonable step to comply with a code of employment practices or the relevant provisions thereof. Defence to prosecution

(3) Anything done or neglected to be done by a person who purports to act on behalf of an employer or trade union shall be deemed to have been done or have been neglected to be done by the employer or trade union as well as by the person. Acts deemed acts of employer or trade union

(4) A prosecution for an offence under this Act may be instituted against a trade union in the name of the trade union. Prosecution against trade union

6. A code of employment practices issued under this Act applies notwithstanding the provisions of any other Act of the Legislature or of any collective agreement or any rules, practices, by-laws or provisions of the constitution of a trade union. Application of code

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

8. The short title of this Act is *The Construction Industry Employment Stabilization Act, 1979*. Short title





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An Act to stabilize Employment of  
Tradesmen in the Construction Industry

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*1st Reading*

March 6th, 1979

*2nd Reading*

March 6th, 1979

*3rd Reading*

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THE HON. R. G. ELGIE  
Minister of Labour

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Municipal Act**

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MR. WILDMAN

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide for the separate taxation of mobile home park operators and mobile home owners. Where a mobile home is assessed and taxed by a municipality, the tax collector must send a tax notice to the mobile home owner indicating the amount of tax to be paid in respect of the assessed property. Any taxes due in respect of an assessed mobile home constitute a lien on the mobile home rather than against the land of the owner of the mobile home park.

## An Act to amend The Municipal Act

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

1. *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

521*b*.—(1) Where one or more mobile homes located in a mobile home park is assessed under *The Assessment Act* and a tax is levied upon that assessment, the collector shall give to the owner of the mobile home park and to each owner of an assessed mobile home a separate written or printed notice specifying the amount of taxes to be paid by each owner, and the collector shall deliver the notice or cause it to be delivered to each owner at his residence or upon the premises in respect of which the taxes are payable and may call on each person taxed at his usual residence and demand payment of the taxes.

s. 521*b*,  
enacted  
Separate  
tax bills  
for mobile  
home parks—  
R S O 1970,  
c. 32

(2) Notwithstanding section 511, the taxes due upon an assessed mobile home and set out in a notice referred to in subsection 1 are a special lien on the mobile home only and the special lien has priority in relation to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the municipality or of any agent or officer, or by want of registration.

Lien on  
mobile home

(3) In this section, “mobile home” and “mobile home park” have the same meaning as in *The Landlord and Tenant Act*.

Interpre-  
tation  
R S O 1970,  
c. 236

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Municipal Amendment Act, 1979*.

Commence-  
ment

Short title

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An Act to amend  
The Municipal Act

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*1st Reading*

June 18th, 1979

*2nd Reading*

*3rd Reading*

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MR. WILDMAN

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Education Act, 1974**

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MR. WILDMAN

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide for the separate taxation of mobile home park operators and mobile home owners. Where a mobile home is taxed for school purposes by a municipality or school board, the tax collector or secretary of the school board must send a tax notice to the mobile home owner indicating the amount of tax to be paid in respect of the assessed property. Any lien resulting from non-payment of tax by the mobile home owner may arise only on the mobile home and not on the land of the owner of the mobile home park.

## An Act to amend The Education Act, 1974

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

1. Subsection 1 of section 220 of *The Education Act, 1974*, being chapter 109, is amended by striking out "section 221" in the first line and inserting in lieu thereof "sections 221 and 221a". s. 220 (1) amended

2. The said Act is amended by adding thereto the following section: s. 221a enacted

221a.—(1) Where a rate is levied for school purposes on a mobile home or trailer that is located in a mobile home park, trailer park or trailer camp, the tax collector or the secretary of the board, as the case may be, shall give to the owner of the park and to each owner of an assessed mobile home or trailer a separate written or printed notice specifying the amount of taxes to be paid by each owner, and the collector or secretary shall deliver the notice or cause it to be delivered to each owner at his residence or upon the premises in respect of which the taxes are payable and may call on each person taxed at his usual residence and demand payment of the taxes. Separate tax bills

(2) Notwithstanding anything in this Act or any other Act, no charge or lien arises on the land of an owner of a mobile home park or trailer park in respect of a payment due from an owner of an assessed mobile home or trailer home for a rate levied for school purposes and set out in a notice referred to in subsection 1. No charge arises

(3) In this section, "mobile home" and "mobile home park" have the same meaning as in *The Landlord and Tenant Act*. Interpretation R.S.O. 1970, c. 236

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

4. The short title of this Act is *The Education Amendment Act, 1979*. Short title

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An Act to amend  
The Education Act, 1974

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*1st Reading*

June 18th, 1979

*2nd Reading*

*3rd Reading*

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MR. WILDMAN

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*(Private Member's Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Legislative Assembly Act**

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THE HON. R. WELCH  
Provincial Secretary for Justice

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#### EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$20,012 to \$22,000.

The annual allowance for expenses of members of the Assembly is increased from \$7,800 to \$8,000.

SECTION 2. Representation allowances are increased:

1. For the Premier, from \$4,680 to \$4,914.
2. For the Leader of the Opposition, from \$3,120 to \$3,276.
3. For the Leader of the Third Party, from \$1,560 to \$1,638.

The Speaker's representation allowance is removed.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$9,360 to \$15,000.
2. For the Leader of the Opposition, from \$18,720 to \$19,656.
3. For the Leader of the Third Party, from \$5,200 to \$5,460.

BILL 139

1979

**An Act to amend  
The Legislative Assembly Act**

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

1. Subsections 1 and 2 of section 60 of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$22,000 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$8,000 per annum shall be paid to every member of the Assembly. Members' allowances

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member there shall be paid an allowance for the expenses of representation, Allowance for expenses of representation

- (a) to the Premier, at the rate of \$4,914 per annum;
- (b) to the Leader of the Opposition, at the rate of \$3,276 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$1,638 per annum.

3. Subsection 1 of section 62 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 3, is repealed and the following substituted therefor: s. 62 (1), re-enacted

Indemnity;  
of Speaker,  
Leader of  
Opposition  
and leader of  
a minority  
party

(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$15,000 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$19,656 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly an indemnity at the rate of \$5,460 per annum.

s. 62a,  
re-enacted

4. Section 62a of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 4, is repealed and the following substituted therefor:

Cost of  
accommoda-  
tion in  
Toronto

62a.—(1) Where the principal residence of the Leader of the Opposition is outside The Municipality of Metropolitan Toronto, he shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year.

Idem

(2) Where the principal residence of the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly is outside The Municipality of Metropolitan Toronto, he shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year.

s. 63 (1),  
re-enacted

5. Subsection 1 of section 63 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 5, is repealed and the following substituted therefor:

Chairman and  
Deputy  
Chairman of  
Whole House  
and Chairmen  
of standing  
committees,  
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the person who is Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$6,500 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$4,000 per annum; and
- (c) to the chairman of each standing committee at the rate of \$3,000 per annum.



**SECTION 4.** The provision for payment of the actual cost of accommodation in Toronto for the Leader of the Opposition and for the Leader of the Third Party, where they reside outside Metropolitan Toronto, is increased from \$6,240 to \$6,552.

**SECTION 5.** Additional indemnities are increased:

1. For the Chairman of the Whole House, from \$5,200 to \$6,500.
2. For the Deputy Chairman of the Whole House, from \$3,120 to \$4,000.
3. For chairmen of standing committees, from \$2,080 to \$3,000.

SECTION 6. Additional indemnities to whips are increased as follows:

1. For the Chief Government Whip, from \$5,200 to \$6,500.
2. For the Deputy Government Whip, from \$3,120 to \$4,000.
3. For the Government Whips, from \$2,080 to \$2,750.
4. For the Chief Opposition Whip, from \$3,120 to \$4,000.
5. For the Opposition Whips, from \$2,080 to \$2,750.
6. For the Chief Party Whip of the Third Party, from \$2,600 to \$3,250.
7. For the Party Whip of the Third Party, from \$2,080 to \$2,500.

SECTION 7. The provision for payment to the member representing the electoral district of Cochrane North, Kenora, Rainy River or Lake Nipigon of the actual cost of air travel within the electoral district is increased from \$2,600 to \$2,730, and the provision for payment to any other member of his actual costs of accommodation expended due to unusual or special circumstances while on business as a member of the Assembly in the electoral district represented by the member is increased from \$2,600 to \$2,730.

6. Subsection 1 of section 64 of the said Act, as re-enacted by <sup>s. 64 (1),</sup> the Statutes of Ontario, 1978, chapter 98, section 6, is repealed <sup>re-enacted</sup> and the following substituted therefor:

(1) In addition to his indemnity as a member, an <sup>Whips,</sup> indemnity shall be paid, <sup>indemnities</sup>

- (a) to the Chief Government Whip, at the rate of \$6,500 per annum;
- (b) to the Deputy Government Whip, at the rate of \$4,000 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$2,750 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$4,000 per annum;
- (e) to each of not more than two Opposition Whips, at the rate of \$2,750 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
  - (i) to the Chief Party Whip of the party, at the rate of \$3,250 per annum, and
  - (ii) to the Party Whip of the party, at the rate of \$2,500 per annum.

7. Subsection 5 of section 65 of the said Act, as re-enacted by <sup>s. 65 (5),</sup> the Statutes of Ontario, 1978, chapter 98, section 7, is repealed <sup>re-enacted</sup> and the following substituted therefor:

(5) The member of the Assembly representing the electoral district of Cochrane North, Kenora, Rainy River or Lake Nipigon shall be paid the actual cost, not exceeding \$2,730 in any year, of transportation by airplane within the electoral district and of accommodation within the electoral district or an electoral district contiguous thereto while on business <sup>air travel and accom-</sup> as a member of the Assembly and any other member of the <sup>modation</sup> Assembly may be paid such of his actual costs of accommo- <sup>costs within</sup> dation within the electoral district represented by him ex- <sup>certain</sup> pended due to unusual or special circumstances while on <sup>electoral</sup> business as a member of the Assembly as may be approved <sup>districts or</sup> by the Board of Internal Economy, not exceeding \$2,730 <sup>under special</sup> in any year. <sup>circumstances</sup>

s. 68,  
re-enacted

- 8.** Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 10, is repealed and the following substituted therefor:

House  
Leaders'  
indemnities

68. In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Opposition House Leader, at the rate of \$4,500 per annum plus an amount calculated at the rate of \$50 per annum in respect of each member of the Official Opposition; and
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly at the rate of \$2,500 per annum plus an amount calculated at the rate of \$50 per annum in respect of each member of the party.

