





**LEGISLATIVE ASSEMBLY
OF ONTARIO**

**FIRST SESSION
THIRTY-SECOND PARLIAMENT**

BILLS

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

SESSION

**APRIL 21st to JULY 3rd, 1981
AND
OCTOBER 13th to DECEMBER 18th, 1981**

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1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Gasoline Tax Act, 1973

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

GENERAL

The Bill implements the proposals in the Treasurer's Budget that the tax on gasoline be established as a percentage of the retail prices of each grade or type of gasoline, as determined by the Minister of Revenue after periodic sampling of retail prices from time to time paid by consumers. The Bill makes provision for the Minister to alter the price on which the tax is based so that increases and decreases in retail prices can be reflected by a corresponding change in the tax payable. Until the new procedure is implemented, the Bill provides for specific increases in the tax payable on gasoline. The tax on regular leaded gasoline is increased from 4.6 cents to 5.4 cents per litre. The tax on regular unleaded gasoline is increased from 4.6 cents to 5.8 cents per litre, and the tax on premium leaded and unleaded gasoline is increased from 4.6 cents to 6 cents per litre.

The tax to be paid on aviation fuel will be determined as a function of the taxable price per litre of fuel for the purposes of *The Motor Vehicle Fuel Tax Act*. Accordingly, aviation fuel will be taxed at the rate of 5.13 per cent of the taxable price per litre of fuel from time to time determined under *The Motor Vehicle Fuel Tax Act*. Effectively, aviation fuel will be taxed at 19 per cent of the tax payable from time to time on diesel fuel used to propel motor vehicles. Until a taxable price for diesel fuel is prescribed, the Bill provides that the rate of tax on aviation fuel will remain at 1.32 cents per litre.

SECTION 1. The amendment adds a definition of "taxable price per litre" for designated grades or types of gasoline. The taxable price for various grades of gasoline is to be determined by the Minister by periodic sampling of prevailing retail prices, and the taxable prices so determined will be the prices to which the rate of tax applicable to the taxable prices of the various grades of gasoline will apply.

SECTION 2. The section provides that tax will be paid on the taxable prices of designated grades of gasoline at the rate of 20 per cent of the taxable price determined for each grade from time to time by the Minister. Until taxable prices for the various grades of gasoline are determined by the Minister, the amendment provides for specific taxes of 5.4 cents per litre for regular leaded gasoline, 5.8 cents per litre for regular unleaded gasoline and 6 cents per litre for premium leaded or unleaded gasoline.

In the case of aviation fuel, the amendment provides that the rate of tax will be 5.13 per cent of the taxable price per litre of diesel fuel from time to time prescribed by the Minister for the purposes of *The Motor Vehicle Fuel Tax Act*. The tax on aviation fuel will therefore be 19 per cent of the tax from time to time payable on diesel fuel used to propel motor vehicles. Until the taxable price for diesel fuel is prescribed, the tax on aviation fuel will remain at 1.32 cents per litre.

Subsections 1 and 2 of section 2 of the Act now read:

- (1) *Every purchaser of gasoline shall pay to the Treasurer a tax at the rate of 4.6 cents per litre on all gasoline purchased, or delivery of which is received, by him.*
- (2) *Every purchaser of aviation fuel shall pay to the Treasurer a tax at the rate of 1.32 cents per litre on all aviation fuel purchased, or delivery of which is received, by him.*

The new subsection 2a to be added by the amendment provides that the tax imposed by the Act will remain the same whether or not the gasoline or aviation fuel is sold for more or less than the taxable price per litre determined by the Minister.

BILL 72

1981

An Act to amend The Gasoline Tax Act, 1973

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

1. Section 1 of *The Gasoline Tax Act, 1973*, being chapter 99, as amended by the Statutes of Ontario, 1980, chapter 24, section 1, is further amended by adding thereto the following clause: ^{s. 1, amended}

(ja) "taxable price per litre" of any grade or type of gasoline designated by the Minister means the price per litre from time to time prescribed by the Minister as the taxable price per litre of that grade or type of gasoline for such period of time as the Minister may prescribe, and in determining the taxable price per litre of any grade or type of gasoline, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of gasoline in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per litre of gasoline from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per litre of any grade or type of gasoline.

2. Subsections 1 and 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 16, section 1, are repealed and the following substituted therefor: ^{s. 2 (1, 2), re-enacted}

(1) Every purchaser of gasoline shall, for all gasoline purchased, or delivery of which is received, by him, pay to the Treasurer a tax at the rate of 20 per cent of the taxable price per litre applicable to the grade or type of gasoline so purchased or delivered, and until a taxable price per litre is prescribed by the Minister in accordance with this Act, every purchaser of gasoline shall pay to the Treasurer a tax at the rate of, ^{Tax payable by purchaser of gasoline}

(a) 5.4 cents per litre of regular leaded gasoline;

- (b) 5.8 cents per litre of regular unleaded gasoline; and
- (c) 6 cents per litre of premium leaded or unleaded gasoline,

purchased, or delivery of which is received, by him.

Tax on
aviation fuel

R.S.O. 1970,
c. 282

(2) Every purchaser of aviation fuel shall, for all aviation fuel purchased, or delivery of which is received, by him, pay to the Treasurer a tax at the rate of 5.13 per cent of the taxable price per litre of fuel from time to time prescribed for the purposes of *The Motor Vehicle Fuel Tax Act*, and until a taxable price per litre of fuel is prescribed by the Minister in accordance with *The Motor Vehicle Fuel Tax Act*, every purchaser of aviation fuel shall pay to the Treasurer a tax at the rate of 1.32 cents per litre of aviation fuel purchased, or delivery of which is received, by him.

Idem

(2a) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a purchaser for gasoline or aviation fuel is different from the taxable price per litre of that gasoline or aviation fuel.

s. 31 (*d, h, k*),
repealed

3.—(1) Clauses *d, h* and *k* of section 31 of the said Act are repealed.

s. 31,
amended

(2) The said section 31, as amended by the Statutes of Ontario, 1979, chapter 16, section 3, is further amended by adding thereto the following subsections:

Idem

(2) The Minister may make regulations,

- (a) prescribing any form that is required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (b) prescribing the returns and statements to be made by importers, manufacturers, wholesalers, retailers and purchasers of gasoline or aviation fuel, the information to be given in such returns and statements and by whom and in what manner they shall be made, and prescribing the records to be kept by such persons;
- (c) providing for the refund of the tax paid under this Act or any portion thereof, to any purchaser or class of purchasers, and prescribing the records and material to be furnished upon any application for a refund;
- (d) prescribing the taxable price per litre of gasoline to be in effect from time to time, the period of time for which

SECTION 3. The amendments transfer from the Lieutenant Governor in Council to the Minister the power to make regulations described in clauses *a*, *b* and *c* of the new subsection 2 to be added by the amendment. Clauses *d*, *e* and *f* of the new subsection are added as a consequence of the amendment made in section 1 of the Bill.

The amendment also adds subsection 3 to section 31 to provide in this statute, as in most of the statutes administered by the Minister of Revenue, the power to make retroactive regulations where necessary.



such price shall be in effect, and designating grades or types of gasoline and the taxable price per litre applicable to any such grade or type;

- (e) fixing to the nearest tenth of a cent the tax per litre of gasoline to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre of gasoline in accordance with clause *d*;
- (f) fixing to the nearest hundredth of a cent the tax per litre of aviation fuel to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre of fuel in accordance with clause *b* of subsection 3 of section 21 of *The Motor Vehicle Fuel Tax Act*.

R.S.O. 1970,
c. 282

(3) A regulation, other than a regulation prescribing the taxable price per litre of any grade or type of gasoline, is, if it so provides, effective with reference to a period before it was filed.

Retroactivity

- 4. This Act shall be deemed to have come into force on the 20th day of May, 1981.
- 5. The short title of this Act is *The Gasoline Tax Amendment Act, 1981*.

Commence-
ment

Short title

An Act to amend
The Gasoline Tax Act, 1973

1st Reading

May 19th, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 72

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Gasoline Tax Act, 1973

THE HON. G. L. ASHE
Minister of Revenue

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BILL 72

1981

An Act to amend The Gasoline Tax Act, 1973

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

1. Section 1 of *The Gasoline Tax Act, 1973*, being chapter 99, as amended by the Statutes of Ontario, 1980, chapter 24, section 1, is further amended by adding thereto the following clause: s. 1, amended

(ja) "taxable price per litre" of any grade or type of gasoline designated by the Minister means the price per litre from time to time prescribed by the Minister as the taxable price per litre of that grade or type of gasoline for such period of time as the Minister may prescribe, and in determining the taxable price per litre of any grade or type of gasoline, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of gasoline in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per litre of gasoline from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per litre of any grade or type of gasoline.

2. Subsections 1 and 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 16, section 1, are repealed and the following substituted therefor: s. 2 (1, 2), re-enacted

(1) Every purchaser of gasoline shall, for all gasoline purchased, or delivery of which is received, by him, pay to the Treasurer a tax at the rate of 20 per cent of the taxable price per litre applicable to the grade or type of gasoline so purchased or delivered, and until a taxable price per litre is prescribed by the Minister in accordance with this Act, every purchaser of gasoline shall pay to the Treasurer a tax at the rate of, Tax payable by purchaser of gasoline

(a) 5.4 cents per litre of regular leaded gasoline;

(b) 5.8 cents per litre of regular unleaded gasoline; and

(c) 6 cents per litre of premium leaded or unleaded gasoline,

purchased, or delivery of which is received, by him.

Tax on
aviation fuel

(2) Every purchaser of aviation fuel shall, for all aviation fuel purchased, or delivery of which is received, by him, pay to the Treasurer a tax at the rate of 5.13 per cent of the taxable price per litre of fuel from time to time prescribed for the purposes of *The Motor Vehicle Fuel Tax Act*, and until a taxable price per litre of fuel is prescribed by the Minister in accordance with *The Motor Vehicle Fuel Tax Act*, every purchaser of aviation fuel shall pay to the Treasurer a tax at the rate of 1.32 cents per litre of aviation fuel purchased, or delivery of which is received, by him.

R.S.O. 1970,
c. 282

Idem

(2a) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a purchaser for gasoline or aviation fuel is different from the taxable price per litre of that gasoline or aviation fuel.

s. 31 (*d, h, k*),
repealed

3.—(1) Clauses *d, h* and *k* of section 31 of the said Act are repealed.

s. 31,
amended

(2) The said section 31, as amended by the Statutes of Ontario, 1979, chapter 16, section 3, is further amended by adding thereto the following subsections:

Idem

(2) The Minister may make regulations,

(a) prescribing any form that is required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;

(b) prescribing the returns and statements to be made by importers, manufacturers, wholesalers, retailers and purchasers of gasoline or aviation fuel, the information to be given in such returns and statements and by whom and in what manner they shall be made, and prescribing the records to be kept by such persons;

(c) providing for the refund of the tax paid under this Act or any portion thereof, to any purchaser or class of purchasers, and prescribing the records and material to be furnished upon any application for a refund;

(d) prescribing the taxable price per litre of gasoline to be in effect from time to time, the period of time for which

such price shall be in effect, and designating grades or types of gasoline and the taxable price per litre applicable to any such grade or type;

(e) fixing to the nearest tenth of a cent the tax per litre of gasoline to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre of gasoline in accordance with clause *d*;

(f) fixing to the nearest hundredth of a cent the tax per litre of aviation fuel to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre of fuel in accordance with clause *b* of subsection 3 of section 21 of *The Motor Vehicle Fuel Tax Act*.

R.S.O. 1970,
c. 282

(3) A regulation, other than a regulation prescribing the taxable price per litre of any grade or type of gasoline, is, if it so provides, effective with reference to a period before it was filed. Retroactivity

4. This Act shall be deemed to have come into force on the 20th day of May, 1981. Commence-
ment

5. The short title of this Act is *The Gasoline Tax Amendment Act, 1981*. Short title





An Act to amend
The Gasoline Tax Act, 1973

1st Reading

May 19th, 1981

2nd Reading

June 23rd, 1981

3rd Reading

June 26th, 1981

THE HON. G. L. ASHE
Minister of Revenue

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Motor Vehicle Fuel Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

GENERAL

The Bill implements the proposals in the Treasurer's Budget that the tax on diesel fuel for motor vehicles and railway equipment be established as a percentage of the retail prices of those products, as determined by the Minister of Revenue after periodic sampling of retail prices from time to time paid by consumers. The Bill makes provision for the Minister to alter the price on which the tax is based so that increases and decreases in retail prices can be reflected by a corresponding change in the tax payable.

Until the new procedure is implemented, the Bill provides for specific increases in the tax payable on diesel fuel other than that used to propel railway equipment. The tax on such fuel is increased from 5.9 cents per litre to 7 cents per litre. The tax on fuel used to propel railway equipment will remain at 2.2 cents per litre until a taxable price per litre is determined in accordance with the new procedure for fuel taxable under the Act, and at that time the tax payable on fuel used to propel railway equipment will vary with changes in the tax payable on diesel fuel to propel motor vehicles.

SECTION 1. The amendment adds a definition of "taxable price per litre" of fuel. This taxable price is to be determined by the Minister by periodic sampling of prevailing retail prices, and the taxable price so determined will be the price to which the rate of tax applicable to diesel fuel will apply.