Commence-  
ment

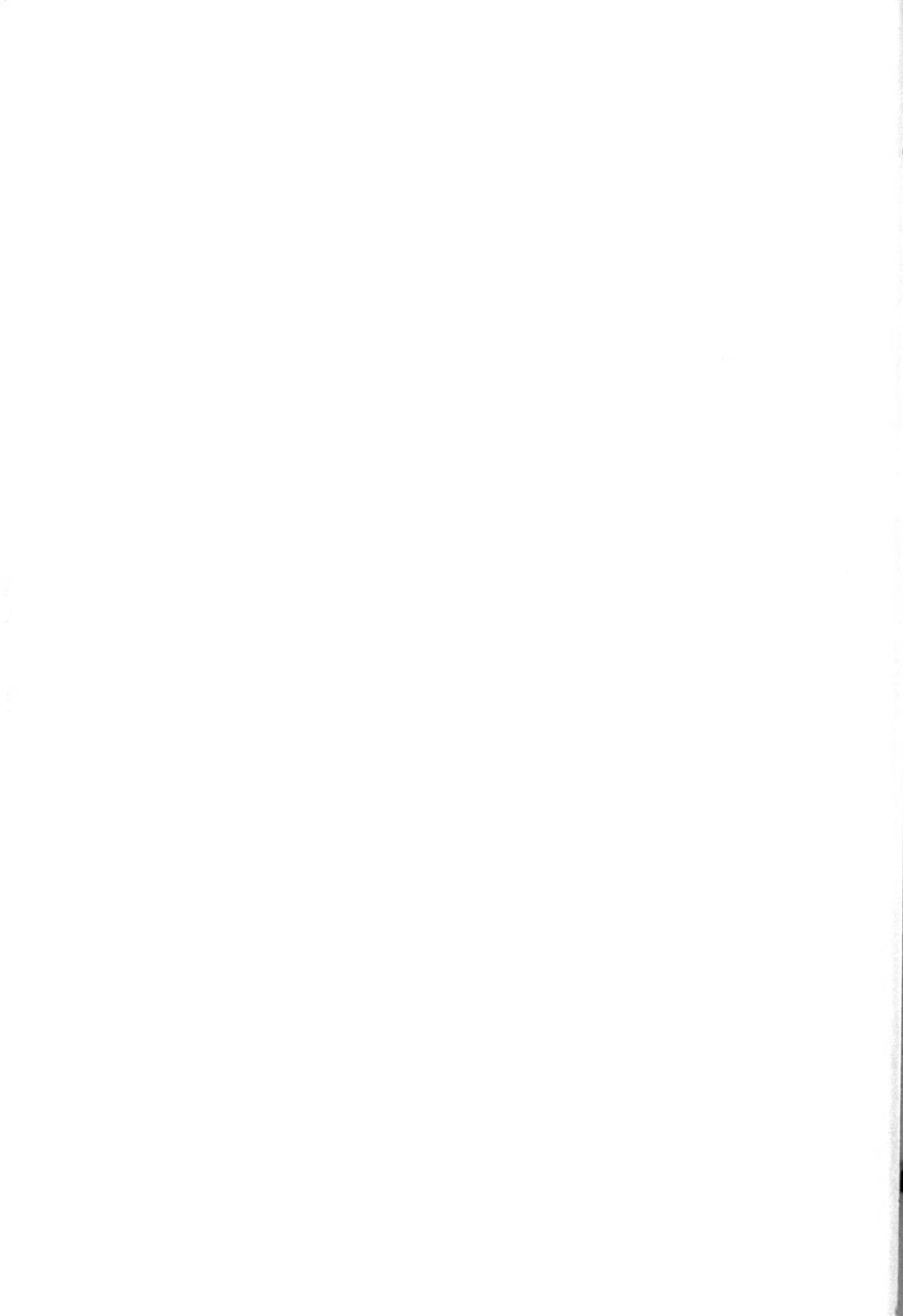
- 9.** This Act shall be deemed to have come into force on the 1st day of April, 1979.

Short title

- 10.** The short title of this Act is *The Legislative Assembly Amendment Act, 1979*.

**SECTION 8. Additional indemnities are increased as follows :**

1. For the Opposition House Leader, from **\$5,200** to **\$4,500** plus **\$50** in respect of each member of the Official Opposition.
2. For the House Leader of the Third Party, from **\$2,600** to **\$2,500** plus **\$50** in respect of each member of the party.





**BILL 139**

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An Act to amend  
The Legislative Assembly Act

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*1st Reading*

June 18th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. WELCH  
Provincial Secretary for Justice

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Legislative Assembly Act**

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THE HON. R. WELCH  
Provincial Secretary for Justice

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

#### EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$20,012 to \$22,000.

The annual allowance for expenses of members of the Assembly is increased from \$7,800 to \$8,000.

SECTION 2. Representation allowances are increased

1. For the Premier, from \$4,680 to \$4,914.
2. For the Leader of the Opposition, from \$3,120 to \$3,276.
3. For the Leader of the Third Party, from \$1,560 to \$1,638.

The Speaker's representation allowance is removed.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$9,360 to \$15,000.
2. For the Leader of the Opposition, from \$18,720 to \$19,656.
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BILL 139

1979

**An Act to amend  
The Legislative Assembly Act**

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

1. Subsections 1 and 2 of section 60 of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$22,000 per annum shall be paid to every member of the Assembly. Members' indemnities

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2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member there shall be paid an allowance for the expenses of representation, Allowance for expenses of representation

(a) to the Premier, at the rate of \$4,914 per annum;

(b) to the Leader of the Opposition, at the rate of \$3,276 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$1,638 per annum.

3. Subsection 1 of section 62 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 3, is repealed and the following substituted therefor:

Indemnity;  
of Speaker,  
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(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$15,000 per annum;
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- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly an indemnity at the rate of \$5,460 per annum.

s. 62a,  
re-enacted

4. Section 62a of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 4, is repealed and the following substituted therefor:

Cost of  
accommoda-  
tion in  
Toronto

62a.—(1) Where the principal residence of the Leader of the Opposition is outside The Municipality of Metropolitan Toronto, he shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year.

Idem

(2) Where the principal residence of the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly is outside The Municipality of Metropolitan Toronto, he shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year.

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(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the person who is Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$6,500 per annum;
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SECTION 4. The provision for payment of the actual cost of accommodation in Toronto for the Leader of the Opposition and for the Leader of the Third Party, where they reside outside Metropolitan Toronto, is increased from \$6,240 to \$6,552.

SECTION 5. Additional indemnities are increased:

1. For the Chairman of the Whole House, from \$5,200 to \$6,500.
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SECTION 6. Additional indemnities to whips are increased as follows:

1. For the Chief Government Whip, from \$5,200 to \$6,500.
2. For the Deputy Government Whip, from \$3,120 to \$4,000.
3. For the Government Whips, from \$2,080 to \$2,750.
4. For the Chief Opposition Whip, from \$3,120 to \$4,000.
5. For the Opposition Whips, from \$2,080 to \$2,750.
6. For the Chief Party Whip of the Third Party, from \$2,600 to \$3,250.
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6. Subsection 1 of section 64 of the said Act, as re-enacted by <sup>s. 64 (1).</sup> the Statutes of Ontario, 1978, chapter 98, section 6, is repealed <sup>re-enacted</sup> and the following substituted therefor:

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(a) to the Chief Government Whip, at the rate of \$6,500 per annum;

(b) to the Deputy Government Whip, at the rate of \$4,000 per annum;

(c) to each of not more than three Government Whips, at the rate of \$2,750 per annum;

(d) to the Chief Opposition Whip, at the rate of \$4,000 per annum;

(e) to each of not more than two Opposition Whips, at the rate of \$2,750 per annum; and

(f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,

(i) to the Chief Party Whip of the party, at the rate of \$3,250 per annum, and

(ii) to the Party Whip of the party, at the rate of \$2,500 per annum.

- 7.—(1) Subsection 5 of section 65 of the said Act, as re-enacted by <sup>s. 65 (5).</sup> the Statutes of Ontario, 1978, chapter 98, section 7, <sup>re-enacted</sup> is repealed and the following substituted therefor:

(5) The member of the Assembly representing the electoral district of Cochrane North, Kenora, Rainy River or Lake Nipigon shall be paid the actual cost, not exceeding \$2,730 in any year, of transportation by airplane within the electoral district and of accommodation within the electoral district or an electoral district contiguous thereto while on business <sup>air travel and accom-</sup> as a member of the Assembly and any other member of the <sup>modation costs within</sup> Assembly may be paid such of his actual costs of accommo- <sup>certain</sup> dation within the electoral district represented by him ex- <sup>electoral</sup> pended due to unusual or special circumstances while on <sup>districts or</sup> business as a member of the Assembly as may be approved <sup>under special</sup> by the Board of Internal Economy, not exceeding \$2,730 <sup>circumstances</sup> in any year.

s. 65 (7) (a),  
amended

(2) Clause *a* of subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1973, chapter 151, section 7, is amended by striking out "with portfolio".

s. 68,  
re-enacted

8. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 10, is repealed and the following substituted therefor:

House  
Leaders'  
indemnities

68. In addition to his indemnity as a member, an indemnity shall be paid,

(a) to the Opposition House Leader, at the rate of \$4,500 per annum plus an amount calculated at the rate of \$50 per annum in respect of each member of the Official Opposition; and

(b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly at the rate of \$2,500 per annum plus an amount calculated at the rate of \$50 per annum in respect of each member of the party.

Commence-  
ment

9. This Act shall be deemed to have come into force on the 1st day of April, 1979.

Short title

10. The short title of this Act is *The Legislative Assembly Amendment Act, 1979*.



Subsection 2. The amendment is complementary to subsection 1 of section 3a of *The Executive Council Act*, as set out in Bill 140. The actual cost of accommodation for all Ministers of the Crown who reside outside Metropolitan Toronto will now be provided for under *The Executive Council Act*.

SECTION 8. Additional indemnities are increased as follows.