SECTION 2. The amendment provides that a registrant under the Act may not supply fuel to a person who is not a registrant if the fuel is delivered to a tank wagon of the non-registrant or is delivered to the storage tank of a non-registrant who is acquiring the fuel for resale.

BILL 73

1981

An Act to amend The Motor Vehicle Fuel Tax Act

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

1. Section 1 of *The Motor Vehicle Fuel Tax Act*, being chapter 282 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 14, section 1, 1972, chapter 147, section 1 and 1979, chapter 25, section 1, is further amended by adding thereto the following clause:

(ha) "taxable price per litre" of fuel means the price per litre from time to time prescribed by the Minister as the taxable price per litre of fuel for such period of time as the Minister may prescribe, and in determining the taxable price per litre of fuel, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of fuel in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per litre of fuel from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per litre of fuel.

2. Section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 18, section 1 and amended by 1978, chapter 78, section 1, is further amended by adding thereto the following subsection:

(1a) No person who is a registrant shall, until he has collected tax thereon at the rate provided for in this Act; supply or deliver fuel,

(a) into the tank, other than the fuel tank, of any motor vehicle used for the carriage or transportation of the

fuel in bulk and operated by or on behalf of a person who is not a registrant; or

- (b) into a storage tank controlled or owned by a person who is not a registrant and whom the registrant has reasonable grounds to suspect is acquiring the fuel for resale in any manner.

s. 3 (1, 2),
re-enacted

3. Subsections 1 and 2 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 25, section 2, are repealed and the following substituted therefor:

Tax

(1) Every purchaser shall pay to the Treasurer a tax at the rate of 27 per cent of the taxable price per litre on each litre of fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment, and shall, on each litre of fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system, pay to the Treasurer a tax at the rate of 8.37 per cent of the taxable price per litre of such fuel, and until a taxable price per litre of fuel is prescribed in accordance with this Act, every purchaser shall pay to the Treasurer a tax at the rate of 7 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

Idem

(2) Every registrant shall pay to the Treasurer a tax at the rate of 27 per cent of the taxable price per litre on each litre of fuel used by him to generate power in a motor vehicle other than railway equipment, and shall, on each litre of fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system, pay to the Treasurer a tax at the rate of 8.37 per cent of the taxable price per litre of such fuel, and until a taxable price per litre of fuel is prescribed in accordance with this Act, every registrant shall pay to the Treasurer a tax at the rate of 7 cents per litre on all fuel used by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

Idem

(2a) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a purchaser or registrant for fuel is different from the taxable price per litre of that fuel.

SECTION 3. The section provides that tax will be paid on diesel fuel used in motor vehicles at the rate of 27 per cent of the taxable price determined from time to time by the Minister. For fuel used to propel railway equipment, the tax rate is 8.37 per cent of the taxable price determined by the Minister so that the tax from time to time payable on such fuel will always be 31 per cent of the tax payable on diesel fuel used to propel motor vehicles.

Until a taxable price for diesel fuel to propel motor vehicles is determined by the Minister, the amendment provides for a specific tax of 7 cents per litre on such fuel. For fuel used to propel railway equipment, the tax remains at 2.2 cents per litre until a taxable price is determined by the Minister to which the new rate of tax may be applied.

Subsections 1 and 2 of section 3 of the Act now read:

- (1) *Every purchaser shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.*
- (2) *Every registrant shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel used by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.*

The new subsection 2a to be added by the amendment provides that the tax imposed by the Act will remain the same whether or not the fuel is sold for more or less than the taxable price per litre determined by the Minister.

SECTION 4. The clauses to be added by the amendment require the invoices to a purchaser to show the quantity of fuel purchased and the date of sale.

SECTION 5. The amendment re-enacts subsection 3 of section 21 of the Act, and adds clauses *b* and *c* as a consequence of the amendment made in section 1 of the Bill.

4. Subsection 1 of section 5 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 18, section 5, is further amended, ^{s. 5 (1), amended}

(a) by striking out "and" at the end of clause *b*; and

(b) by adding thereto the following clauses:

(d) the quantity of fuel sold to the purchaser; and

(e) the date of sale.

5. Subsection 3 of section 21 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 18, section 9, is repealed and the following substituted therefor: ^{s. 21 (3), re-enacted}

(3) The Minister may make regulations,

Idem

(a) prescribing any form that is required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;

(b) prescribing the taxable price per litre of fuel to be in effect from time to time and the period of time for which such price shall be in effect;

(c) fixing to the nearest tenth of a cent the tax per litre of fuel to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre in accordance with clause *b*.

6.—(1) This Act, except sections 1, 3, 4 and 5, comes into force on the day it receives Royal Assent. ^{Commencement}

(2) Sections 1, 3, 4 and 5 shall be deemed to have come into force on the 20th day of May, 1981. ^{Idem}

7. The short title of this Act is *The Motor Vehicle Fuel Tax Amendment Act, 1981*. ^{Short title}

An Act to amend
The Motor Vehicle Fuel Tax Act

1st Reading

May 19th, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 73

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Motor Vehicle Fuel Tax Act

THE HON. G. L. ASHE
Minister of Revenue



BILL 73

1981

An Act to amend The Motor Vehicle Fuel Tax Act

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

1. Section 1 of *The Motor Vehicle Fuel Tax Act*, being chapter 282 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 14, section 1, 1972, chapter 147, section 1 and 1979, chapter 25, section 1, is further amended by adding thereto the following clause:

(ha) "taxable price per litre" of fuel means the price per litre from time to time prescribed by the Minister as the taxable price per litre of fuel for such period of time as the Minister may prescribe, and in determining the taxable price per litre of fuel, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of fuel in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per litre of fuel from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per litre of fuel.

2. Section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 18, section 1 and amended by 1978, chapter 78, section 1, is further amended by adding thereto the following subsection:

(1a) No person who is a registrant shall, until he has collected tax thereon at the rate provided for in this Act, supply or deliver fuel,

Obligation
of
registrant

(a) into the tank, other than the fuel tank, of any motor vehicle used for the carriage or transportation of the

fuel in bulk and operated by or on behalf of a person who is not a registrant; or

- (b) into a storage tank controlled or owned by a person who is not a registrant and who the registrant has reasonable grounds to suspect is acquiring the fuel for resale in any manner.

s. 3 (1, 2),
re-enacted

3. Subsections 1 and 2 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 25, section 2, are repealed and the following substituted therefor:

Tax

(1) Every purchaser shall pay to the Treasurer a tax at the rate of 27 per cent of the taxable price per litre on each litre of fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment, and shall, on each litre of fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system, pay to the Treasurer a tax at the rate of 8.37 per cent of the taxable price per litre of such fuel, and until a taxable price per litre of fuel is prescribed in accordance with this Act, every purchaser shall pay to the Treasurer a tax at the rate of 7 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

Idem

(2) Every registrant shall pay to the Treasurer a tax at the rate of 27 per cent of the taxable price per litre on each litre of fuel used by him to generate power in a motor vehicle other than railway equipment, and shall, on each litre of fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system, pay to the Treasurer a tax at the rate of 8.37 per cent of the taxable price per litre of such fuel, and until a taxable price per litre of fuel is prescribed in accordance with this Act, every registrant shall pay to the Treasurer a tax at the rate of 7 cents per litre on all fuel used by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

Idem

(2a) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a purchaser or registrant for fuel is different from the taxable price per litre of that fuel.

4. Subsection 1 of section 5 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 18, section 5, is further amended, ^{s. 5 (1), amended}
- (a) by striking out "and" at the end of clause *b*; and
 - (b) by adding thereto the following clauses:
 - (d) the quantity of fuel sold to the purchaser; and
 - (e) the date of sale.
5. Subsection 3 of section 21 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 18, section 9, is repealed and the following substituted therefor: ^{s. 21 (3), re-enacted}
- (3) The Minister may make regulations, Idem
- (a) prescribing any form that is required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
 - (b) prescribing the taxable price per litre of fuel to be in effect from time to time and the period of time for which such price shall be in effect;
 - (c) fixing to the nearest tenth of a cent the tax per litre of fuel to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre in accordance with clause *b*.
- 6.—(1) This Act, except sections 1, 3, 4 and 5, comes into force on the day it receives Royal Assent. Commencement
- (2) Sections 1, 3, 4 and 5 shall be deemed to have come into force on the 20th day of May, 1981. Idem
7. The short title of this Act is *The Motor Vehicle Fuel Tax Amendment Act, 1981*. Short title





An Act to amend
The Motor Vehicle Fuel Tax Act

1st Reading

May 19th, 1981

2nd Reading

June 25th, 1981

3rd Reading

June 26th, 1981

THE HON. G. L. ASHE
Minister of Revenue

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Live Stock Branding Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Section 1 of the Act is a definition section. At present, “live stock” means a horse, head of cattle, sheep or fowl. The re-enactment extends the definition to include a class or classes of animals prescribed in the regulations.

Subsection 2. A definition of “regulations” is added to section 1 of the Act.

SECTION 2. Subsection 2 of section 2 of the Act now reads as follows:

(2) *Every such brand shall be recorded as in this Act provided and the fees payable are those set out in the Schedule.*

The re-enactment of the subsection is complementary to sections 4 and 5 of the Bill (fees will be prescribed by regulation).

SECTION 3. The new section 2a of the Act provides for certain exceptions to the Act.

SECTION 4. Section 6 of the Act now reads as follows:

6. *The Minister may make regulations prescribing forms and providing for their use and as are necessary for the better carrying out of the provisions of this Act.*

The re-enactment extends the authority to make regulations.

An Act to amend The Live Stock Branding 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 *c* of section 1 of *The Live Stock Branding Act*, being chapter 252 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (c),
re-enacted

(c) "live stock" means a horse, head of cattle, sheep, fowl and such additional class or classes of animals as are prescribed in the regulations.

- (2) The said section 1 is amended by adding thereto the following clause: s. 1,
amended

(e) "regulations" means the regulations made under this Act.

2. Subsection 2 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (2),
re-enacted

(2) Every brand shall be recorded in the manner prescribed in this Act and the fees payable in respect of such brand are those prescribed in the regulations. Recording
brand and
fees

3. The said Act is amended by adding thereto the following section: s. 2a,
enacted

2a. This Act does not apply to a brand that is, Exception

(a) applied to one specific animal and unique to that animal; and

(b) part of a system designed to identify individual animals in a program for the breeding of pure-bred live stock.

4. Section 6 of the said Act is repealed and the following substituted therefor: s. 6,
re-enacted

6. The Minister may make regulations, Regulations

- (a) prescribing an additional class or classes of animals as live stock;
- (b) prescribing fees to be paid by persons for allotment of a brand, renewal of allotment of a brand, change in the record of a brand, transfer of a recorded brand, search of a brand record and certified extract from the brand records; and
- (c) prescribing forms and providing for their use.

Schedule,
repealed

5. The Schedule to the said Act is repealed.

Commence-
ment

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

Short title

7. The short title of this Act is *The Live Stock Branding Amendment Act, 1981*.

SECTION 5. The repeal of the Schedule is complementary to sections 2 and 4 of the Bill.





An Act to amend
The Live Stock Branding Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. I. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Live Stock Branding Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Section 1 of the Act is a definition section. At present, “live stock” means a horse, head of cattle, sheep or fowl. The re-enactment extends the definition to include a class or classes of animals prescribed in the regulations.

Subsection 2. A definition of “regulations” is added to section 1 of the Act.

SECTION 2. Subsection 2 (2) of the Act now reads as follows:

(2) *Every such brand shall be recorded as in this Act provided and the fees payable are those set out in the Schedule.*

The re-enactment of the subsection is complementary to sections 4 and 5 of the Bill (fees will be prescribed by regulation).

SECTION 3. The new section 2a of the Act provides for certain exceptions to the Act.

SECTION 4. Section 6 of the Act now reads as follows:

6. *The Minister may make regulations prescribing forms and providing for their use and as are necessary for the better carrying out of the provisions of this Act.*

The re-enactment extends the authority to make regulations.

An Act to amend the Live Stock Branding Act

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

1.—(1) Clause 1 (b) of the *Live Stock Branding Act*, being chapter 246 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (b),
re-enacted

(b) “live stock” means a horse, head of cattle, sheep, fowl and such additional class or classes of animals as are prescribed in the regulations.

(2) Section 1 of the said Act is amended by adding thereto the following clause: s. 1,
amended

(e) “regulations” means the regulations made under this Act.

2. Subsection 2 (2) of the said Act is repealed and the following substituted therefor: s. 2 (2),
re-enacted

(2) Every brand shall be recorded in the manner prescribed in this Act and the fees payable in respect of such brand are those prescribed in the regulations. Recording
brand and
fees

3. The said Act is amended by adding thereto the following section: s. 2a,
enacted

2a. This Act does not apply to a brand that is, Exception

(a) applied to one specific animal and unique to that animal; and

(b) part of a system designed to identify individual animals in a program for the breeding of pure-bred live stock.

4. Section 6 of the said Act is repealed and the following substituted therefor: s. 6,
re-enacted

6. The Minister may make regulations, Regulations

- (a) prescribing an additional class or classes of animals as live stock;
- (b) prescribing fees to be paid by persons for allotment of a brand, renewal of allotment of a brand, change in the record of a brand, transfer of a recorded brand, search of a brand record and certified extract from the brand records; and
- (c) prescribing forms and providing for their use.

Schedule,
repealed

5. The Schedule to the said Act is repealed.

Commence-
ment

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

Short title

7. The short title of this Act is the *Live Stock Branding Amendment Act, 1981*.

SECTION 5. The repeal of the Schedule is complementary to sections 2 and 4 of the Bill.





An Act to amend the
Live Stock Branding Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

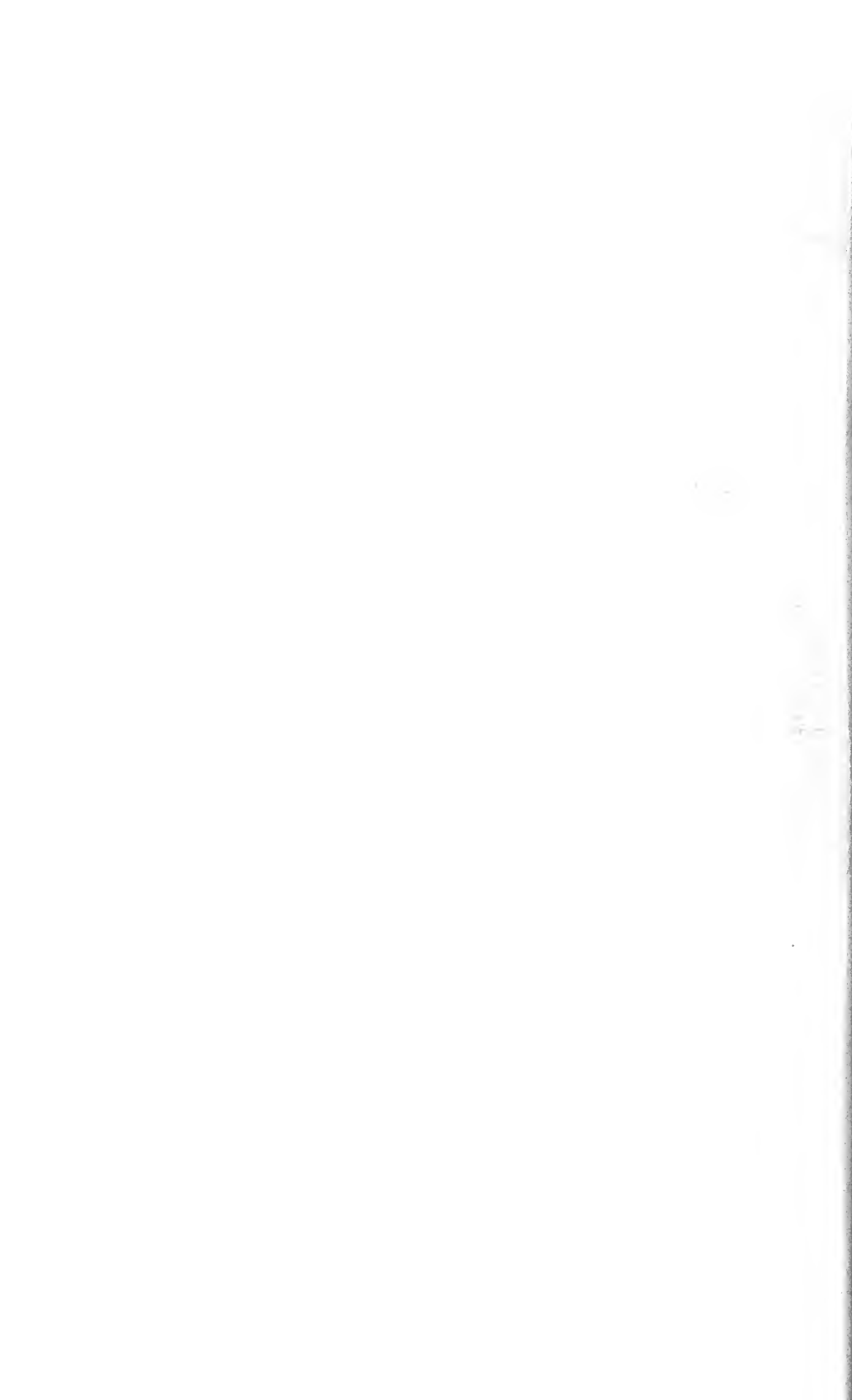
(Government Bill)

BILL 74

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Live Stock Branding Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food



An Act to amend the Live Stock Branding Act

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

- 1.—(1) Clause 1 (b) of the *Live Stock Branding Act*, being chapter 246 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (b),
re-enacted

(b) “live stock” means a horse, head of cattle, sheep, fowl and such additional class or classes of animals as are prescribed in the regulations.

- (2) Section 1 of the said Act is amended by adding thereto the following clause: s. 1,
amended

(e) “regulations” means the regulations made under this Act.

2. Subsection 2 (2) of the said Act is repealed and the following substituted therefor: s. 2 (2),
re-enacted

(2) Every brand shall be recorded in the manner prescribed in this Act and the fees payable in respect of such brand are those prescribed in the regulations. Recording
brand and
fees

3. The said Act is amended by adding thereto the following section: s. 2a,
enacted

2a. This Act does not apply to a brand that is, Exception

(a) applied to one specific animal and unique to that animal; and

(b) part of a system designed to identify individual animals in a program for the breeding of pure-bred live stock.

4. Section 6 of the said Act is repealed and the following substituted therefor: s. 6,
re-enacted

6. The Minister may make regulations, Regulations

- (a) prescribing an additional class or classes of animals as live stock;
- (b) prescribing fees to be paid by persons for allotment of a brand, renewal of allotment of a brand, change in the record of a brand, transfer of a recorded brand, search of a brand record and certified extract from the brand records; and
- (c) prescribing forms and providing for their use.

Schedule,
repealed

5. The Schedule to the said Act is repealed.

Commence-
ment

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

Short title

7. The short title of this Act is the *Live Stock Branding Amendment Act, 1981*.







An Act to amend the
Live Stock Branding Act

1st Reading

May 21st, 1981

2nd Reading

October 26th, 1981

3rd Reading

October 29th, 1981

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Town of Wasaga Beach Act, 1973

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTE

The section to be added deems the Town of Wasaga Beach to be a township municipality for the purpose of *The Public Transportation and Highway Improvement Act*.

BILL 75

1981

**An Act to amend
The Town of Wasaga Beach Act, 1973**

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

- 1.** *The Town of Wasaga Beach Act, 1973*, being chapter 79, is amended by adding thereto the following section: s. 17a,
enacted

17a. For the purposes of *The Public Transportation and Highway Improvement Act*, the Town shall be deemed to be a township. Town deemed
township
R.S.O. 1970,
c. 201

- 2.** This Act shall be deemed to have come into force on the 1st day of January, 1981. Commence-
ment
- 3.** The short title of this Act is *The Town of Wasaga Beach Amendment Act, 1981*. Short title

An Act to amend
The Town of Wasaga Beach Act, 1973

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Town of Wasaga Beach Act, 1973

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTE

The section to be added deems the Town of Wasaga Beach to be a township, A municipality for the purpose of the *Public Transportation and Highway Improvement Act*.

BILL 75

1981

**An Act to amend
The Town of Wasaga Beach Act, 1973**

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

1. *The Town of Wasaga Beach Act, 1973*, being chapter 79, is amended by adding thereto the following section:

	s. 17a, enacted
--	--------------------

 - 17a. For the purposes of the *Public Transportation and Highway Improvement Act*, the Town shall be deemed to be a township.

	Town deemed township R.S.O. 1980, c. 421
--	---
2. This Act shall be deemed to have come into force on the 1st day of January, 1981.

	Commence- ment
--	-------------------
3. The short title of this Act is the *Town of Wasaga Beach Amendment Act, 1981*.

	Short title
--	-------------

An Act to amend
The Town of Wasaga Beach Act, 1973

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Tobacco Tax Act

**THE HON. G. L. ASHE
Minister of Revenue**

EXPLANATORY NOTES

GENERAL

The Bill implements the proposals in the Treasurer's Budget that the tax on cigarettes and on tobacco, other than cigarettes or cigars, be established as percentages of the retail prices of those products, as determined by the Minister of Revenue after periodic sampling of retail prices from time to time paid by consumers. The Bill makes provision for the Minister to alter the price on which the tax is based so that increases and decreases in retail prices can be reflected by a corresponding change in the tax payable.

Until the new procedure is implemented, the Bill provides for specific increases in the tax payable on cigarettes and on tobacco, other than cigarettes or cigars. The tax on cigarettes is increased from 1.2 cents to 1.46 cents per cigarette. The tax on tobacco, other than cigarettes or cigars, is increased from 0.5 cents to 0.7 cents per gram.

The tax on cigars is not increased from the 45 per cent of retail price now in effect, but the 45 per cent rate will now apply to those cigars the retail price of which, before applying the tax, is not more than 9 cents, and this will replace the present tax of 3 cents on each such cigar.

SECTION 1. The amendment adds definitions of "taxable price per cigarette" and "taxable price per gram" of tobacco, other than cigarettes or cigars. These taxable prices are to be determined by the Minister by periodic sampling of prevailing retail prices, and the taxable prices so determined will be the prices to which the rates of tax applicable to cigarettes and to tobacco, other than cigarettes or cigars, will apply.

An Act to amend The Tobacco Tax Act

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

1. Section 1 of *The Tobacco Tax Act*, being chapter 463 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: ^{s. 1, amended}

(ga) "taxable price per cigarette" means the price per cigarette from time to time prescribed by regulation by the Minister as the taxable price per cigarette for such period of time as the Minister may prescribe, and in determining the taxable price per cigarette, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of packages of twenty cigarettes in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per cigarette from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per cigarette;

(gb) "taxable price per gram" of tobacco, other than cigarettes or cigars, means the price per gram of such tobacco from time to time prescribed by regulation by the Minister as the taxable price per gram of such tobacco for such period of time as the Minister may prescribe, and in determining the taxable price per gram, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of 50-gram packages of tobacco, other than cigarettes or cigars, in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per gram from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per gram.

s. 2 (1),
re-enacted

2. Subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 17, section 1, is repealed and the following substituted therefor:

Tax on
consumers

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,

- (a) 36 per cent of the taxable price per cigarette on every cigarette purchased by him;
- (b) 30 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and
- (c) 45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent,

and until a taxable price per cigarette or taxable price per gram is prescribed by regulation by the Minister in accordance with this Act, every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,

- (d) 1.46 cents on every cigarette purchased by him; and
- (e) 0.7 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him.

Idem

(1a) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a consumer for cigarettes or for tobacco, other than cigarettes or cigars, is different from the taxable price per cigarette or from the taxable price per gram, as the case may be.

s. 9 (1) (c),
amended

3. Clause *c* of subsection 1 of section 9 of the said Act is amended by striking out "audit or examination and to answer all questions relating to the audit or examination" in the eighth and ninth lines and inserting in lieu thereof "audit or examination, or the determination by him of the retail price of any tobacco sold, and to answer all questions relating to such audit, examination or determination".

s. 11c(1),
re-enacted

4. Subsection 1 of section 11c of the said Act, as enacted by the Statutes of Ontario, 1980, chapter 27, section 4, is repealed and the following substituted therefor:

Penalty
for selling
tobacco
with no
wholesale
dealer's
permit

(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when assessed therefor, pay a penalty computed as follows:

SECTION 2. The section provides that tax will be paid on cigarettes at the rate of 36 per cent of the taxable price determined from time to time by the Minister. For tobacco, other than cigarettes or cigars, the rate of tax is 30 per cent of the taxable price determined from time to time by the Minister.

Until taxable prices for cigarettes and tobacco, other than cigarettes or cigars, are determined by the Minister, the amendment provides for specific taxes of 1.46 cents per cigarette for cigarettes and 0.7 cents per gram for tobacco, other than cigarettes or cigars. The rate of tax for most cigars remains at 45 per cent, and this rate will now apply to cigars the retail price of which is not more than 9 cents.

Subsection 1 of section 2 of the Act now reads:

(1) *Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows:*

- (a) *1.2 cents on every cigarette purchased by him;*
- (b) *0.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;*
- (c) *3 cents on every cigar purchased by him for a price at retail of not more than 9 cents;*
- (d) *45 per cent of the price at retail of every cigar that is purchased by him for a price at retail of more than 9 cents, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.*

SECTION 3. The amendment provides authority for the Minister to require the furnishing of information concerning the retail prices of tobacco. Clause *c* of subsection 1 of section 9 of the Act, prior to the amendment proposed here, reads as follows:

9.—(1) *Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and may,*

- (c) *require a dealer liable to collect or pay over or considered possibly liable to collect or pay over tax imposed under this Act, or, if such dealer is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such dealer to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him.*

SECTION 4. The amendment repeats subsection 1 of section 11c of the Act with changes to clauses *a* and *b* in order to accommodate the fluctuating rate of tax proposed in earlier amendments. Clauses *a* and *b* prior to the amendment proposed here, read as follows:

- (a) \$3 for every carton of cigarettes so sold by him;
- (b) 1 cent for every gram or part thereof of any tobacco, other than cigarettes or cigars, so sold by him.