1. For the Opposition House Leader, from \$5,200 to \$4,500 plus \$50 in respect of each member of the Official Opposition
2. For the House Leader of the Third Party, from \$2,600 to \$2,500 plus \$50 in respect of each member of the party





An Act to amend  
The Legislative Assembly Act

---

*1st Reading*

June 18th, 1979

*2nd Reading*

June 21st, 1979

*3rd Reading*

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THE HON. R. WELCH  
Provincial Secretary for Justice

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

**BILL 139**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Legislative Assembly Act**

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THE HON. R. WELCH  
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BILL 139

1979

**An Act to amend  
The Legislative Assembly Act**

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2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member there shall be paid an allowance for the expenses of representation, Allowance for expenses of representation

(a) to the Premier, at the rate of \$4,914 per annum;

(b) to the Leader of the Opposition, at the rate of \$3,276 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$1,638 per annum.

3. Subsection 1 of section 62 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 3, is repealed and the following substituted therefor:

Indemnity;  
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Leader of  
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(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$15,000 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$19,656 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly an indemnity at the rate of \$5,460 per annum.

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4. Section 62a of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 4, is repealed and the following substituted therefor:

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62a.—(1) Where the principal residence of the Leader of the Opposition is outside The Municipality of Metropolitan Toronto, he shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year.

Idem

(2) Where the principal residence of the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly is outside The Municipality of Metropolitan Toronto, he shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year.

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(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the person who is Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$6,500 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$4,000 per annum; and
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6. Subsection 1 of section 64 of the said Act, as re-enacted by <sup>s. 64 (1),</sup> the Statutes of Ontario, 1978, chapter 98, section 6, is repealed <sup>re-enacted</sup> and the following substituted therefor:

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(d) to the Chief Opposition Whip, at the rate of \$4,000 per annum;

(e) to each of not more than two Opposition Whips, at the rate of \$2,750 per annum; and

(f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,

(i) to the Chief Party Whip of the party, at the rate of \$3,250 per annum, and

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- 7.—(1) Subsection 5 of section 65 of the said Act, as re-enacted <sup>s. 65 (5),</sup> by the Statutes of Ontario, 1978, chapter 98, section 7, is repealed <sup>re-enacted</sup> and the following substituted therefor:

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s. 65 (7) (a),  
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(2) Clause *a* of subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1973, chapter 151, section 7, is amended by striking out "with portfolio".

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Commence-  
ment

**9.** This Act shall be deemed to have come into force on the 1st day of April, 1979.

Short title

**10.** The short title of this Act is *The Legislative Assembly Amendment Act, 1979*.



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An Act to amend  
The Legislative Assembly Act

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*1st Reading*

June 18th, 1979

*2nd Reading*

June 21st, 1979

*3rd Reading*

June 21st, 1979

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THE HON. R. WELCH  
Provincial Secretary for Justice

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Executive Council Act**

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THE HON. R. WELCH  
Provincial Secretary for Justice

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#### EXPLANATORY NOTES

SECTION 1. Annual salaries are increased as follows:

1. Minister with portfolio, from \$18,720 to \$19,656.
2. First Minister, in addition, from \$7,280 to \$7,644.
3. Minister without portfolio, from \$7,800 to \$8,190.
4. Parliamentary Assistant, from \$5,200 to \$5,460.

SECTION 2. The provision for the payment of the actual cost of accommodation for a minister of the Crown who resides outside Metropolitan Toronto is increased from \$6,240 to \$6,552.

BILL 140

1979

**An Act to amend  
The Executive Council Act**

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

1. Subsections 1, 2, 3 and 3a of section 3 of *The Executive Council Act*, being chapter 153 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 97, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$19,656. Salaries s. 3 (1, 2, 3, 3a), re-enacted

(2) The member of the Executive Council holding the recognized position of First Minister shall receive, in addition, \$7,644 per annum. Additional salary for First Minister

(3) The annual salary of every minister without portfolio is \$8,190. Salary of minister without portfolio

(3a) The annual salary of every Parliamentary Assistant is \$5,460. Salary of Parliamentary Assistant

2. Subsection 1 of section 3a of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 97, section 2, is repealed and the following substituted therefor: s. 3a (1) re-enacted

(1) Every minister of the Crown with portfolio whose principal residence is outside The Municipality of Metropolitan Toronto shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year. Cost of accommodation in Toronto

3. This Act shall be deemed to have come into force on the 1st day of April, 1979. Commencement

4. The short title of this Act is *The Executive Council Amendment Act, 1979*. Short title

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**BILL 140**

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An Act to amend  
The Executive Council Act

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*1st Reading*

June 18th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. R. WELCH  
Provincial Secretary for Justice

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*(Government Bill)*



3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Executive Council Act**

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THE HON. R. WELCH  
Provincial Secretary for Justice

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

## EXPLANATORY NOTES

SECTION 1. Annual salaries are increased as follows:

1. Minister with portfolio, from \$18,720 to \$19,656.
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**An Act to amend  
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  - (3) The annual salary of every minister without portfolio is \$8,190.
  - (3a) The annual salary of every Parliamentary Assistant is \$5,460.

s. 3 (1, 2, 3, 3a).  
re-enacted

Salaries

Additional salary for First Minister

Salary of minister without portfolio

Salary of Parliamentary Assistant

- 2. Subsection 1 of section 3a of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 97, section 2, is repealed and the following substituted therefor:
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Cost of accommodation in Toronto

- 3. This Act shall be deemed to have come into force on the 1st day of April, 1979.
- 4. The short title of this Act is *The Executive Council Amendment Act, 1979*.

Commencement

Short title

An Act to amend  
The Executive Council Act

---

*1st Reading*

June 18th, 1979

*2nd Reading*

June 21st, 1979

*3rd Reading*

---

THE HON. R. WELCH  
Provincial Secretary for Justice

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

**BILL 140**

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend  
The Executive Council Act**

---

THE HON. R. WELCH  
Provincial Secretary for Justice

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BILL 140

1979

**An Act to amend  
The Executive Council Act**

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

1. Subsections 1, 2, 3 and 3a of section 3 of *The Executive Council Act*, being chapter 153 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 97, section 1, are repealed and the following substituted therefor:
  - (1) The annual salary of every minister with portfolio is Salaries \$19,656.
  - (2) The member of the Executive Council holding the recognized position of First Minister shall receive, in addition, Additional salary for First Minister \$7,644 per annum.
  - (3) The annual salary of every minister without portfolio is Salary of minister without portfolio \$8,190.
  - (3a) The annual salary of every Parliamentary Assistant is Salary of Parliamentary Assistant \$5,460.
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  - (1) Every minister of the Crown whose principal residence is outside The Municipality of Metropolitan Toronto shall be paid the actual cost of his accommodation within The Municipality of Metropolitan Toronto not exceeding \$6,552 in any year. Cost of accommodation in Toronto
3. This Act shall be deemed to have come into force on the 1st Commence-ment day of April, 1979.
4. The short title of this Act is *The Executive Council Amendment Act, 1979*. Short title

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An Act to amend  
The Executive Council Act

---

*1st Reading*

June 18th, 1979

*2nd Reading*

June 21st, 1979

*3rd Reading*

June 21st, 1979

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THE HON. R. WELCH  
Provincial Secretary for Justice

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to regulate Driving Schools**

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**THE HON. J. W. SNOW**  
Minister of Transportation and Communications

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#### EXPLANATORY NOTE

This Bill provides for the licensing of driving schools and driving school instructors. The office of Director of Driving Schools is being created. An applicant for a licence is entitled to be licensed unless he is disqualified for reasons set out in the Bill. An appeal procedure from decisions of the Director is provided.

The Bill prohibits the operation of a driving school without a licence unless it is in connection with a school board, community college, etc.

BILL 141

1979

## An Act to regulate Driving Schools

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

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means the Licence Suspension Appeal Board established under section 28 of *The Highway Traffic Act*; R.S.O. 1970,  
c. 202
- (b) "Director" means the Director of Driving Schools appointed by the Minister under section 2;
- (c) "driving instructor" means a person who, for compensation, provides in-vehicle instruction in the operation of a motor vehicle;
- (d) "driving instructor's licence" means a driving instructor's licence issued under this Act;
- (e) "driving school" means an establishment at which instruction in driving motor vehicles is provided for compensation, but does not include a community college, secondary school, vocational school or private school at which a driver education course is provided through a school board or other authority in charge of a school;
- (f) "driving school licence" means a driving school licence issued under this Act;
- (g) "Minister" means the Minister of Transportation and Communications;
- (h) "Ministry" means the Ministry of Transportation and Communications;
- (i) "Registrar" means the Registrar of Motor Vehicles appointed under *The Highway Traffic Act*;

(j) "regulations" means the regulations made under this Act.

Director

2. The Minister shall appoint an officer of the Ministry to be the Director of Driving Schools.

Driving school licence

3.—(1) No person shall establish, operate or maintain a driving school except under the authority of a driving school licence and the Director may issue such a licence.

Issuance of licence

(2) Subject to subsection 3, every person who applies in accordance with this Act and the regulations for a licence to establish, operate and maintain a driving school and who meets the requirements of this Act and the regulations and pays the prescribed fee is entitled to be issued a licence.

Grounds for refusal

(3) Subject to section 4, the Director may refuse to issue a driving school licence where, in his opinion,

(a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the driving school will not be operated in accordance with the law and with honesty and integrity;

(b) the proposed driving school or its operation would contravene this Act or the regulations, or any other Act or regulation, or any municipal by-law respecting its establishment or location;

(c) the applicant is not competent to operate a driving school in accordance with this Act and the regulations;

(d) the equipment and premises are not suitable for a driving school; or

(e) it can reasonably be expected that the course or courses of study or the method of training offered by the driving school will not provide students of the school with the skill and knowledge requisite to enable them to be licensed as drivers under *The Highway Traffic Act*.

R.S.O. 1970,  
c. 202

Expiration of driving school licence

(4) A driving school licence expires with the 31st day of March in each year.

Renewal of licence

(5) Subject to subsection 6, a driving school licensee who applies for a renewal of his licence in accordance with this Act and the regulations and pays the prescribed fee is entitled to have his licence renewed.