SECTION 5. The amendments will extend to the Yukon and Northwest Territories the jurisdictions with which the Minister can exchange information for tax enforcement and administration under the Act.

Subsection 2 of section 12 of the Act now reads:

(2) *The Minister may,*

(a) *communicate or allow to be communicated information obtained under this Act; or*

(b) *allow inspection of or access to any written statement furnished under this Act,*

to any person employed by the government of Canada or any province of Canada provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax.

SECTION 6. The amendments transfer from the Lieutenant Governor in Council to the Minister the power to make regulations described in clauses *b*, *c* and *d* of the subsection to be enacted. These clauses are identical to those repealed by subsection 1. In addition, clauses *e* and *f* are added to subsection 1a as a consequence of the amendments in section 1 of the Bill.

Subsection 1a, which is repealed by the proposed amendments, reads as follows:

(1a) *The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.*

- (a) 1.25 times the amount of tax that would have been exigible on cigarettes so sold by him if such cigarettes had been purchased by a consumer;
- (b) twice the amount of tax that would be exigible on tobacco, other than cigarettes or cigars, so sold by him if such tobacco had been purchased by a consumer; and
- (c) 50 per cent of the price at which each cigar was so sold by him.

5. Subsection 2 of section 12 of the said Act is amended,

s. 12 (2),
amended

- (a) by inserting after "province" in the seventh line "or territory"; and
- (b) by striking out "federal or provincial law" in the twelfth and thirteenth lines and inserting in lieu thereof "federal, provincial or territorial law or ordinance".

6.—(1) Clauses *e*, *f* and *l* of subsection 1 of section 16 of the said Act are repealed.

s. 16 (1)
(*e*, *f*, *l*),
repealed

(2) Subsection 1*a* of the said section 16, as enacted by the Statutes of Ontario, 1977, chapter 11, section 7, is repealed and the following substituted therefor:

s. 16 (1*a*),
re-enacted

(1*a*) The Minister may make regulations,

Minister
may make
regulations

- (a) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (b) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in such returns and statements, and by whom and in what manner they are to be made;
- (c) providing for the extension of time for making returns;
- (d) providing for the refund of the whole or any part of the tax paid under this Act, and prescribing the records and material to be furnished upon any application for a refund;
- (e) prescribing the taxable price per cigarette or taxable price per gram to be in effect from time to time for cigarettes or for tobacco, other than cigarettes or cigars,

and prescribing the period of time for which taxable price per cigarette or taxable price per gram shall be in effect;

(f) fixing to the nearest hundredth of a cent the tax per cigarette or per gram of tobacco, other than cigarettes or cigars, to be paid under this Act as a result of the prescribing from time to time of a taxable price per cigarette or taxable price per gram in accordance with clause *e*.

Commence-
ment

7.—(1) This Act, except sections 1, 2 and 6, comes into force on the day it receives Royal Assent.

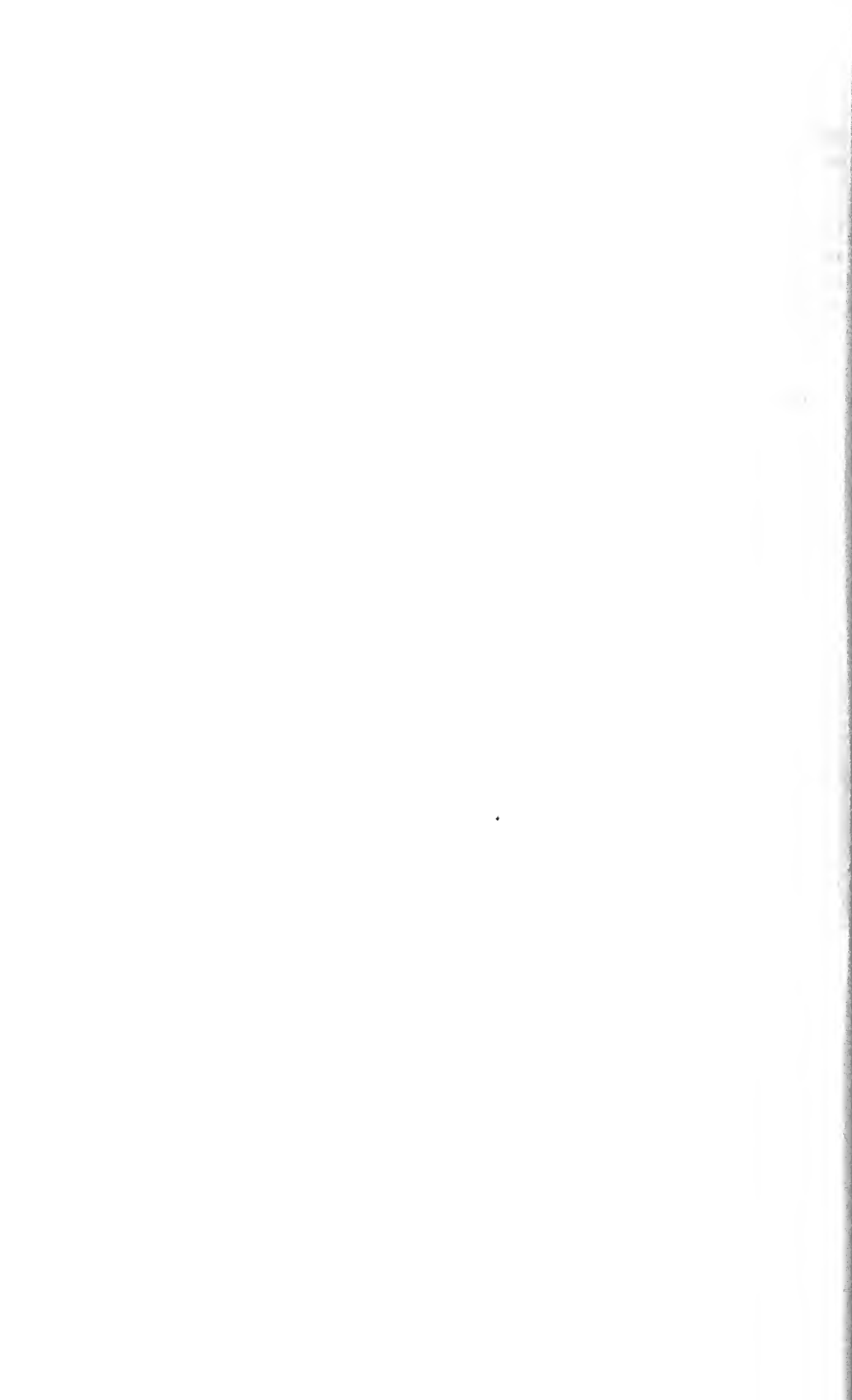
Idem

(2) Sections 1, 2 and 6 shall be deemed to have come into force on the 20th day of May, 1981.

Short title

8. The short title of this Act is *The Tobacco Tax Amendment Act, 1981*.







An Act to amend
The Tobacco Tax Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 76

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Tobacco Tax Act

THE HON. G. L. ASHE
Minister of Revenue



An Act to amend The Tobacco Tax Act

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

1. Section 1 of *The Tobacco Tax Act*, being chapter 463 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: ^{s. 1, amended}

(ga) "taxable price per cigarette" means the price per cigarette from time to time prescribed by regulation by the Minister as the taxable price per cigarette for such period of time as the Minister may prescribe, and in determining the taxable price per cigarette, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of packages of twenty cigarettes in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per cigarette from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per cigarette;

(gb) "taxable price per gram" of tobacco, other than cigarettes or cigars, means the price per gram of such tobacco from time to time prescribed by regulation by the Minister as the taxable price per gram of such tobacco for such period of time as the Minister may prescribe, and in determining the taxable price per gram, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of 50-gram packages of tobacco, other than cigarettes or cigars, in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per gram from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per gram.

s. 2 (1),
re-enacted

2. Subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 17, section 1, is repealed and the following substituted therefor:

Tax on
consumers

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,

- (a) 36 per cent of the taxable price per cigarette on every cigarette purchased by him;
- (b) 30 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and
- (c) 45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent,

and until a taxable price per cigarette or taxable price per gram is prescribed by regulation by the Minister in accordance with this Act, every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,

- (d) 1.46 cents on every cigarette purchased by him; and
- (e) 0.7 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him.

Idem

(1a) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a consumer for cigarettes or for tobacco, other than cigarettes or cigars, is different from the taxable price per cigarette or from the taxable price per gram, as the case may be.

s. 9 (1) (c),
amended

3. Clause *c* of subsection 1 of section 9 of the said Act is amended by striking out "audit or examination and to answer all questions relating to the audit or examination" in the eighth and ninth lines and inserting in lieu thereof "audit or examination, or the determination by him of the retail price of any tobacco sold, and to answer all questions relating to such audit, examination or determination".

s. 11c(1),
re-enacted

4. Subsection 1 of section 11c of the said Act, as enacted by the Statutes of Ontario, 1980, chapter 27, section 4, is repealed and the following substituted therefor:

Penalty
for selling
tobacco
with no
wholesale
dealer's
permit

(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when assessed therefor, pay a penalty computed as follows:

- (a) 1.25 times the amount of tax that would have been exigible on cigarettes so sold by him if such cigarettes had been purchased by a consumer;
- (b) twice the amount of tax that would be exigible on tobacco, other than cigarettes or cigars, so sold by him if such tobacco had been purchased by a consumer; and
- (c) 50 per cent of the price at which each cigar was so sold by him.

5. Subsection 2 of section 12 of the said Act is amended,

s. 12 (2),
amended

- (a) by inserting after "province" in the seventh line "or territory"; and
- (b) by striking out "federal or provincial law" in the twelfth and thirteenth lines and inserting in lieu thereof "federal, provincial or territorial law or ordinance".

6.—(1) Clauses *e*, *f* and *l* of subsection 1 of section 16 of the said Act are repealed.

s. 16 (1)
(*e*, *f*, *l*),
repealed

(2) Subsection 1*a* of the said section 16, as enacted by the Statutes of Ontario, 1977, chapter 11, section 7, is repealed and the following substituted therefor:

s. 16 (1*a*),
re-enacted

(1*a*) The Minister may make regulations,

Minister
may make
regulations

- (a) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (b) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in such returns and statements, and by whom and in what manner they are to be made;
- (c) providing for the extension of time for making returns;
- (d) providing for the refund of the whole or any part of the tax paid under this Act, and prescribing the records and material to be furnished upon any application for a refund;
- (e) prescribing the taxable price per cigarette or taxable price per gram to be in effect from time to time for cigarettes or for tobacco, other than cigarettes or cigars,

and prescribing the period of time for which taxable price per cigarette or taxable price per gram shall be in effect;

- (f) fixing to the nearest hundredth of a cent the tax per cigarette or per gram of tobacco, other than cigarettes or cigars, to be paid under this Act as a result of the prescribing from time to time of a taxable price per cigarette or taxable price per gram in accordance with clause e.

Commence-
ment

7.—(1) This Act, except sections 1, 2 and 6, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2 and 6 shall be deemed to have come into force on the 20th day of May, 1981.

Short title

8. The short title of this Act is *The Tobacco Tax Amendment Act, 1981*.



An Act to amend
The Tobacco Tax Act

1st Reading

May 21st, 1981

2nd Reading

June 2nd, 1981

3rd Reading

June 12th, 1981

THE HON. G. L. ASHE
Minister of Revenue

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Income Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

GENERAL

The Bill increases the income tax rate payable by individuals in Ontario from 44 per cent to 46 per cent for the 1981 taxation year and to 48 per cent for the 1982 taxation year. In addition, amendments are made to provide that individuals who reside in properties exempt from provincial land tax, local roads boards tax or municipal tax (except for prescribed student residences) will not be eligible for an Ontario property tax credit. Further amendments provide that a person is not entitled to claim an Ontario tax credit with respect to a year in which he either leaves the country or dies. Furthermore, foreign students authorized to enter Canada to attend an educational institution will no longer qualify for an Ontario tax credit.

SECTION 1. The amendment increases the income tax rate payable by individuals from 44 per cent to 46 per cent for the 1981 taxation year and to 48 per cent for the 1982 taxation year.

SECTION 2. The amendment provides that, for the 1981 taxation year, an individual with a taxable income of \$1,874 or less will not be subject to tax.

Individuals with taxable incomes of \$2,058 or more will be subject to the normal rate of tax. A notch provision gives relief to individuals having taxable incomes between \$1,874 and \$2,058 by providing that their tax in 1981 will be reduced by one-half of the amount by which \$2,058 exceeds their taxable income.

In subsequent taxation years, the taxable income at which no tax is payable and the range of taxable income in which a reduced tax is payable will be prescribed.

BILL 77

1981

An Act to amend The Income Tax Act

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

1. Subsection 3 of section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, 1977, chapter 6, section 1 and 1980, chapter 25, section 1, is further amended,
 - (a) by striking out "and" at the end of clause *h*; and
 - (b) by adding thereto the following clauses:
 - (j) 46 per cent in respect of the 1981 taxation year; and
 - (k) 48 per cent in respect of the 1982 taxation year.
2. Section 6*a* of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 12, section 2 and amended by 1977, chapter 6, section 3, is repealed and the following substituted therefor:
 - 6*a*.—(1) Where the taxable income of an individual for a taxation year does not exceed the amount prescribed for the purpose of this subsection for a particular taxation year, no tax is payable under this Act by the individual for the taxation year.
 - (2) Where the taxable income of an individual for a taxation year exceeds the amount prescribed for the purpose of subsection 1 for a particular taxation year, but does not exceed the amount prescribed for the purpose of this subsection for that taxation year, the tax payable under this Act (after the deduction authorized by subsection 6 of section 3 and before any deduction authorized by subsection 2 or 4*a* of section 6*b*) may be reduced by an amount equal to one-half of the amount by which the amount prescribed for the purpose of this subsection exceeds the individual's taxable income for the taxation year.

s. 3 (3),
amendeds. 6*a*,
re-enactedNo tax
payableTax
reduction

Amount prescribed for 1981 taxation year

(3) For the purpose of this section, the amount prescribed for the purpose of subsection 1 for the 1981 taxation year is \$1,874 and the amount prescribed for the purpose of subsection 2 for the 1981 taxation year is \$2,058.

s. 6b (1) (a), re-enacted

3.—(1) Clause *a* of subsection 1 of section 6*b* of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 25, section 2, is repealed and the following substituted therefor:

(a) "housing unit" includes,

(i) subject to subclauses ii and iii, any premises that an individual ordinarily occupies and inhabits as his residence in the taxation year,

but does not include,

(ii) premises that are part of a chronic care facility or other similar institution that is prescribed, or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home, or

(iii) premises, except any students' residence that is prescribed under subsection 3, during such time in a taxation year as,

A. such premises are exempt from the payment of taxes levied under *The Provincial Land Tax Act*, *The Local Roads Boards Act* or taxes for municipal and school purposes levied in respect of real property in Ontario that is assessed as residential or farm property, or

B. the owner does not pay a grant equal to the full amount of the taxes described in sub-subclause A that would, if such premises were not exempt, be payable or a grant equal to an amount prescribed by the Minister in respect of such premises or class of premises,

except when such excluded premises are occupied and inhabited by an individual of a class prescribed for the purpose of this clause.

R.S.O. 1970, cc. 370, 256

s. 6b (1) (f), amended

(2) Clause *f* of subsection 1 of the said section 6*b*, as re-enacted by the Statutes of Ontario, 1973, chapter 21, section 2 and amended by 1973, chapter 153, section 2, 1975, chapter 16, section 3 and 1980, chapter 25, section 2, is further amended,

SECTION 3.—Subsection 1. The amendment redefines “housing unit” to provide that where no provincial land tax, local roads boards tax or municipal tax is payable or no grant instead of such tax is paid by the owner of the lands to the municipality in which the lands are situate, then the premises will no longer qualify as a “housing unit”.

Prescribed student residences will, however, continue to qualify as “housing units” despite the fact that they do not meet this new requirement.

The definition of “housing unit” now contained in the Act reads:

- (a) *“housing unit” includes any premises that an individual ordinarily occupies and inhabits as his residence in the taxation year, but does not include premises that are part of a chronic care facility or other similar institution that is prescribed, or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home, except when such excluded premises are occupied and inhabited by an individual of a class prescribed for the purpose of this clause.*

Subsection 2. The subsection makes two amendments to the definition of “principal taxpayer”. Firstly, it substitutes “the 31st day of December in the taxation year” for “last day of the taxation year” (an expression which is defined in section 1 (2) of the Act), to include situations where an individual dies or leaves Canada in the taxation year. The use of December 31st prevents a person who dies or leaves Canada in a taxation year from claiming a property tax credit for such year.

Secondly, a new subclause is added to exclude from eligibility for a property tax credit, individuals who are not Canadian citizens and who have been admitted to Canada to attend a university or college.

Subsection 3. The amendment is consequential on the amendments made in subsection 2. The subsection to be amended now reads:

- (2) *Every individual resident in Ontario on the last day of the taxation year may deduct from the tax otherwise payable by him under this Act the amount not in excess of \$500 by which the aggregate of the tax credits that are described in clauses a, b and c and to which he is entitled exceeds 2 per cent of his taxable income for the taxation year,*
- (a) *where the individual is a principal taxpayer, a tax credit equal to the sum of,*
- (i) *the lesser of his occupancy cost for the taxation year or \$180, and*
- (ii) *an amount equal to 10 per cent of his occupancy cost for the taxation year; and*
- (b) *a tax credit of an amount equal to 1 per cent of the total of those deductions that are authorized by section 109 of the Federal Act and that have been claimed by the individual entitled to claim them in his return filed in accordance with the Federal Act, but the tax credit described in this clause may not be claimed by an individual,*

- (a) by striking out that portion of the said clause immediately preceding subclause i and inserting in lieu thereof,

“principal taxpayer” means an individual who, on the 31st day of December in the taxation year, occupies and inhabits a principal residence except when that individual, on the 31st day of December in the taxation year, occupies and inhabits a principal residence with his spouse, in which case, “principal taxpayer” means that spouse who has the higher taxable income for the taxation year, but “principal taxpayer” does not include any individual who died at any time in the taxation year or who, on the 31st day of December in the taxation year was,

and;

- (b) by striking out “or” at the end of subclause v, by adding “or” at the end of subclause vi and by adding thereto the following subclause:

- (vii) an individual who has been lawfully admitted to Canada on a temporary basis for the specific purpose of attending any university, college or other educational institution.

- (3) Subsection 2 of the said section 6b, as re-enacted by the Statutes of Ontario, 1973, chapter 153, section 2 and amended by 1974, chapter 91, section 2, 1975, chapter 16, section 3, 1976, chapter 81, section 2 and 1980, chapter 25, section 2, is repealed and the following substituted therefor:

(2) Every individual resident in Ontario on the 31st day of December in the taxation year may deduct from the tax otherwise payable by him, under this Act the amount not in excess of \$500 by which the aggregate of the tax credits that are described in clauses a and b and to which he is entitled exceeds 2 per cent of his taxable income for the taxation year,

- (a) where the individual is a principal taxpayer, a tax credit equal to the sum of,
 - (i) the lesser of his occupancy cost for the taxation year or \$180, and
 - (ii) an amount equal to 10 per cent of his occupancy cost for the taxation year; and

(b) a tax credit of an amount equal to 1 per cent of the total of those deductions that are authorized by section 109 of the Federal Act and that have been claimed by the individual entitled to claim them in his return filed in accordance with the Federal Act, but the tax credit described in this clause may not be claimed by an individual,

(i) who died during the taxation year or who, on the 31st day of December in the taxation year, is an individual described in subclause i, iii, iv, v or vii of clause *f* of subsection 1,

(ii) with respect to whom any other taxpayer resident in Canada on the 31st day of December in the taxation year has, in computing his taxable income under the Federal Act, claimed in his return filed in accordance with that Act a deduction authorized by paragraph *a, b, d, e, f* or *g* of subsection 1 of section 109 of that Act for any portion of the taxation year, or

(iii) who, on the 31st day of December in the taxation year, is an individual entitled to receive in respect of the taxation year a grant under section 7 of *The Ontario Pensioners Property Tax Assistance Act, 1980*.

1980, c. 18

s. 6*b* (4),
repealed

(4) Subsection 4 of the said section 6*b*, as re-enacted by the Statutes of Ontario, 1972, chapter 146, section 2 and amended by 1974, chapter 91, section 2, is repealed.

s. 6*b* (9),
amended

(5) Subsection 9 of the said section 6*b*, as re-enacted by the Statutes of Ontario, 1980, chapter 25, section 2, is amended by striking out "last day of" in the third line and inserting in lieu thereof "31st day of December in".

s. 6*b*,
amended

(6) The said section 6*b*, as re-enacted by the Statutes of Ontario, 1972, chapter 146, section 2 and amended by 1973, chapter 21, section 2, 1973, chapter 153, section 2, 1974, chapter 91, section 2, 1975, chapter 16, section 3, 1976, chapter 12, section 3, 1976, chapter 81, section 2, 1978, chapter 11, section 2 and 1980, chapter 25, section 2, is further amended by adding thereto the following subsections:

Separation
in year

(9*a*) Notwithstanding clause *d* of subsection 1 or subclause vi of clause *f* of subsection 1, where, in any taxation year, an individual separates from a spouse who, on the 31st day of December in such taxation year, is an eligible person, as defined by *The Ontario Pensioners Property Tax Assistance Act, 1980*,

1980, c. 18

- (i) *who, on the last day of the taxation year, is an individual described in subclause i, iii, iv or v of clause f of subsection 1,*
- (ii) *with respect to whom any other taxpayer resident in Canada on the last day of the taxation year has, in computing his taxable income under the Federal Act, claimed in his return filed in accordance with that Act a deduction authorized by paragraph a, b, d, e, f or g of subsection 1 of section 109 of that Act for any portion of the taxation year, or*
- (iii) *who, on the last day of the taxation year, is an individual entitled to receive in respect of the taxation year a grant under section 7 of The Ontario Pensioners Property Tax Assistance Act, 1980.*

Subsection 4. The repeal of subsection 4 of section 6b is consequential on earlier amendments providing that individuals who die in a year are no longer entitled to a property tax credit for that year.

Subsection 5. The amendment is consequential on the amendments made in subsection 2. The subsection to be amended now reads:

- (9) *Notwithstanding clause f of subsection 1, if an individual occupies and inhabits with his spouse a principal residence on the last day of the taxation year, and,*
 - (a) *if that individual and his spouse have the same amount of taxable income in the taxation year or have no taxable income in the taxation year, they may agree between them which of them shall claim the deduction permitted under subsection 2, and the individual thus agreed upon shall be deemed to be the principal taxpayer; and*
 - (b) *if the individual and his spouse married in that taxation year, the spouse having the lower taxable income and not otherwise disqualified as a principal taxpayer under clause f of subsection 1 shall be deemed to be a principal taxpayer in respect of occupancy cost for a principal residence inhabited by that spouse in the taxation year and prior to the marriage, provided that such occupancy cost is not included in the occupancy cost of the other spouse.*

Subsection 6. The amendment adds two new subsections to section 6b.

The first subsection provides that an individual who separates from an "eligible person" as defined in *The Ontario Pensioners Property Tax Assistance Act, 1980* is now entitled to claim a property tax credit based on the occupancy costs he incurs from the date of separation to the end of the year.

The second subsection provides that an individual under age 65, who marries a person entitled to a tax grant under *The Ontario Pensioners Property Tax Assistance Act, 1980* is no longer precluded from making a claim in the year of marriage for a property tax credit. However, the claim may include only the occupancy cost of such person incurred prior to marriage provided that such cost is not included by the spouse in a claim under *The Ontario Pensioners Property Tax Assistance Act, 1980*.

SECTION 4. The clauses added by the amendment clarify an individual's right to appeal the amount of his entitlement to an Ontario tax credit under section 6*b*.

pursuant to a separation agreement as defined in that Act, such individual shall be deemed to be a principal taxpayer but his occupancy cost for such taxation year shall include only that occupancy cost that is attributable to the portion of the taxation year subsequent to such separation.

(9b) Notwithstanding subclause vi of clause *f* of subsection 1, where, in the taxation year, an individual marries a person who, on the 31st day of December in such taxation year, is an eligible person, as defined by *The Ontario Pensioners Property Tax Assistance Act, 1980*, such individual shall be deemed to be a principal taxpayer, but his occupancy cost for such taxation year shall include only that occupancy cost that is attributable to the portion of the taxation year prior to such marriage and that is not included in the occupancy cost of the spouse who is an eligible person. Marriage
in year

4. Subsection 2 of section 20 of the said Act is amended by striking out "or" at the end of clause *b* and by adding thereto the following clauses: s. 20 (2),
amended

(d) any deduction under subsection 2 or *4a* of section *6b*; or

(e) the application of any amount pursuant to subsection 5 of section *6b*.

5.—(1) This Act, except sections 1, 2 and 3, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 1, 2 and 3 shall be deemed to have come into force on the 1st day of January, 1981. Idem

6. The short title of this Act is *The Income Tax Amendment Act, 1981*. Short title

An Act to amend The Income Tax Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 77

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Income Tax Act

THE HON. G. L. ASHE
Minister of Revenue



BILL 77

1981

An Act to amend The Income Tax Act

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

1. Subsection 3 of section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, 1977, chapter 6, section 1 and 1980, chapter 25, section 1, is further amended,

(a) by striking out "and" at the end of clause *h*; and

(b) by adding thereto the following clauses:

(j) 46 per cent in respect of the 1981 taxation year; and

(k) 48 per cent in respect of the 1982 taxation year.

2. Section 6*a* of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 12, section 2 and amended by 1977, chapter 6, section 3, is repealed and the following substituted therefor:

6*a*.—(1) Where the taxable income of an individual for a taxation year does not exceed the amount prescribed for the purpose of this subsection for a particular taxation year, no tax is payable under this Act by the individual for the taxation year.

(2) Where the taxable income of an individual for a taxation year exceeds the amount prescribed for the purpose of subsection 1 for a particular taxation year, but does not exceed the amount prescribed for the purpose of this subsection for that taxation year, the tax payable under this Act (after the deduction authorized by subsection 6 of section 3 and before any deduction authorized by subsection 2 or 4*a* of section 6*b*) may be reduced by an amount equal to one-half of the amount by which the amount prescribed for the purpose of this subsection exceeds the individual's taxable income for the taxation year.