(6) Subject to section 4, the Director may revoke or refuse to renew a driving school licence where, Revocation of licence

- (a) any person has made a false statement in the application for the licence or a renewal thereof or in any certificate signed by the licensee or a person authorized in writing by the licensee or in any report, document or other information required to be furnished by this Act or the regulations;
- (b) there is a breach of a condition of the licence;
- (c) the licensee is in contravention of this Act or the regulations;
- (d) a change in the officers or directors of any corporation that is a licensee would afford grounds for refusing to issue a driving school licence under clause a of subsection 3; or
- (e) the equipment, premises or course of study and method of training offered by the driving school are not maintained at a level suitable to provide students of the school with the skill and knowledge requisite to enable them to be licensed as drivers under *The Highway Traffic Act*.

R S O 1970, c 202

(7) A driving school licence is not transferable.

Not transferable

(8) It is a condition of a driving school licence that the operation of the school be under the charge and control of the licensee.

Operation by licensee

4.—(1) Where the Director proposes,

Proposal to refuse to issue or to revoke

- (a) to refuse to issue or renew a driving school licence; or
- (b) to revoke a driving school licence,

the Director shall serve notice of his proposal, together with written reasons therefor,

- (c) in the case of a proposal to refuse to issue a licence, upon the applicant; or
- (d) in the case of a proposal to revoke or to refuse to renew a licence, upon the licensee.

(2) A notice under subsection 1 shall inform the applicant or licensee, as the case may be, that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing to the

Notice

Director and the Board requiring a hearing by the Board and he may so require such a hearing.

Powers of Director where no hearing

(3) Where the applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in the notice under subsection 1.

Power of Board where hearing

(4) Where the applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and shall hold the hearing and may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations.

Extension of time for requiring hearing

(5) The Board may extend the time for the giving of notice requiring a hearing by the applicant or licensee under this section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper in respect of the extension.

Continuation of licence pending renewal

(6) Notwithstanding subsection 4 of section 3 and subject to section 7, where a driving school licensee has applied to have his licence renewed before the expiry date and has paid the prescribed fee, the licence shall be deemed to continue,

(a) until the licence is renewed; or

(b) where the licensee is served with notice that the Director proposes to refuse to renew the licence, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.

Voluntary Cancellation

(7) The Director may cancel a licence upon the request of the licensee and the surrender of the licence.

Parties

5.—(1) The Director, the applicant or licensee who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under section 4.

Examination of documentary evidence

(2) Any party to proceedings under section 4 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report, the contents of which will be given in evidence at the hearing.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members holding hearing not to have taken part in investigation, etc.

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Recording of evidence

(5) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Findings of fact  
1971, c. 47

(6) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Only members at hearing to participate in decision

(7) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

**6.—(1)** Any party to proceedings before the Board under section 4 may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Appeal to court

(2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Record to be filed in court

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

Minister entitled to be heard

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action that the Board may direct

Powers of court on appeal

him to take and that the court considers proper, and, for such purposes, the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Decision  
of Board  
effective

(5) Notwithstanding that an appeal under this section has been filed, a decision of the Board remains effective pending the appeal unless the Board or the Supreme Court otherwise directs.

Provisional  
suspension

7. Notwithstanding section 4, where in the Director's opinion it is necessary for the immediate protection of the interests of the students of a driving school, the Director may refuse renewal of or may suspend the licence of a driving school licensee, but notice that renewal of the licence has been refused or that the licence has been suspended shall be served on the licensee together with the Director's written reasons therefor, and thereafter subsections 2, 4 and 5 of section 4 and sections 5 and 6 apply as if the notice were a notice under subsection 1 of section 4.

Inspection

8.—(1) The Director, or any person authorized by him in writing, may inspect any driving school at any reasonable time to examine the facilities or operation thereof, to observe the method of instruction given therein or to inspect the books, records or other documents relating to the operation of the driving school including the inspection of any circulars, pamphlets or other material used for advertising the driving school.

Removal of  
documents

(2) The Director, or any person authorized by him under subsection 1, may upon giving a receipt therefor remove any material referred to in subsection 1 that is relevant to the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the licensee of the driving school.

Obstruction  
of  
inspector

(3) No person shall obstruct an inspection of a driving school by the Director or any person authorized by him or withhold from such a person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Certificate  
of appoint-  
ment or  
written  
authorization

(4) The Minister shall issue to the Director a certificate of his appointment and the Director or every person authorized to inspect a driving school, in the execution of his duties under this section, shall produce his certificate of appointment or written authorization, as the case may be, upon request.

Notice of  
material  
change

9. Where,

(a) there is a change in the address of a driving school; or



- (b) in the case of a driving school operated by a corporation or partnership, there is a change in the officers, directors or partners, as the case may be,

the operator of the school shall notify the Ministry of the change within five days after the change.

**10.**—(1) Every person who,

Offences

- (a) furnishes false information in an application for a driving school licence or in a statement or return required to be furnished under this Act or the regulations with respect to a driving school licence;
- (b) fails to comply with any order, direction or other requirement made under this Act with respect to a driving school licence; or
- (c) contravenes any provision of this Act or the regulations with respect to a driving school licence,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$1,000 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 \$25,000 and not as provided therein.

Corporations

(3) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Limitation

(4) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Idem

**11.**—(1) Any person who enters into a written contract with the operator of a driving school in respect of a course of instruction may rescind the contract by delivering a written notice of rescission personally or by registered mail to the driving school at the address shown in the contract within two days after the duplicate original copy of the contract first comes into the possession of the person, and the person is not liable for any damages in respect of such rescission.

Rescission of contract

(2) For purposes of subsection 1, delivery by registered mail is deemed to have been made at the time of mailing.

Registered mail

Rescission  
of contract

(3) Where a person rescinds a contract under subsection 1,

(a) the person shall immediately return all goods received under the contract; and

(b) the operator of the driving school shall return all money received or realized in respect of the contract,

except that, where the person rescinding the contract has received driving instruction under the contract, the operator of the driving school may retain the fees applicable for the instruction so given from the money required to be returned under clause *b*.

Driving  
instructor's  
licence

**12.**—(1) The Director shall issue a driving instructor's licence to any applicant or a renewal of a driving instructor's licence to any licensee who meets the requirements set out in the regulations.

Suspension  
or  
revocation

(2) The Director may suspend or revoke a driving instructor's licence where the licensee does not continue to satisfy the requirements set out in the regulations.

Refusal to  
issue or  
revocation

(3) Where the Director,

(a) refuses to issue or renew a driving instructor's licence; or

(b) suspends or revokes a driving instructor's licence,

the Director shall serve notice of his decision, together with written reasons therefor, upon the applicant or the licensee, as the case may be.

Appeal to  
Board

(4) Every person aggrieved by a decision of the Director under subsection 3 may, within thirty days after the notice referred to therein is served upon him, appeal the Director's decision to the Board.

Decision  
of Board

(5) The Board may confirm, alter or set aside the decision of the Director.

Extension  
of time  
for appeal  
to Board

(6) The Board may extend the time for filing an appeal under subsection 4 either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper in respect of the extension.

Proceedings  
before  
Board

(7) Section 5 applies to proceedings before the Board on an appeal under subsection 4 as if the appeal to the Board were a request for a hearing under section 4.

(8) Any party to proceedings before the Board under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and thereafter section 6 applies. Appeal to Supreme Court

**13.—**(1) In this section, “employed” includes any business relationship between the operator of a driving school and a driving instructor whether on a salary, hourly wage, commission, independent contract or other basis. Interpretation

(2) No person shall act as a driving instructor unless the person holds a driving instructor’s licence and, Driving instructor to be licensed

- (a) holds a driving school licence;
- (b) is employed by a driving school licensed in accordance with this Act; or
- (c) is employed by a school board or other authority in charge of a school to instruct in a driver education course being offered in a community college, secondary school, vocational school or private school.

(3) No driving school operator shall employ as a driving instructor any person who is not licensed as a driving instructor under this Act. Employment of driving instructor

(4) A driving instructor’s licence issued under *The Highway Traffic Act* shall be deemed to be a driving instructor’s licence issued under this Act and the provisions of this Act and the regulations apply to such licence or any renewal thereof. Licence issued under R.S.O. 1970, c. 202

(5) A renewal of a driving instructor’s licence issued under *The Highway Traffic Act* may be cancelled by the Director at any time three years after this Act comes into force unless the licensee provides the Director with satisfactory evidence that the licensee, Idem

- (a) has been actively engaged as a licensed driving instructor for at least six months in each of five one-year periods preceding the day this Act comes into force; or
- (b) has successfully completed a course for driving instructors approved by the Ministry.

**14.** Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through Service of notice

absence, accident, illness, or other cause beyond his control, receive the notice until a later date.

Certificate  
as evidence

**15.**—(1) A statement as to,

- (a) the licensing or non-licensing of any person under this Act;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Director;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such licensing, non-licensing, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of  
signature

(2) Any document under this Act purporting to be signed by the Registrar, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Registrar without proof of the office or signature of the Registrar.

Regulations

**16.** The Lieutenant Governor in Council may make regulations,

- (a) governing applications for or renewals of driving school licences;
- (b) prescribing standards for office space and location, classroom space and classroom equipment with respect to driving schools;
- (c) governing the conduct, operation and management of driving schools;
- (d) prescribing the qualifications of students seeking driving instruction and prohibiting the instruction of unqualified students;
- (e) prohibiting the use of any advertising relating to a driving school;
- (f) prohibiting the solicitation of business by driving school operators in prescribed buildings;

- (g) respecting the distribution of materials published by the Government and used by students of a driving school;
- (h) respecting the content for any course in driving instruction offered by a driving school;
- (i) requiring operators of driving schools to make returns and furnish information to the Ministry;
- (j) requiring and governing the books, accounts and records that shall be kept by operators of driving schools;
- (k) respecting the filing and posting of all fees charged by a driving school;
- (l) requiring the inspection of all vehicles used in connection with a driving school for driving instruction and requiring the use of any equipment on or in any such vehicles;
- (m) prescribing minimum insurance to be maintained on vehicles used in connection with a driving school for driving instruction;
- (n) prescribing classes of driving schools and of driving instructors and exempting any class or classes thereof from this Act or the regulations or any provision thereof;
- (o) prescribing fees on application for or renewal of any driving school licence or driving instructor's licence;
- (p) prescribing terms and conditions attaching to a driving school licence or a driving instructor's licence;
- (q) regulating and governing the licensing of driving instructors;
- (r) prescribing the material to be supplied with an application for a driving instructor's licence;
- (s) providing for classes of driving instructors' licences and prescribing the duration of each class of licence;
- (t) requiring the verification by affidavit of any information required to be furnished under this Act or the regulations;
- (u) prescribing procedures respecting the conduct of matters coming before the Board;
- (v) respecting the provision and use of forms.

R.S.O. 1970,  
c. 202, s. 34,  
repealed

**17.**—(1) Section 34 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,  
c. 284, s. 383,  
par. 4,  
repealed

(2) Paragraph 4 of section 383 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed.

Commence-  
ment

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

Short title

**19.** The short title of this Act is *The Driving Schools Act, 1979*.



**BILL 141**

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An Act to regulate  
Driving Schools

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*1st Reading*

June 19, 1979

*2nd Reading*

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

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*(Government Bill)*

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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**An Act to amend The Residential Premises Rent Review  
Act, 1975 (2nd Session)**

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**THE HON. FRANK DREA**  
**Minister of Consumer and Commercial Relations**

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#### EXPLANATORY NOTE

The Bill postpones the repeal of the Act for two months, from the 30th day of September, 1979, to the 30th day of November, 1979. The continuation of the Act for certain specified purposes is correspondingly extended.

BILL 142

1979

**An Act to amend  
The Residential Premises Rent Review  
Act, 1975 (2nd Session)**

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

1. Section 20 of *The Residential Premises Rent Review Act, 1975 (2nd Session)*, being chapter 12, as amended by the Statutes of Ontario, 1978, chapter 53, section 1, 1978, chapter 80, section 1 and 1979, chapter 3, section 1, is repealed and the following substituted therefor: s. 20,  
re-enacted

20.—(1) This Act, upon receiving Royal Assent, shall be deemed to have come into force on the 29th day of July, 1975, and is retroactive to the extent necessary to give full force and effect to its provisions on, from and after that date, and is repealed on the 30th day of November, 1979. Commence-  
ment and  
expiry

(2) Notwithstanding subsection 1, Idem

- (a) where there has been an increase in rent for residential premises charged to take effect after the 30th day of November, 1978, and on or before the 30th day of November, 1979, the landlord shall not charge and no order shall authorize any further increase in rent for the premises to take effect within twelve months after the said increase took effect and this Act continues in force for the purpose of the implementation and enforcement of this clause; and
- (b) this Act continues in force for the purpose of,
- (i) hearing and making orders in respect of applications filed on or before the 30th day of November, 1979, and appeals from such orders, relating to a rental period commencing on or before that date, and

(ii) enforcing orders made under this Act.

Commence-  
ment

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

Short title

**3.** The short title of this Act is *The Residential Premises Rent Review Amendment Act, 1979*.







An Act to amend  
The Residential Premises Rent  
Review Act, 1975 (2nd Session)

---

*1st Reading*

June 21st, 1979

*2nd Reading*

*3rd Reading*

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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# BILL 142

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Residential Premises Rent Review Act, 1975 (2nd Session)

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THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

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BILL 142

1979

**An Act to amend  
The Residential Premises Rent Review  
Act, 1975 (2nd Session)**

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

1. Section 20 of *The Residential Premises Rent Review Act, 1975 (2nd Session)*, being chapter 12, as amended by the Statutes of Ontario, 1978, chapter 53, section 1, 1978, chapter 80, section 1 and 1979, chapter 3, section 1, is repealed and the following substituted therefor: s. 20,  
re-enacted

20.—(1) This Act, upon receiving Royal Assent, shall be deemed to have come into force on the 29th day of July, 1975, and is retroactive to the extent necessary to give full force and effect to its provisions on, from and after that date, and is repealed on the 30th day of November, 1979. Commence-  
ment and  
expiry

(2) Notwithstanding subsection 1, Idem

- (a) where there has been an increase in rent for residential premises charged to take effect after the 30th day of November, 1978, and on or before the 30th day of November, 1979, the landlord shall not charge and no order shall authorize any further increase in rent for the premises to take effect within twelve months after the said increase took effect and this Act continues in force for the purpose of the implementation and enforcement of this clause; and
- (b) this Act continues in force for the purpose of,
- (i) hearing and making orders in respect of applications filed on or before the 30th day of November, 1979, and appeals from such orders, relating to a rental period commencing on or before that date, and

(ii) enforcing orders made under this Act.

Commence-  
ment

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

Short title

**3.** The short title of this Act is *The Residential Premises Rent Review Amendment Act, 1979*.







**An Act to amend  
The Residential Premises Rent  
Review Act, 1975 (2nd Session)**

*1st Reading*

June 21st, 1979

*2nd Reading*

June 22nd, 1979

*3rd Reading*

June 22nd, 1979

**THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations**



**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend The Election Act**

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**MR. JOHNSTON  
(Scarborough West)**

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#### EXPLANATORY NOTE

The purpose of the Bill is to standardize the hours of polling for elections to the Legislative Assembly of Ontario. Section 1 of the Bill amends *The Election Act* to ensure that the general hours of polling extend between 9 a.m. and 8 p.m. of the same day. When daylight saving time is in effect at the time the election is held, the Bill requires that any time reference in *The Election Act* be interpreted as referring to daylight saving time. *The Time Act* (R.S.O. 1970, c. 462) states that, unless the contrary is provided in an Act, any time reference in an Ontario statute is a reference to standard time.

BILL 143

1979

## An Act to amend The Election Act

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

1. Section 71 of *The Election Act*, being chapter 142 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
  - 71.—(1) Subject to subsection 2, the polls at every election to the Assembly shall open at 9 a.m. and remain open until 8 p.m. of the same day. s. 71. re-enacted  
Hours of polling generally
  - (2) Where the Chief Election Officer considers it desirable for the convenience of the voters that the polls should be opened in any electoral district at an earlier hour than 9 a.m., the Chief Election Officer may direct the polls to be opened in such electoral district at such time earlier than 9 a.m., but not earlier than 7 a.m., as he considers expedient. When C.E.O. may provide for earlier opening
  - 71a. For the purpose of any proceeding that is governed by a time expressed in this Act, where the time commonly observed in the municipality or locality when the proceeding occurs is daylight saving time, the time expressed in this Act shall be reckoned in accordance with daylight saving time and not standard time. Reference to time
2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is *The Election Amendment Act, 1979*. Short title

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An Act to amend  
The Election Act

---

*1st Reading*

June 21st, 1979

*2nd Reading*

*3rd Reading*

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MR. JOHNSTON  
(Scarborough West)

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*(Private Member's Bill)*

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend The Corporations Act**

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**THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations**

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#### EXPLANATORY NOTE

The Act currently sets out in section 169 (13) the powers of a mutual fire insurance corporation and limits the powers to those set out. One effect of the Bill is to remove the limitations on powers so that these corporations have the powers for which a joint stock insurance company may be licensed under *The Insurance Act*.

At present, a reinsurance corporation for mutual fire insurance corporations, that was incorporated under section 168 (3), may reinsure contracts of insurance entered into by its members and may enter into contracts of reinsurance only with insurers licensed under *The Insurance Act*. These restrictions are being removed.

The requirement that the word "fire" be part of the name and style of a mutual fire insurance corporation is being removed.

## An Act to amend The Corporations Act

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

1. Subsection 3 of section 168 of *The Corporations Act*, being chapter 89 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 25, section 1, is repealed and the following substituted therefor:
 

s. 168 (3)  
re-enacted

(3) A mutual insurance corporation, all the members of which are mutual or cash-mutual corporations, may be incorporated for the purpose of reinsuring contracts of insurance and such a corporation may enter into contracts of reinsurance for the purpose of retroceding all or part of reinsurance contracts entered into by it.

Corporation for reinsurance

- 2.—(1) Subsection 7 of section 169 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 25, section 2, is repealed and the following substituted therefor:
 

s. 169 (7).  
re-enacted

(7) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the word "mutual", shall be adopted, an acting secretary appointed, a board of directors elected as hereinafter provided and a central and generally accessible place in the county or district at which the head office of the company is to be located.

Election of directors

- (2) Subsection 13 of the said section 169, as re-enacted by the Statutes of Ontario, 1971, chapter 25, section 2 and amended by 1973, chapter 104, section 2 and 1978, chapter 29, section 2, is repealed.
 

s. 169 (13).  
repealed

- (3) Subsection 14 of the said section 169, as amended by the Statutes of Ontario, 1971, chapter 25, section 2, is repealed and the following substituted therefor:
 

s. 169 (14).  
re-enacted

Powers  
deemed in  
letters patent

R.S.O. 1970,  
c. 224

(14) A mutual insurance corporation incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan or under a contract to which the Fire Mutual Guarantee Fund is applicable in accordance with section 143 of *The Insurance Act*, has the power, and its letters patent shall be deemed to include the power, to undertake all classes of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*.

Commence-  
ment

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

Short title

**4.** The short title of this Act is *The Corporations Amendment Act, 1979*.









An Act to amend  
The Corporations Act

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*1st Reading*

October 16th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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# BILL 144

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Corporations Act

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THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

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BILL 144

1979

## An Act to amend The Corporations Act

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

1. Subsection 3 of section 168 of *The Corporations Act*, being chapter 89 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 25, section 1, is repealed and the following substituted therefor: s. 168 (3),  
re-enacted

(3) A mutual insurance corporation, all the members of which are mutual or cash-mutual corporations, may be incorporated for the purpose of reinsuring contracts of insurance and such a corporation may enter into contracts of reinsurance for the purpose of retroceding all or part of reinsurance contracts entered into by it. Corporation for  
reinsurance

- 2.—(1) Subsection 7 of section 169 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 25, section 2, is repealed and the following substituted therefor: s. 169 (7),  
re-enacted

(7) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the word "mutual", shall be adopted, an acting secretary appointed, a board of directors elected as hereinafter provided and a central and generally accessible place in the county or district at which the head office of the company is to be located. Election of  
directors

- (2) Subsection 13 of the said section 169, as re-enacted by the Statutes of Ontario, 1971, chapter 25, section 2 and amended by 1973, chapter 104, section 2 and 1978, chapter 29, section 2, is repealed. s. 169 (13),  
repealed

- (3) Subsection 14 of the said section 169, as amended by the Statutes of Ontario, 1971, chapter 25, section 2, is repealed and the following substituted therefor: s. 169 (14),  
re-enacted

Powers  
deemed in  
letters patent

R.S.O. 1970,  
c. 224

(14) A mutual insurance corporation incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan or under a contract to which the Fire Mutual Guarantee Fund is applicable in accordance with section 143 of *The Insurance Act*, has the power, and its letters patent shall be deemed to include the power, to undertake all classes of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*.