Amount prescribed for 1981 taxation year

(3) For the purpose of this section, the amount prescribed for the purpose of subsection 1 for the 1981 taxation year is \$1,874 and the amount prescribed for the purpose of subsection 2 for the 1981 taxation year is \$2,058.

s. 6b (1) (a), re-enacted

3.—(1) Clause *a* of subsection 1 of section 6*b* of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 25, section 2, is repealed and the following substituted therefor:

(a) "housing unit" includes,

- (i) subject to subclauses ii and iii, any premises that an individual ordinarily occupies and inhabits as his residence in the taxation year,

but does not include,

- (ii) premises that are part of a chronic care facility or other similar institution that is prescribed, or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home, or
- (iii) premises, except any students' residence that is prescribed under subsection 3, during such time in a taxation year as,

A. such premises are exempt from the payment of taxes levied under *The Provincial Land Tax Act*, *The Local Roads Boards Act* or taxes for municipal and school purposes levied in respect of real property in Ontario that is assessed as residential or farm property, or

B. the owner does not pay a grant equal to the full amount of the taxes described in sub-subclause A that would, if such premises were not exempt, be payable or a grant equal to an amount prescribed by the Minister in respect of such premises or class of premises,

except when such excluded premises are occupied and inhabited by an individual of a class prescribed for the purpose of this clause.

R.S.O. 1970, cc. 370, 256

s. 6b (1) (f), amended

(2) Clause *f* of subsection 1 of the said section 6*b*, as re-enacted by the Statutes of Ontario, 1973, chapter 21, section 2 and amended by 1973, chapter 153, section 2, 1975, chapter 16, section 3 and 1980, chapter 25, section 2, is further amended,

- (a) by striking out that portion of the said clause immediately preceding subclause i and inserting in lieu thereof,

“principal taxpayer” means an individual who, on the 31st day of December in the taxation year, occupies and inhabits a principal residence except when that individual, on the 31st day of December in the taxation year, occupies and inhabits a principal residence with his spouse, in which case, “principal taxpayer” means that spouse who has the higher taxable income for the taxation year, but “principal taxpayer” does not include any individual who died at any time in the taxation year or who, on the 31st day of December in the taxation year was,

and;

- (b) by striking out “or” at the end of subclause v, by adding “or” at the end of subclause vi and by adding thereto the following subclause:

(vii) an individual who has been lawfully admitted to Canada on a temporary basis for the specific purpose of attending any university, college or other educational institution.

- (3) Subsection 2 of the said section 6b, as re-enacted by the Statutes of Ontario, 1973, chapter 153, section 2 and amended by 1974, chapter 91, section 2, 1975, chapter 16, section 3, 1976, chapter 81, section 2 and 1980, chapter 25, section 2, is repealed and the following substituted therefor: s. 6b (2),
re-enacted

(2) Every individual resident in Ontario on the 31st day of December in the taxation year may deduct from the tax otherwise payable by him, under this Act the amount not in excess of \$500 by which the aggregate of the tax credits that are described in clauses a and b and to which he is entitled exceeds 2 per cent of his taxable income for the taxation year, Tax
credits

- (a) where the individual is a principal taxpayer, a tax credit equal to the sum of,

- (i) the lesser of his occupancy cost for the taxation year or \$180, and
- (ii) an amount equal to 10 per cent of his occupancy cost for the taxation year; and

(b) a tax credit of an amount equal to 1 per cent of the total of those deductions that are authorized by section 109 of the Federal Act and that have been claimed by the individual entitled to claim them in his return filed in accordance with the Federal Act, but the tax credit described in this clause may not be claimed by an individual,

(i) who died during the taxation year or who, on the 31st day of December in the taxation year, is an individual described in subclause i, iii, iv, v or vii of clause f of subsection 1,

(ii) with respect to whom any other taxpayer resident in Canada on the 31st day of December in the taxation year has, in computing his taxable income under the Federal Act, claimed in his return filed in accordance with that Act a deduction authorized by paragraph a, b, d, e, f or g of subsection 1 of section 109 of that Act for any portion of the taxation year, or

(iii) who, on the 31st day of December in the taxation year, is an individual entitled to receive in respect of the taxation year a grant under section 7 of *The Ontario Pensioners Property Tax Assistance Act, 1980*.

1980, c. 18

s. 6b (4),
repealed

(4) Subsection 4 of the said section 6b, as re-enacted by the Statutes of Ontario, 1972, chapter 146, section 2 and amended by 1974, chapter 91, section 2, is repealed.

s. 6b (9),
amended

(5) Subsection 9 of the said section 6b, as re-enacted by the Statutes of Ontario, 1980, chapter 25, section 2, is amended by striking out "last day of" in the third line and inserting in lieu thereof "31st day of December in".

s. 6b,
amended

(6) The said section 6b, as re-enacted by the Statutes of Ontario, 1972, chapter 146, section 2 and amended by 1973, chapter 21, section 2, 1973, chapter 153, section 2, 1974, chapter 91, section 2, 1975, chapter 16, section 3, 1976, chapter 12, section 3, 1976, chapter 81, section 2, 1978, chapter 11, section 2 and 1980, chapter 25, section 2, is further amended by adding thereto the following subsections:

Separation
in year

(9a) Notwithstanding clause d of subsection 1 or subclause vi of clause f of subsection 1, where, in any taxation year, an individual separates from a spouse who, on the 31st day of December in such taxation year, is an eligible person, as defined by *The Ontario Pensioners Property Tax Assistance Act, 1980*,

1980, c. 18

pursuant to a separation agreement as defined in that Act, such individual shall be deemed to be a principal taxpayer but his occupancy cost for such taxation year shall include only that occupancy cost that is attributable to the portion of the taxation year subsequent to such separation.

(9b) Notwithstanding subclause vi of clause *f* of subsection 1, where, in the taxation year, an individual marries a person who, on the 31st day of December in such taxation year, is an eligible person, as defined by *The Ontario Pensioners Property Tax Assistance Act, 1980*, such individual shall be deemed to be a principal taxpayer, but his occupancy cost for such taxation year shall include only that occupancy cost that is attributable to the portion of the taxation year prior to such marriage and that is not included in the occupancy cost of the spouse who is an eligible person.

4. Subsection 2 of section 20 of the said Act is amended by striking out "or" at the end of clause *b* and by adding thereto the following clauses: ^{s. 20 (2), amended}

(d) any deduction under subsection 2 or 4a of section 6b; or

(e) the application of any amount pursuant to subsection 5 of section 6b.

- 5.—(1) This Act, except sections 1, 2 and 3, comes into force on the day it receives Royal Assent. ^{Commencement}

(2) Sections 1, 2 and 3 shall be deemed to have come into force on the 1st day of January, 1981. ^{Idem}

6. The short title of this Act is *The Income Tax Amendment Act, 1981*. ^{Short title}

An Act to amend The Income Tax Act

1st Reading

May 21st, 1981

2nd Reading

June 26th, 1981

3rd Reading

June 26th, 1981

THE HON. G. L. ASHE
Minister of Revenue

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend The Ontario Pensioners Property
Tax Assistance Act, 1980**

**THE HON. G. L. ASHE
Minister of Revenue**

EXPLANATORY NOTES

GENERAL

The Bill implements the proposals contained in the Treasurer's Budget that, in the year of death, the estate of a deceased person will no longer be entitled to claim the full grant that the deceased would have been entitled to had he or she lived the full year. The amount of any interim grant that the deceased is paid during the year of his or her death, prior to making application for a property tax grant, must be deducted from the grant to be paid to his or her surviving spouse for that year.

Further amendments are made to provide that individuals who reside in properties exempt from provincial land tax, local roads boards tax or municipal tax will not be eligible for an Ontario property tax grant.

SECTION 1.—Subsection 1 The amendment redefines “housing unit” to provide that where no provincial land tax, local roads boards tax or municipal tax is payable or no grant instead of such tax is paid by the owner of the lands to the municipality in which the lands are situate, then the premises will no longer qualify as a “housing unit”.

The definition of “housing unit” now contained in the Act reads:

“housing unit” includes any premises that an individual ordinarily occupies and inhabits as his residence during the year, but does not include premises that are part of a chronic care facility or other similar institution that is prescribed or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home.

BILL 78

1981

An Act to amend The Ontario Pensioners Property Tax Assistance Act, 1980

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

1.—(1) Clause *e* of section 1 of *The Ontario Pensioners Property Tax Assistance Act, 1980*, being chapter 18, is repealed and the following substituted therefor: s. 1 (e),
re-enacted

(e) “housing unit” includes,

(i) subject to subclauses ii and iii, any premises that an individual ordinarily occupies and inhabits as his residence in the year,

but does not include,

(ii) premises that are part of a chronic care facility or other similar institution that is prescribed, or that are part of any charitable institution, home for special care, home for the aged, public nursing home, or private nursing home, or

(iii) premises, during such time in the year as,

A. such premises are exempt from the payment of taxes levied under *The Provincial Land Tax Act*, *The Local Roads Boards Act* or taxes for municipal and school purposes levied in respect of real property in Ontario that is assessed as residential or farm property, or R.S.O. 1970,
cc. 370, 256

B. the owner does not pay a grant equal to the full amount of the taxes described in sub-subclause A that would, if such

premises were not exempt, be payable or a grant equal to an amount prescribed by the Minister in respect of such premises or class of premises.

s. 1 (b) (ii) B,
re-enacted

- (2) Sub-subclause B of subclause ii of clause *h* of the said section 1 is repealed and the following substituted therefor:

B. rent paid or agreed to be paid in the year to which the application relates for occupation of a principal residence of the applicant where such rent is paid or agreed to be paid by or on behalf of the applicant or his spouse and is calculated to exclude all payments on account of meals or board and all payments of rent for occupation prior to the 1st day of January, 1980.

s. 3,
amended

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

Marriage
in year

(4) Notwithstanding subsection 1 or 3, where a husband and wife who are both eligible persons make an application for a grant as a family unit in respect of the year in which they marry, a further application for a grant may be made by one of the spouses in respect of his occupancy cost in that year prior to marriage and, provided that such occupancy cost is not included in the application made for that year by the family unit, the Minister may pay such grant under section 2.

s. 7,
amended

3. Section 7 of the said Act is amended by adding at the commencement thereof "Subject to section 8".

s. 8,
re-enacted

4. Section 8 of the said Act is repealed and the following substituted therefor:

Death
in year

8.—(1) An eligible person who dies is, with respect to the year of his death, entitled to,

(a) that portion of a grant paid to him under subsection 3 of section 2 without an application, by a cheque that is dated on, or prior to, the date of his death; and

(b) a grant paid under section 7 by a cheque that is dated on, or prior to, the date of his death,

and, if he is alive on the earlier of the dates shown on an application completed by him for a grant under section 2 or the date upon which such application is received by the Minister, he is entitled to the balance of the grant payable under section 2 in respect of the year in which he died.

Subsection 2. The amendment broadens the definition of "occupancy cost" to include rent which one has agreed to pay in a year.

SECTION 2. The amendment provides that in the year in which two eligible persons marry, one of the spouses may make a separate claim for a grant with respect to the occupancy cost he or she incurs prior to marriage.

The new provision parallels sections contained in *The Income Tax Act* with respect to claims made by spouses for an Ontario tax credit.

SECTION 3. The amendment is consequential on amendments made in section 4 of the Bill.

SECTION 4.—Subsection 1. The amendment provides that in the year of death of an eligible person, the deceased is entitled only to any interim grant which has been paid to him or her under the Act prior to the date of death. The deceased is entitled to the balance of such grant only if he or she is alive on the date of an application for the grant.

Subsection 2. The amendment provides that there must be deducted from the property tax grant payable to the surviving spouse of an eligible person who dies in any year, the amount paid by the Minister to the deceased member of the family unit for that year on account of the family unit's entitlement to a grant.

Subsection 3. The amendment provides that a person who ceases to reside in Ontario during a year will be entitled only to any interim grant which has been paid to him or her under the Act prior to the date upon which he or she left Ontario. Such a person will be entitled to the balance of the grant only if he or she is resident in Ontario on the date an application for the grant is received by the Minister.

SECTION 5.—Subsection 1. The amendment enables a person to file a notice of objection to a determination by the Minister that such person must repay a grant to which he or she was not entitled.

Subsection 2. The amendment is consequential on the amendment made in subsection 1.

(2) Where, in any year, as a result of subsection 1, an eligible person is entitled to only a portion of a grant under section 2, there shall be deducted from any grant to be paid to the surviving spouse of such eligible person for that year, the portion of the grant that such eligible person was paid.

(3) An eligible person is, with respect to the year in which he ceases to be ordinarily resident in Ontario, entitled to,

(a) that portion of a grant paid to him under subsection 3 of section 2 without an application, by a cheque that is dated on or prior to the date upon which he ceases to be ordinarily resident in Ontario; and

(b) a grant paid under section 7 by a cheque that is dated on, or prior to, the date upon which he ceases to be ordinarily resident in Ontario,

and, if he is ordinarily resident in Ontario on the date upon which his completed application for a grant under section 2 is received by the Minister, he is entitled to the balance of the grant payable under section 2 in respect of the year in which he ceases to be ordinarily resident in Ontario.