Commence-  
ment

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

Short title

**4.** The short title of this Act is *The Corporations Amendment Act, 1979*.









An Act to amend  
The Corporations Act

---

*1st Reading*

October 16th, 1979

*2nd Reading*

October 23rd, 1979

*3rd Reading*

October 23rd, 1979

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to provide for Fiscal Planning in  
the Government of Ontario**

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**MR. VAN HORNE**

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#### EXPLANATORY NOTE

The purpose of the Bill is to require that a five-year Fiscal Plan be submitted by the Treasurer of Ontario to the Legislative Assembly when the Budget is presented each year. The Bill provides for the establishment of a committee of the Assembly, to be known as the Standing Committee on Government Finance and the Economy, to study and make recommendations concerning the Fiscal Plan.

BILL 145

1979

## An Act to provide for Fiscal Planning in the Government of Ontario

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

1. In this Act,

Interpre-  
tation

(a) "Committee" means the Standing Committee on Government Finance and the Economy;

(b) "Treasurer" means the Treasurer of Ontario.

2. The Treasurer shall, when presenting the Budget of the Government of Ontario to the Assembly, submit a five-year Fiscal Plan that provides estimates of revenues, sets expenditure ceilings and indicates the expected budgetary surplus or deficit over a five year-period.

3.—(1) At the commencement of each session of the Legislature, a standing committee of the Assembly shall be appointed, to be known as the Standing Committee on Government Finance and the Economy, with authority to sit during the session.

(2) Each Fiscal Plan shall be referred to the Committee for the purposes of giving consideration to the Plan and making recommendations in respect of it to the Assembly.

(3) The Committee shall, from time to time, report to the Assembly its observations, opinions and recommendations concerning the Fiscal Plan.

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

5. The short title of this Act is *The Fiscal Plan Act, 1979*.

An Act to provide for Fiscal  
Planning in the Government of  
Ontario

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*1st Reading*

October 16th, 1979

*2nd Reading*

*3rd Reading*

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MR. VAN HORNE

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*(Private Member's Bill)*



**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend  
The Municipal Franchises Act**

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**THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs**

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#### EXPLANATORY NOTE

Subsection 5 of section 10 of the Act, as proposed to be re-enacted, is set out below showing underlined the words that have been added:

*(5) An order of the Board heretofore or hereafter made under subsection 2 renewing or extending the term of the right or an order of the Board under subsection 4 shall be deemed to be a valid by-law of the municipality concerned assented to by the municipal electors for the purposes of this Act and of section 58 of The Public Utilities Act.*

The purpose of the amendment is to clarify that an Ontario Energy Board order renewing or extending the term of a right to operate works for the distribution or supply of gas in a municipality is deemed to be a valid by-law of the municipality assented to by the electors for the purposes of *The Municipal Franchises Act*.

BILL 146

1979

**An Act to amend  
The Municipal Franchises Act**

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

1. Subsection 5 of section 10 of *The Municipal Franchises Act*, being chapter 289 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
  - (5) An order of the Board heretofore or hereafter made under subsection 2 renewing or extending the term of the right or an order of the Board under subsection 4 shall be deemed to be a valid by-law of the municipality concerned assented to by the municipal electors for the purposes of this Act and of section 58 of *The Public Utilities Act*.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Municipal Franchises Amendment Act, 1979*.

s. 10 (5),  
re-enacted

Order deemed  
by-law  
assented to  
by electors

R.S.O., 1970,  
c. 390, s. 58

Commence-  
ment

Short title

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**BILL 146**

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An Act to amend  
The Municipal Franchises Act

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*1st Reading*

October 18th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

# BILL 146

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Municipal Franchises Act

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 146

1979

**An Act to amend  
The Municipal Franchises Act**

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

1. Subsection 5 of section 10 of *The Municipal Franchises Act*, being chapter 289 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 

S. 10(5)  
re-enacted

(5) An order of the Board heretofore or hereafter made under subsection 2 renewing or extending the term of the right or an order of the Board under subsection 4 shall be deemed to be a valid by-law of the municipality concerned assented to by the municipal electors for the purposes of this Act and of section 58 of *The Public Utilities Act*.
 

Order deemed  
by-law  
assented to  
by electors  
R.S.O. 1970,  
c. 390 s. 58
2. This Act comes into force on the day it receives Royal Assent.
 

Commence-  
ment
3. The short title of this Act is *The Municipal Franchises Amendment Act, 1979*.
 

Short title

An Act to amend  
The Municipal Franchises Act

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*1st Reading*

October 18th, 1979

*2nd Reading*

November 29th, 1979

*3rd Reading*

November 29th, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to amend  
The Local Improvement Act**

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**THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs**

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#### EXPLANATORY NOTE

The Bill clarifies that a majority of the members of a court of revision shall constitute a quorum and that a quorum is sufficient to exercise all the powers and duties of the court of revision. Courts of revision in the past several years have relied on clause *c* of section 27 of *The Interpretation Act* which provides that "where an act or thing is required to be done by more than two persons, a majority of them may do it". A recent decision of the Divisional Court has indicated that clause *c* of section 27 of *The Interpretation Act* may not apply to a court of revision.

BILL 147

1979

**An Act to amend  
The Local Improvement Act**

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

1. Section 43 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections:
  - (3) A majority of the members of the court of revision shall constitute and, notwithstanding the decision of any court, shall be deemed always to have constituted a quorum.
  - (4) A quorum of the court of revision is sufficient and, notwithstanding the decision of any court, shall be deemed always to have been sufficient to exercise all of the jurisdiction and powers of the court of revision.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Local Improvement Amendment Act, 1979*.

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An Act to amend  
The Local Improvement Act

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*1st Reading*

October 18th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

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# BILL 147

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3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

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## An Act to amend The Local Improvement Act

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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BILL 147

1979

**An Act to amend  
The Local Improvement Act**

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

1. Section 43 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections:
  - (3) A majority of the members of the court of revision shall constitute and, notwithstanding the decision of any court, shall be deemed always to have constituted a quorum.
  - (4) A quorum of the court of revision is sufficient and, notwithstanding the decision of any court, shall be deemed always to have been sufficient to exercise all of the jurisdiction and powers of the court of revision.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Local Improvement Amendment Act, 1979*.

s. 43  
amended

Quorum

Jurisdiction  
and powers of  
quorumCommence-  
ment

Short title

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**BILL 147**

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An Act to amend  
The Local Improvement Act

---

*1st Reading*

October 18th, 1979

*2nd Reading*

November 29th, 1979

*3rd Reading*

November 29th, 1979

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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to revise  
The Certification of Titles Act**

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**THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations**

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#### EXPLANATORY NOTE

*The Certification of Titles Act* is being revised to change administrative procedures without altering the basic concept of certification of titles. The principal changes include the following:

1. The references to a Director of Land Registration are being removed; at present, the Director of Land Registration, upon the recommendation of the Director of Titles, determines the amount of compensation to be paid to a claimant out of The Certification of Titles Assurance Fund but in the revision, the Director of Titles will make this determination and eliminate one step in the payout procedure.
2. A list of the material to be submitted with an application for a certificate of title has been removed from the Act and will appear in the regulations.
3. An appeal from a decision of the Director of Titles will be to a court as a new hearing rather than based on the transcript of the hearing before the Director.
4. The provision with respect to payment of costs has been expanded and clarified. (section 8).
5. Reference to certification areas has been removed as these may be prescribed by regulation under *The Registry Act*. At present there are no certification areas in Ontario.
6. The maximum and minimum amounts payable to the assurance fund by applicants has been changed with the maximum being \$500 instead of \$300 and the minimum being \$25 instead of \$1. The rate of contribution remains as one-tenth of 1 per cent of the value of the land including buildings.

BILL 148

1979

**An Act to revise  
The Certification of Titles Act**

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

**1.** In this Act,

Interpre-  
tation

(a) "assurance fund" means The Certification of Titles Assurance Fund;

(b) "Director" means the Director of Titles appointed under *The Land Titles Act*;

R.S.O. 1970,  
c. 234

(c) "land registrar" means a land registrar appointed under *The Registry Act*;

R.S.O. 1970  
c. 409

(d) "prescribed" means prescribed by the regulations. R.S.O. 1970, c. 59, s. 1, *amended*.

**2.** The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1972, c. 1, s. 32.

Administration

**3.** This Act does not apply to land registered under *The Land Titles Act*. R.S.O. 1970, c. 59, s. 6.

Where Act  
not to apply  
R.S.O. 1970,  
c. 234

**4.**—(1) An owner of or any person claiming an estate in fee simple in land, whether or not the land is encumbered, may apply in the prescribed manner to the Director to have the title to the land certified in the name of the applicant. R.S.O. 1970, c. 59, s. 7 (1), *amended*.

Application  
for  
certification

(2) A person whose claim to land is based on length of adverse possession may apply to the Director to have the title to the land certified in the name of the applicant.

Idem

Application  
deemed action  
for recovery  
of land  
R.S.O. 1970,  
c. 246

(3) An application under subsection 1 shall be deemed to be an action for the recovery of land within the meaning of *The Limitations Act. New.*

Service  
of notice

5.—(1) A notice of an application under section 4 shall be served on every person or person of a class designated by regulation and the notice is sufficiently served if it is sent by registered mail addressed to that person at the address furnished under section 185 of *The Land Titles Act* or section 37 of *The Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest. R.S.O. 1970, c. 59, s. 8 (1, 2), *amended.*

R.S.O. 1970,  
cc. 234, 409

Where  
consent

(2) Where a person to whom notice is required to be given under subsection 1 consents, in writing, to the application, no notice is required to be sent to that person. *New.*

Adverse  
claim

6.—(1) A person having a claim adverse to or inconsistent with an application under section 4 may file a statement of claim, verified by affidavit, with the Director at any time before the certificate of title is registered. R.S.O. 1970, c. 59, s. 11 (1), *amended.*

Hearing

(2) Where a statement of claim is filed, the Director shall afford an opportunity for a hearing to determine the validity of the claim.

Parties

(3) The applicant, every person who has filed a statement of claim and such other persons as the Director may specify, are parties to the proceedings in which a hearing is held under this section. 1971, c. 50, s. 14 (1, 2), *amended.*

Reference  
to a judge

(4) The Director, instead of holding a hearing under subsection 2, may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the claim on the evidence before him or may direct the trial of an issue. 1971, c. 50, s. 14 (4), *amended.*

Copies to  
be sent to  
interested  
parties

7.—(1) Where the Director makes a decision, a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and to every person who has filed a statement of claim under section 6. R.S.O. 1970, c. 59, s. 12 (2), *amended.*

Appeal

(2) Any party aggrieved by a decision of the Director may appeal to a judge of the county or district court of the county or

judicial district in which the land to which the decision relates is situate, or of such other county or judicial district as the parties agree to, and the appeal shall be by trial *de novo*. 1971, c. 50, s. 14 (5), *amended*.

(3) An appeal lies from a decision of a judge of a county or district court under subsection 2 to the Supreme Court. *New*. Appeal to Divisional Court

(4) Notice of any appeal under this section shall be served on the Director. R.S.O. 1970, c. 59, s. 12 (4), *part*. Notice of appeal

**8.—**(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses incurred as a result of his application, except where parties whose rights are sufficiently secured without their appearance object or where any costs, charges or expenses are incurred unnecessarily or improperly. Payment of costs

(2) The Director may order costs, either as between party and party or as between solicitor and client, to be paid by or to any person who is party to a proceeding under this Act, and may give directions as to the fund out of which the costs shall be paid, regard being had to subsection 1. Scale of costs

(3) Any person aggrieved by an order of the Director made under this section may appeal to a judge of a county or district court who may annul or, with or without modification, confirm the order. Appeal from Director's order

(4) If a person disobeys an order of the Director made under this section, the Director may certify the disobedience to a judge of a county or district court, and thereupon, subject to the right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the judge. Enforcement of order

(5) The amount of all costs, charges and expenses properly incurred by a trustee, mortgagee or other person having a power of selling land that are incidental to an application for a certificate of title shall be ascertained and declared by the Director, and shall be deemed to be costs, charges and expenses properly incurred by that person in the execution of the trust or in pursuance of the power, and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he is not liable to account in respect thereof. *New*. Cost of application by trustee, etc.

Disposition  
of  
application

**9.** When the Director has completed his examination and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land or dismiss the application, as the case may be. R.S.O. 1970, c. 59, s. 12 (1, 4), *part*.

Registration  
of  
certificate

**10.** A certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate. R.S.O. 1970, c. 59, s. 15, *amended*.

Effects of  
certificate  
of title

**11.** Upon registration under section 10, a certificate of title is conclusive as of the day, hour and minute stated therein that the title of the person named as owner of the land described therein is absolute and indefeasible as regards the Crown and all persons whomsoever, subject only to the exceptions, limitations, qualifications, reservations and conditions, covenants, restrictions, charges, mortgages, liens and other encumbrances mentioned therein, and is conclusive that every application, notice, publication, proceeding and act that ought to have been made, given or done, has been made, given or done in accordance with this Act. R.S.O. 1970, c. 59, s. 16.

Certification  
of Titles  
Assurance  
Fund  
continued

**12.—(1)** The fund, known as The Certification of Titles Assurance Fund, formed to compensate persons who may be wrongfully deprived of land or some estate or interest therein by reason of the title to the land being certified under this Act, is continued.

Payment  
into fund

(2) Before a certificate of title is registered, the applicant shall pay, to the credit of the assurance fund, in addition to all other fees, an amount of money equal to one-tenth of 1 per cent of the value of the land described in the certificate.

Buildings

(3) Where there are buildings on the land, the value of the land shall include the value of the buildings.

Maximum  
payment

(4) Where the amount calculated under subsection 2 exceeds \$500, the amount payable is \$500.

Minimum  
payment

(5) Where the amount calculated under subsection 2 is less than \$25, the amount payable is \$25.

Valuation  
of land

(6) The value of the land shall be ascertained as of,

(a) the date of application; or

(b) a date not more than sixty days before the registration of the certificate,

whichever is later.

(7) If the Director is not satisfied as to the value as established by the affidavit of the applicant, the Director may require a written appraisal of the land by a qualified appraiser whose account shall be added to the costs of the application.

Proof of value

(8) The Director may require an applicant to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper.

Applicant may be required to indemnify fund

(9) The money payable under this section shall be paid into the Supreme Court and money standing to the credit of the fund shall be invested from time to time under the direction of the finance committee under section 109 of *The Judicature Act*, and such of the interest and income therefrom, as the finance committee from time to time determines, shall be credited to the assurance fund. R.S.O. 1970, c. 59, s. 18, *amended*.

Money to be paid into court

R.S.O. 1970, c. 228

**13.**—(1) Where, as a result of section 11, a person is wrongfully deprived of any interest in land, he is entitled to recover what is just by way of compensation out of the assurance fund, so far as it is sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived, or in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased. R.S.O. 1970, c. 59, s. 19 (1), *amended*.

Claim against fund

(2) A person is not entitled to compensation from the assurance fund in respect of an interest in land existing before the effective date of the certificate of title unless that interest is registered under *The Registry Act* against the title to the land or notice of it is given to the Director before the certificate is registered. *New*.

Where no compensation

R.S.O. 1970, c. 409

(3) Where a claim is made under subsection 1 in respect of land whose chief value is the ores, mines or minerals therein and it appears that the claimant is entitled to compensation, the entire value of the land, including buildings thereon, shall not be taken at a greater sum than twice the amount that was paid for the original grant from the Crown. R.S.O. 1970, c. 59, s. 19 (2).

Mining lands

- Application for payment (4) A person claiming to be entitled to payment of compensation out of the assurance fund shall apply to the Director. R.S.O. 1970, c. 59, s. 19 (3), *amended*.
- Hearing (5) Except where he determines that the claim be paid in full, the Director shall hold a hearing and the claimant and such other persons as the Director may specify are parties to the proceedings before him. 1973, c. 12, s. 12 (1), *amended*.
- Determination of payment (6) The liability of the assurance fund for compensation and the amount of compensation shall, subject to appeal to a judge of a county or district court, be determined by the Director, and the costs of the proceedings under this section shall be in the discretion of the Director or the judge, as the case may be.
- Appeal (7) The Director shall serve notice of his determination under subsection 6 by first class mail on the claimant.
- Time for appeal (8) Where the Director determines that compensation should be paid but that the claim not be paid in full, the claimant, if he intends to appeal, shall, within a period of twenty days after the date of mailing of the notice under subsection 7, serve on the Director notice of his intention to appeal, and the Director shall not certify under subsection 9 the amount to the Accountant of the Supreme Court if a notice of appeal is received within that period or until after the expiry of that period if no notice of appeal is received.
- Payment out of fund (9) Subject to subsection 8, the Director shall certify to the Accountant of the Supreme Court any amount found to be payable under this section and, upon receipt of the certification of the Director, the Accountant of the Supreme Court shall pay the amount to the person entitled thereto.
- Liability for fraud and error (10) Any sum paid out of the assurance fund may, for the benefit of the assurance fund, be recovered by action in the name of the Director from the person on whose application the erroneous certificate of title was registered, or from his estate, and the Director's certification of the payment out of the assurance fund is sufficient proof of the debt. R.S.O. 1970, c. 59, s. 19 (4-8), *amended*.
- Where death or change of interest occurs **14.** Proceedings under this Act shall not abate or be suspended by any death or change of interest, but in any such event the Director may require notice to be given to persons becoming interested, or may make an order for discontinuing, suspending or carrying on the proceedings or otherwise as he considers proper. R.S.O. 1970, c. 59, s. 20.
- Regulations **15.** The Lieutenant Governor in Council may make regulations,



- (a) designating persons or classes of persons to whom notice of an application under section 4 shall be given and specifying the manner in which notice may be given;
- (b) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;
- (c) prescribing forms and providing for their use;
- (d) prescribing the manner of making an application for certification of title and the material to be submitted with the application;
- (e) governing standards and procedures for surveys and plans made for the purposes of this Act;
- (f) prescribing administrative procedures for the purposes of this Act;
- (g) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
- (h) governing the correction of errors in certificates of title. R.S.O. 1970, c. 59, s. 21.

**16.** The following are repealed:

Repeals

1. *The Certification of Titles Act*, being chapter 59 of the Revised Statutes of Ontario, 1970.
2. *The Certification of Titles Amendment Act, 1973*, being chapter 12.
3. Section 14 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
4. Section 32 of *The Government Reorganization Act, 1972*, being chapter 1.

**17.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**18.** The short title of this Act is *The Certification of Titles Act, 1979*. Short title





An Act to revise  
The Certification of Titles Act

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*1st Reading*

October 18th, 1979

*2nd Reading*

*3rd Reading*

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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**BILL 148**

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**3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979**

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**An Act to revise  
The Certification of Titles Act**

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**THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations**

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BILL 148

1979

**An Act to revise  
The Certification of Titles Act**

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

**1.** In this Act,

Interpre-  
tation

(a) "assurance fund" means The Certification of Titles Assurance Fund;

(b) "Director" means the Director of Titles appointed under *The Land Titles Act*;

R.S.O. 1970,  
c. 234

(c) "land registrar" means a land registrar appointed under *The Registry Act*;

R.S.O. 1970,  
c. 409

(d) "prescribed" means prescribed by the regulations. R.S.O. 1970, c. 59, s. 1, *amended*.

**2.** The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1972, c. 1, s. 32.

Administration

**3.** This Act does not apply to land registered under *The Land Titles Act*. R.S.O. 1970, c. 59, s. 6.

Where Act  
not to apply  
R.S.O. 1970,  
c. 234

**4.**—(1) An owner of or any person claiming an estate in fee simple in land, whether or not the land is encumbered, may apply in the prescribed manner to the Director to have the title to the land certified in the name of the applicant. R.S.O. 1970, c. 59, s. 7 (1), *amended*.