5.—(1) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,
amended

(2a) Where the Minister has determined that a person is not entitled to a grant or any amount referred to in subsection 1 of section 14, he shall, when requesting repayment thereof, inform the person of the reason for his decision and of his right to object in accordance with this section. Reason for
request for
repayment

(2) Subsection 3 of the said section 9 is amended by striking out "an applicant" in the first line and inserting in lieu thereof "a person". s. 9 (3),
amended

6. This Act shall be deemed to have come into force on the 20th day of May, 1981. Commence-
ment

7. The short title of this Act is *The Ontario Pensioners Property Tax Assistance Amendment Act, 1981*. Short title

An Act to amend The Ontario Pensioners
Property Tax Assistance Act, 1980

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 78

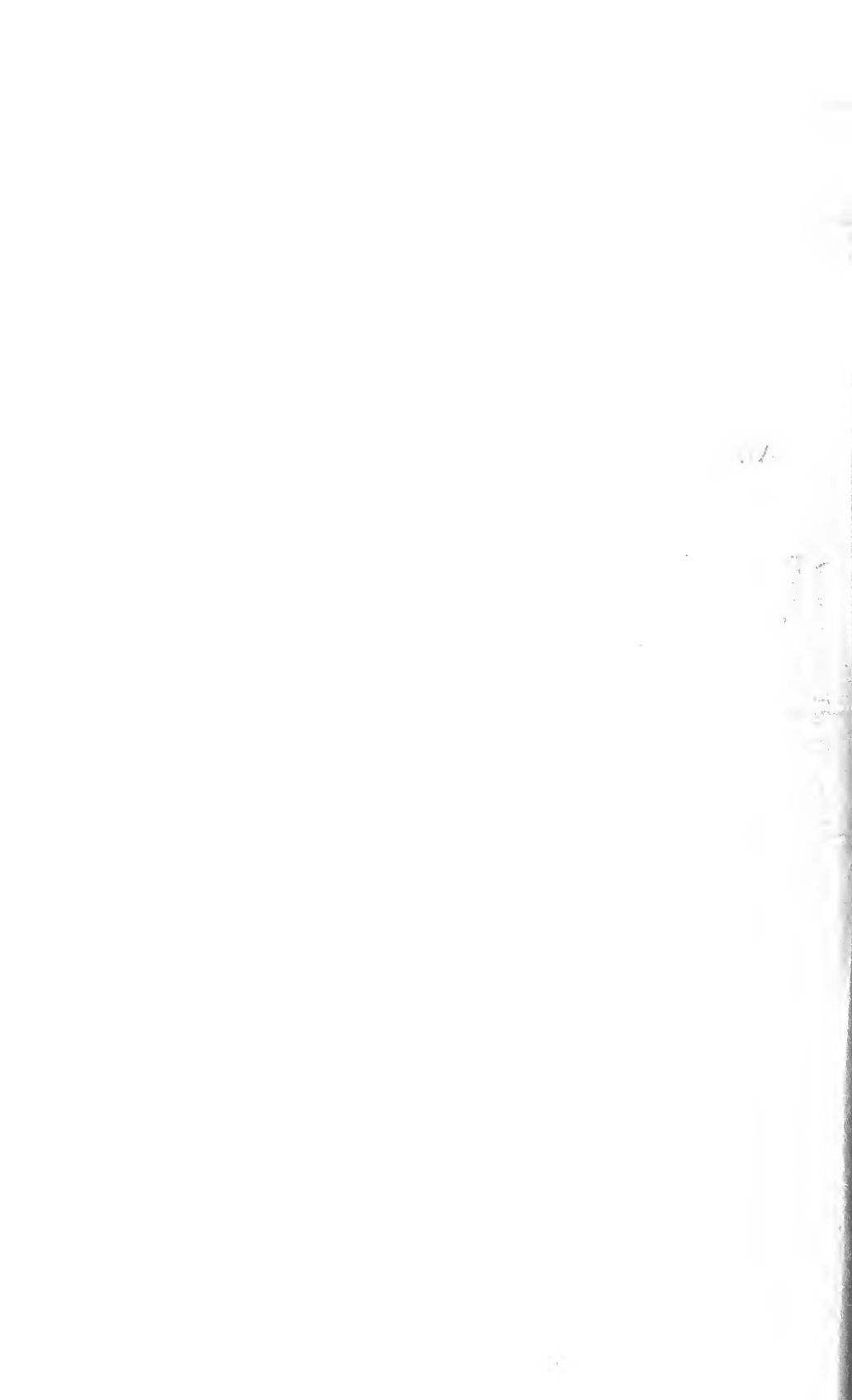
1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Ontario Pensioners Property Tax Assistance Act, 1980

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

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BILL 78

1981

An Act to amend The Ontario Pensioners Property Tax Assistance Act, 1980

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

- 1.—(1) Clause *e* of section 1 of *The Ontario Pensioners Property Tax Assistance Act, 1980*, being chapter 18, is repealed and the following substituted therefor: s. 1 (e),
re-enacted

(e) “housing unit” includes,

- (i) subject to subclauses ii and iii, any premises that an individual ordinarily occupies and inhabits as his residence in the year,

but does not include,

- (ii) premises that are part of a chronic care facility or other similar institution that is prescribed, or that are part of any charitable institution, home for special care, home for the aged, public nursing home, or private nursing home, or
- (iii) premises, during such time in the year as,

- A. such premises are exempt from the payment of taxes levied under *The Provincial Land Tax Act*, *The Local Roads Boards Act* or taxes for municipal and school purposes levied in respect of real property in Ontario that is assessed as residential or farm property, or R.S.O. 1970,
cc. 370, 256

- B. the owner does not pay a grant equal to the full amount of the taxes described in sub-subclause A that would, if such

premises were not exempt, be payable or a grant equal to an amount prescribed by the Minister in respect of such premises or class of premises.

s. 1 (h) (ii) B,
re-enacted

- (2) Sub-subclause B of subclause ii of clause *h* of the said section 1 is repealed and the following substituted therefor:

B. rent paid or agreed to be paid in the year to which the application relates for occupation of a principal residence of the applicant where such rent is paid or agreed to be paid by or on behalf of the applicant or his spouse and is calculated to exclude all payments on account of meals or board and all payments of rent for occupation prior to the 1st day of January, 1980.

s. 3,
amended

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

Marriage
in year

(4) Notwithstanding subsection 1 or 3, where a husband and wife who are both eligible persons make an application for a grant as a family unit in respect of the year in which they marry, a further application for a grant may be made by one of the spouses in respect of his occupancy cost in that year prior to marriage and, provided that such occupancy cost is not included in the application made for that year by the family unit, the Minister may pay such grant under section 2.

s. 7,
amended

3. Section 7 of the said Act is amended by adding at the commencement thereof "Subject to section 8".

s. 8,
re-enacted

4. Section 8 of the said Act is repealed and the following substituted therefor:

Death
in year

8.—(1) An eligible person who dies is, with respect to the year of his death, entitled to,

(a) that portion of a grant paid to him under subsection 3 of section 2 without an application, by a cheque that is dated on, or prior to, the date of his death; and

(b) a grant paid under section 7 by a cheque that is dated on, or prior to, the date of his death,

and, if he is alive on the earlier of the dates shown on an application completed by him for a grant under section 2 or the date upon which such application is received by the Minister, he is entitled to the balance of the grant payable under section 2 in respect of the year in which he died.

(2) Where, in any year, as a result of subsection 1, an eligible person is entitled to only a portion of a grant under section 2, there shall be deducted from any grant to be paid to the surviving spouse of such eligible person for that year, the portion of the grant that such eligible person was paid.

(3) An eligible person is, with respect to the year in which he ceases to be ordinarily resident in Ontario, entitled to,

(a) that portion of a grant paid to him under subsection 3 of section 2 without an application, by a cheque that is dated on or prior to the date upon which he ceases to be ordinarily resident in Ontario; and

(b) a grant paid under section 7 by a cheque that is dated on, or prior to, the date upon which he ceases to be ordinarily resident in Ontario,

and, if he is ordinarily resident in Ontario on the date upon which his completed application for a grant under section 2 is received by the Minister, he is entitled to the balance of the grant payable under section 2 in respect of the year in which he ceases to be ordinarily resident in Ontario.

5.—(1) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9, amended

(2a) Where the Minister has determined that a person is not entitled to a grant or any amount referred to in subsection 1 of section 14, he shall, when requesting repayment thereof, inform the person of the reason for his decision and of his right to object in accordance with this section. Reason for request for repayment

(2) Subsection 3 of the said section 9 is amended by striking out "an applicant" in the first line and inserting in lieu thereof "a person". s. 9 (3), amended

6. This Act shall be deemed to have come into force on the 20th day of May, 1981. Commencement

7. The short title of this Act is *The Ontario Pensioners Property Tax Assistance Amendment Act, 1981*. Short title





An Act to amend The Ontario Pensioners
Property Tax Assistance Act, 1980

1st Reading

May 21st, 1981

2nd Reading

June 25th, 1981

3rd Reading

June 26th, 1981

THE HON. G. L. ASHE
Minister of Revenue

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Corporations Tax Act, 1972

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. This section re-enacts clauses *d* and *da* of subsection 1 of section 1 of the Act relating to family farm corporations and family fishing corporations, respectively, to remove an ambiguity and to relax the strictness of the requirements to qualify as a family farm corporation or family fishing corporation. The amendment makes it clear that all shares of the corporation must be owned by one person or by that person and members of his family. Also it is provided that a corporation will qualify as a family farm corporation or family fishing corporation if 75 per cent of its assets are farming or fishing assets, respectively. Presently 95 per cent of the assets must qualify. Clauses *d* and *da* now read as follows:

- (d) *"family farm corporation"* means a corporation that is throughout the taxation year a corporation,
 - (i) every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by any such individual and a member or members of his family ordinarily resident in Canada or by another family farm corporation,
 - (ii) 95 per cent of the assets of which were farming assets, and
 - (iii) which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm;
- (da) *"family fishing corporation"* means a corporation that is throughout the taxation year a corporation,
 - (i) every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by any such individual and a member or members of his family ordinarily resident in Canada or by another family fishing corporation,
 - (ii) 95 per cent of the assets of which were fishing assets, and
 - (iii) which carried on the business of fishing in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the business.

In addition, this section adds subclause vi to clause *e* of subsection 1 of section 1 of the Act to provide that farming assets will now include a mortgage taken back by a family farm corporation on its sale of farming assets to the extent that the amount of the other farming assets does not exceed 50 per cent of total assets.

**An Act to amend
The Corporations Tax Act, 1972**

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

1.—(1) Clause *d* of subsection 1 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 1, and clause *da*, as enacted by the Statutes of Ontario, 1980, chapter 23, section 1, are repealed and the following substituted therefor:

(*d*) “family farm corporation” means a corporation that is throughout the taxation year a corporation,

(i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by one individual ordinarily resident in Canada or by that individual and a member or members of his family ordinarily resident in Canada or by another family farm corporation,

(ii) 75 per cent of the assets of which were farming assets, and

(iii) which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm;

(*da*) “family fishing corporation” means a corporation that is throughout the taxation year a corporation,

(i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by one individual ordinarily resident in Canada or by that individual and a member or members of his family ordinarily

resident in Canada or by another family fishing corporation,

- (ii) 75 per cent of the assets of which were fishing assets, and
- (iii) which carried on the business of fishing in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the business.

s. 1 (1) (e),
amended

(2) Clause *e* of subsection 1 of the said section 1 is amended by adding thereto the following subclause:

- (vi) a mortgage taken by the family farm corporation as security for the balance of the sale price on its sale of farming assets referred to in subclause ii, provided that the amount of the aggregate of its remaining farming assets referred to in subclauses i to v exceeds 50 per cent of its assets.

s. 7 (8),
re-enacted

2.—(1) Subsection 8 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 42, section 2 and amended by 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Idem

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

s. 7 (11),
re-enacted

(2) Subsection 11 of the said section 7 is repealed and the following substituted therefor:

Idem

(11) Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

s. 14,
amended

3. Section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 14, section 5 and 1979, chapter 28, section 2, is further amended by adding thereto the following subsection:

SECTION 2. Subsection 1 of this section re-enacts subsection 8 of section 7 of the Act relating to the definition of permanent establishment to delete the references to non-resident entertainment corporations. Such corporations will no longer be deemed to have a permanent establishment in Ontario merely by virtue of their production or presentation of entertainment in Ontario, and will not be liable for corporations tax if they do not otherwise have a permanent establishment in Ontario.

Subsection 2 of this section re-enacts subsection 11 of section 7 of the Act to add a reference to "registered office" and to provide that the head office or registered office will be a permanent establishment only if the corporation has no other permanent establishment in Canada.

Subsections 8 and 11 of section 7 of the Act now read as follows:

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada whether or not the corporation exported that thing without selling it prior to exportation, or the fact that a non-resident corporation produced or presented any form of entertainment by means of a performance on a public stage or in an auditorium or other public place in Canada, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

(11) A corporation has a permanent establishment in the place designated in its charter or by-laws as being its head office.