Application  
for  
certification

(2) A person whose claim to land is based on length of adverse possession may apply to the Director to have the title to the land certified in the name of the applicant.

Idem

Application  
deemed action  
for recovery  
of land  
R.S.O. 1970,  
c. 246  
Service  
of notice

(3) An application under subsection 1 shall be deemed to be an action for the recovery of land within the meaning of *The Limitations Act*. *New*.

R.S.O. 1970,  
cc. 234, 409

**5.**—(1) A notice of an application under section 4 shall be served on every person or person of a class designated by regulation and the notice is sufficiently served if it is sent by registered mail addressed to that person at the address furnished under section 185 of *The Land Titles Act* or section 37 of *The Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest. R.S.O. 1970, c. 59, s. 8 (1, 2), *amended*.

Where  
consent

(2) Where a person to whom notice is required to be given under subsection 1 consents, in writing, to the application, no notice is required to be sent to that person. *New*.

Adverse  
claim

**6.**—(1) A person having a claim adverse to or inconsistent with an application under section 4 may file a statement of claim, verified by affidavit, with the Director at any time before the certificate of title is registered. R.S.O. 1970, c. 59, s. 11 (1), *amended*.

Hearing

(2) Where a statement of claim is filed, the Director shall afford an opportunity for a hearing to determine the validity of the claim.

Parties

(3) The applicant, every person who has filed a statement of claim and such other persons as the Director may specify, are parties to the proceedings in which a hearing is held under this section. 1971, c. 50, s. 14 (1, 2), *amended*.

Reference  
to a judge

(4) The Director, instead of holding a hearing under subsection 2, may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the claim on the evidence before him or may direct the trial of an issue. 1971, c. 50, s. 14 (4), *amended*.

Copies to  
be sent to  
interested  
parties

**7.**—(1) Where the Director makes a decision, a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and to every person who has filed a statement of claim under section 6. R.S.O. 1970, c. 59, s. 12 (2), *amended*.

Appeal

(2) Any party aggrieved by a decision of the Director may appeal to a judge of the county or district court of the county or



judicial district in which the land to which the decision relates is situate, or of such other county or judicial district as the parties agree to, and the appeal shall be by trial *de novo*. 1971, c. 50, s. 14 (5), *amended*.

(3) An appeal lies from a decision of a judge of a county or district court under subsection 2 to the Supreme Court. *New*. Appeal to Divisional Court

(4) Notice of any appeal under this section shall be served on the Director. R.S.O. 1970, c. 59, s. 12 (4), *part*. Notice of appeal

**8.**—(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses incurred as a result of his application, except where parties whose rights are sufficiently secured without their appearance object or where any costs, charges or expenses are incurred unnecessarily or improperly. Payment of costs

(2) The Director may order costs, either as between party and party or as between solicitor and client, to be paid by or to any person who is party to a proceeding under this Act, and may give directions as to the fund out of which the costs shall be paid, regard being had to subsection 1. Scale of costs

(3) Any person aggrieved by an order of the Director made under this section may appeal to a judge of a county or district court who may annul or, with or without modification, confirm the order. Appeal from Director's order

(4) If a person disobeys an order of the Director made under this section, the Director may certify the disobedience to a judge of a county or district court, and thereupon, subject to the right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the judge. Enforcement of order

(5) The amount of all costs, charges and expenses properly incurred by a trustee, mortgagee or other person having a power of selling land that are incidental to an application for a certificate of title shall be ascertained and declared by the Director, and shall be deemed to be costs, charges and expenses properly incurred by that person in the execution of the trust or in pursuance of the power, and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he is not liable to account in respect thereof. *New*. Cost of application by trustee, etc.

Disposition  
of  
application

**9.** When the Director has completed his examination and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land or dismiss the application, as the case may be. R.S.O. 1970, c. 59, s. 12 (1, 4), *part*.

Registration  
of  
certificate

**10.** A certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate. R.S.O. 1970, c. 59, s. 15, *amended*.

Effects of  
certificate  
of title

**11.** Upon registration under section 10, a certificate of title is conclusive as of the day, hour and minute stated therein that the title of the person named as owner of the land described therein is absolute and indefeasible as regards the Crown and all persons whomsoever, subject only to the exceptions, limitations, qualifications, reservations and conditions, covenants, restrictions, charges, mortgages, liens and other encumbrances mentioned therein, and is conclusive that every application, notice, publication, proceeding and act that ought to have been made, given or done, has been made, given or done in accordance with this Act. R.S.O. 1970, c. 59, s. 16.

Certification  
of Titles  
Assurance  
Fund  
continued

**12.—(1)** The fund, known as The Certification of Titles Assurance Fund, formed to compensate persons who may be wrongfully deprived of land or some estate or interest therein by reason of the title to the land being certified under this Act, is continued.

Payment  
into fund

(2) Before a certificate of title is registered, the applicant shall pay, to the credit of the assurance fund, in addition to all other fees, an amount of money equal to one-tenth of 1 per cent of the value of the land described in the certificate.

Buildings

(3) Where there are buildings on the land, the value of the land shall include the value of the buildings.

Maximum  
payment

(4) Where the amount calculated under subsection 2 exceeds \$500, the amount payable is \$500.

Minimum  
payment

(5) Where the amount calculated under subsection 2 is less than \$25, the amount payable is \$25.

Valuation  
of land

(6) The value of the land shall be ascertained as of,

(a) the date of application; or

(b) a date not more than sixty days before the registration of the certificate,

whichever is later.

(7) If the Director is not satisfied as to the value as established by the affidavit of the applicant, the Director may require a written appraisal of the land by a qualified appraiser whose account shall be added to the costs of the application.

Proof of value

(8) The Director may require an applicant to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper.

Applicant may be required to indemnify fund

(9) The money payable under this section shall be paid into the Supreme Court and money standing to the credit of the fund shall be invested from time to time under the direction of the finance committee under section 109 of *The Judicature Act*, and such of the interest and income therefrom, as the finance committee from time to time determines, shall be credited to the assurance fund. R.S.O. 1970, c. 59, s. 18, *amended*.

Money to be paid into court

R.S.O. 1970, c. 228

**13.**—(1) Where, as a result of section 11, a person is wrongfully deprived of any interest in land, he is entitled to recover what is just by way of compensation out of the assurance fund, so far as it is sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived, or in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased. R.S.O. 1970, c. 59, s. 19 (1), *amended*.

Claim against fund

(2) A person is not entitled to compensation from the assurance fund in respect of an interest in land existing before the effective date of the certificate of title unless that interest is registered under *The Registry Act* against the title to the land or notice of it is given to the Director before the certificate is registered. *New*.

Where no compensation

R.S.O. 1970, c. 409

(3) Where a claim is made under subsection 1 in respect of land whose chief value is the ores, mines or minerals therein and it appears that the claimant is entitled to compensation, the entire value of the land, including buildings thereon, shall not be taken at a greater sum than twice the amount that was paid for the original grant from the Crown. R.S.O. 1970, c. 59, s. 19 (2).

Mining lands

- Application for payment (4) A person claiming to be entitled to payment of compensation out of the assurance fund shall apply to the Director. R.S.O. 1970, c. 59, s. 19 (3), *amended*.
- Hearing (5) Except where he determines that the claim be paid in full, the Director shall hold a hearing and the claimant and such other persons as the Director may specify are parties to the proceedings before him. 1973, c. 12, s. 12 (1), *amended*.
- Determination of payment (6) The liability of the assurance fund for compensation and the amount of compensation shall, subject to appeal to a judge of a county or district court, be determined by the Director, and the costs of the proceedings under this section shall be in the discretion of the Director or the judge, as the case may be.
- Appeal (7) The Director shall serve notice of his determination under subsection 6 by first class mail on the claimant.
- Time for appeal (8) Where the Director determines that compensation should be paid but that the claim not be paid in full, the claimant, if he intends to appeal, shall, within a period of twenty days after the date of mailing of the notice under subsection 7, serve on the Director notice of his intention to appeal, and the Director shall not certify under subsection 9 the amount to the Accountant of the Supreme Court if a notice of appeal is received within that period or until after the expiry of that period if no notice of appeal is received.
- Payment out of fund (9) Subject to subsection 8, the Director shall certify to the Accountant of the Supreme Court any amount found to be payable under this section and, upon receipt of the certification of the Director, the Accountant of the Supreme Court shall pay the amount to the person entitled thereto.
- Liability for fraud and error (10) Any sum paid out of the assurance fund may, for the benefit of the assurance fund, be recovered by action in the name of the Director from the person on whose application the erroneous certificate of title was registered, or from his estate, and the Director's certification of the payment out of the assurance fund is sufficient proof of the debt. R.S.O. 1970, c. 59, s. 19 (4-8), *amended*.
- Where death or change of interest occurs **14.** Proceedings under this Act shall not abate or be suspended by any death or change of interest, but in any such event the Director may require notice to be given to persons becoming interested, or may make an order for discontinuing, suspending or carrying on the proceedings or otherwise as he considers proper. R.S.O. 1970, c. 59, s. 20.
- Regulations **15.** The Lieutenant Governor in Council may make regulations,

- (a) designating persons or classes of persons to whom notice of an application under section 4 shall be given and specifying the manner in which notice may be given;
- (b) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;
- (c) prescribing forms and providing for their use;
- (d) prescribing the manner of making an application for certification of title and the material to be submitted with the application;
- (e) governing standards and procedures for surveys and plans made for the purposes of this Act;
- (f) prescribing administrative procedures for the purposes of this Act;
- (g) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
- (h) governing the correction of errors in certificates of title. R.S.O. 1970, c. 59, s. 21.

**16.** The following are repealed:

Repeals

1. *The Certification of Titles Act*, being chapter 59 of the Revised Statutes of Ontario, 1970.
2. *The Certification of Titles Amendment Act, 1973*, being chapter 12.
3. Section 14 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
4. Section 32 of *The Government Reorganization Act, 1972*, being chapter 1.

**17.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**18.** The short title of this Act is *The Certification of Titles Act, 1979*. Short title





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An Act to revise  
The Certification of Titles Act

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*1st Reading*

October 18th, 1979

*2nd Reading*

November 29th, 1979

*3rd Reading*

November 29th, 1979

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THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

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