SECTION 3. This section enacts subsection 9a of section 14 of the Act, to provide that foreign non-business income tax is deductible from income only to the extent that it has not been deducted as a credit under the *Income Tax Act* (Canada).

SECTIONS 4, 5, 6 AND 7. These sections amend sections 16, 18 and 20 of the Act and enact a new section 20*a*, to make applicable to this Act the provisions of the *Income Tax Act* (Canada) relating to Canadian exploration expense, Canadian development expense, Canadian oil and gas property expense, cumulative Canadian exploration expense, cumulative Canadian development expense and cumulative Canadian oil and gas property expense. The undeducted balances of Canadian exploration and development expenses, as currently defined in the Act, incurred prior to May 20th, 1981 will remain deductible, and the new provisions will apply to expenses incurred after May 19th, 1981. Canadian exploration and development expenses will now be divided into three classes of expense—Canadian exploration expense, Canadian development expense, and Canadian oil and gas property expense, and such expenses will be deductible to the same extent as under the *Income Tax Act* (Canada), except that 100 per cent of Canadian development expenses incurred in Ontario may be deducted in the taxation year (under the *Income Tax Act* (Canada) only 30 per cent may be deducted in the year).

(9a) For the purposes of this Act, subsection 12 of section 20 of the *Income Tax Act* (Canada) does not apply to allow a deduction in computing the income of a corporation for a taxation year except to the extent that the portion of the foreign non-business income tax paid by the corporation to which the subsection applies was not deducted pursuant to subsection 1 of section 126 of the *Income Tax Act* (Canada).

Foreign non-business income tax
R.S.C. 1952, c. 148

4. Subsection 3 of section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1979, chapter 28, section 4, is repealed and the following substituted therefor:

s. 16 (3), re-enacted

(3) In the application of section 59 of the *Income Tax Act* (Canada) for the purposes of this Act,

Disposition of resource property

(a) subsection 1, paragraphs *b* and *e* of subsection 2, subsection 3, and paragraph *a* of subsection 3.2 of the said section are not applicable; and

(b) the references in subsections 2 and 2.1 of the said section to amounts deducted as a reserve in computing income for the immediately preceding taxation year shall include any amount deducted under section 18 of this Act in computing income for the immediately preceding taxation year.

5. Subsections 1 and 3 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, are repealed and the following substituted therefor:

s. 18 (1), re-enacted;
s. 18 (3), repealed

(1) Section 64 of the *Income Tax Act* (Canada), except paragraph *a* of subsection 1 thereof and subsection 2 thereof, is applicable for the purposes of this Act in so far as the said section applies to corporations.

Reserves in respect of consideration for disposition of resource property not due until subsequent year

6.—(1) Sub-subclause C of subclause ii of clause *b* of subsection 2 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 14, section 8, is repealed and the following substituted therefor:

s. 20 (2) (b) (ii) (C), re-enacted

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in paragraph *b* of subsection 1.2 of section 59 of the *Income Tax Act* (Can-

ada) or subsection 3.1 of the said section 59 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 3 of section 16 in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 18 in respect of the property in computing its income for the taxation year.

s. 20 (5),
re-enacted

- (2) Subsection 5 of the said section 20, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor:

Canadian
exploration
and develop-
ment expenses
deductible by
successor cor-
poration and
second succes-
sor
corporation
R.S.C. 1952,
c. 148

(5) There may be deducted in computing the income for a taxation year of a corporation that is a successor corporation or a second successor corporation, as the case may be, within the meaning of subsection 6 or 7 of section 66 of the *Income Tax Act* (Canada), the amount, if any, that would be deductible by it under either of those subsections on the basis that,

- (a) the reference in paragraph *b* of each of the said subsections,

- (i) to "this section" is deemed to be a reference to this section of this Act, and

- (ii) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*; and

- (b) the references in the said subsections to "Canadian exploration and development expenses" are deemed to be references to Canadian exploration and development expenses incurred before the 20th day of May, 1981.

s. 20,
amended

- (3) The said section 20, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 14, section 8, is further amended by adding thereto the following subsection:

(6a) Subsections 10.1, 10.2 and 10.3 of section 66 of the *Income Tax Act* (Canada) are applicable for the purposes of this Act. Idem
R.S.C. 1952,
c. 148

(4) Subsection 7 of the said section 20 is repealed and the following substituted therefor: s. 20 (7),
re-enacted

(7) Subsection 11 of section 66 of the *Income Tax Act* (Canada), except paragraph *e* thereof, is applicable for the purposes of this Act. Control
change

(5) Subsection 9 of the said section 20 is repealed and the following substituted therefor: s. 20 (9),
re-enacted

(9) Except as otherwise provided in this section or section 20a, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than one provision of this section or section 20a, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction. Limitations

(6) Subsections 11 and 12 of the said section 20 are repealed and the following substituted therefor: s. 20 (11, 12),
re-enacted

(11) Subsection 12.1 of section 66 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subsection applies to corporations, except that, in its application for the purposes of this Act, the reference in paragraph *a* thereof to "before May 7, 1974" shall be deemed to be a reference to "before the 20th day of May, 1981". Limitation

(12) Subsections 12.2, 12.3 and 12.5 of section 66 of the *Income Tax Act* (Canada) are, in so far as the said subsections apply to corporations, applicable for the purposes of this Act except that, in the application of the said subsection 12.2 for the purposes of this Act, the reference therein to "before May 7, 1974" shall be deemed to be a reference to "before the 20th day of May, 1981". Unitized oil
or gas field
in Canada

(7) Subsection 14, as amended by the Statutes of Ontario, 1978, chapter 14, section 8, and subsection 15 of the said section 20 are repealed and the following substituted therefor: s. 20 (14, 15),
re-enacted

(14) In this section and section 20a and in the provisions of the *Income Tax Act* (Canada) made applicable for the purposes of this Act, Interpre-
tation

- (a) "agreed portion" has the meaning given to that expression by paragraph *a* of subsection 15 of section 66 of the *Income Tax Act* (Canada);
- (b) "Canadian exploration and development expenses" incurred by a corporation means any expense incurred before the 20th day of May, 1981 that is,
- (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,
 - (ii) any prospecting, exploration or development expense incurred by it after 1971 in searching for minerals in Canada,
 - (iii) notwithstanding paragraph *m* of subsection 1 of section 18 of the *Income Tax Act* (Canada), as that section applies to this Act by virtue of section 14 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs i to iii of the said paragraph *m* for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph *m* applied by virtue of subparagraph *v* thereof,
 - (iv) the corporation's share of any of the expenses referred to in subclauses i, ii and iii incurred after 1971 by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period the corporation was a member or partner thereof, and
 - (v) any expenses referred to in subclauses i, ii and iii incurred after 1971 pursuant to an agreement with another corporation under which the corporation incurred the expense solely in consideration for shares of the capital stock of the other corporation issued to it by the other corporation or any interest in such shares or right thereto,

but for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause v, or
- (vii) any expense described in subclause v incurred by another person to the extent that the expense was, by virtue of subclause v, a Canadian exploration and development expense of that other person,

but no amount of assistance or benefit that a corporation has received or is entitled to receive after the 25th day of May, 1976 in respect of or related to its Canadian exploration and development expenses made or incurred before the 1st day of January, 1981, from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, shall reduce the amount of any of the expenses described in any of subclauses i to v;

(c) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas has the meaning given to that expression by paragraph *d* of subsection 15 of section 66 of the *Income Tax Act* (Canada);

R.S.C. 1952,
c. 148

(d) "joint exploration corporation" has the meaning given to that expression by paragraph *g* of subsection 15 of section 66 of the *Income Tax Act* (Canada);

(e) "oil or gas well" has the meaning given to that expression by paragraph *g.1* of subsection 15 of section 66 of the *Income Tax Act* (Canada);

(f) "Ontario exploration and development expenses" incurred by a corporation means any expenses that would be Canadian exploration and development expenses incurred by the corporation if clause *b* of this subsection were read as if the references therein to,

- (i) "in Canada" were references to "in Ontario",
- (ii) "after 1971" were references to "after the 9th day of April, 1974 and before the 20th day of May, 1981", and
- (iii) "Canadian" were references to "Ontario";

R.S.C. 1952,
c. 148

- (g) "Ontario resource property" of a corporation means any property that would be a Canadian resource property of the corporation within the meaning of paragraph *c* of subsection 15 of section 66 of the *Income Tax Act* (Canada) if that paragraph were read as if the references therein to,
- (i) "in Canada" were references to "in Ontario", and
 - (ii) "after 1971" were references to "after the 9th day of April, 1974 and before the 20th day of May, 1981";
- (h) "outlay" or "expense" have the meaning given to those expressions by paragraph *g.2* of subsection 15 of section 66 of the *Income Tax Act* (Canada);
- (i) "principal-business corporation" has the meaning given to that expression by paragraph *h* of subsection 15 of section 66 of the *Income Tax Act* (Canada);
- (j) "shareholder corporation" of a joint exploration corporation has the meaning given to that expression by paragraph *i* of subsection 15 of section 66 of the *Income Tax Act* (Canada).

Application

(15) For the purposes of clause *d* of subsection 2 of section 1, this section applies in lieu of section 66 of the *Income Tax Act* (Canada).

s. 20a,
enacted

7. The said Act is amended by adding thereto the following section:

Canadian
exploration
expense,
Canadian
development
expense and
Canadian oil
and gas
property
expense

20a. Sections 66.1, 66.2 and 66.4 of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in so far as the said sections apply to corporations except that, in the application of the said sections for the purposes of this Act,

- (a) the references therein to "Canadian exploration expense", "Canadian development expense", "Canadian oil and gas property expense", "cumulative Canadian exploration expense", "cumulative Canadian development expense" and "cumulative Canadian oil and gas property expense" shall be deemed to be references to such of those outlays or expenses as are made or incurred after the 19th day of May, 1981;
- (b) in addition to the deduction provided under this section by virtue of subsection 2 of section 66.2 of the *Income Tax Act* (Canada), a corporation may claim in respect



SECTION 8. This section enacts subsection 2 of section 32 of the Act to provide that capital gains realized on the disposition of taxable Canadian property situated in Ontario will not be taxable under the Act if such dispositions are, by virtue of a Tax Treaty or Convention, not taxable under the *Income Tax Act* (Canada).

SECTION 9. This section amends clause *a* of subsection 1 of section 49 to include therein references to paragraphs *o.1* and *o.2* of subsection 1 of section 149 of the *Income Tax Act* (Canada) relating to pension fund corporations to provide that such corporations will be exempt from tax under this Act.

of its Canadian development expenses made or incurred in Ontario in the taxation year or in a previous taxation year a deduction of an amount equal to 70 per cent of the amount, if any, by which,

- (i) the aggregate of the amounts described in subparagraphs i to iii of paragraph *b* of subsection 5 of section 66.2 of the *Income Tax Act* (Canada) that are in respect of expenses made or incurred in Ontario, R.S.C. 1952,
c. 148

exceeds the aggregate of all amounts each of which is,

- (ii) any amount previously deducted in computing its income for a taxation year by virtue of this clause, or
- (iii) the aggregate of the amounts described in subparagraphs iv to xi of paragraph *b* of subsection 5 of section 66.2 of the *Income Tax Act* (Canada) that are in respect of expenses incurred in Ontario; and

- (c) for the purpose of computing a corporation's cumulative Canadian development expense at any time, any amount deducted by virtue of clause *b* in computing income for a taxation year ending before that time shall be deemed to be an amount deducted in computing its income for a taxation year ending before that time, but such amount shall not be included in computing the amount under subclause iii of clause *b*.

8. Section 32 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by adding thereto the following subsection: s. 32,
amended

(2) For the purpose of subsection 1, the taxable income earned in Canada of a corporation to which clause *b* of subsection 3 of section 2 applies shall not include any amount referred to in paragraph *b* of subsection 1 of section 115 of the *Income Tax Act* (Canada) in respect of the disposition of taxable Canadian property where a Tax Treaty or Convention between Canada and another country has determined that no tax is payable by the corporation in respect of the disposition. Idem

9. Clause *a* of subsection 1 of section 49 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 49 (1) (a),
re-enacted

- (a) a corporation referred to in paragraph *c, d, e, f, h.1, i, j, k, m, n, o, o.1, or o.2* of subsection 1 of section 149 of the *Income Tax Act* (Canada). Charities
and other
corporations

s. 126 (1) (a),
re-enacted

10.—(1) Clause *a* of subsection 1 of section 126 of the said Act is repealed and the following substituted therefor:

(a) the paid-up capital stock of the corporation or, in the case of a corporation incorporated without share capital, the capital contributed to the corporation by its members.

s. 126 (1) (d),
re-enacted

(2) Clause *d* of subsection 1 of the said section 126, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 9, is repealed and the following substituted therefor:

(d) all sums or credits advanced or loaned to the corporation,

(i) in the case of a corporation incorporated with share capital, by its shareholders, and

(ii) in the case of a corporation incorporated without share capital, by its members,

directly or indirectly or by any person related to any of its shareholders or members, as the case may be, or by any other corporation; and

s. 127 (1) (c),
amended

11.—(1) Clause *c* of subsection 1 of section 127 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10 and amended by 1980, chapter 23, section 5, is further amended by striking out “and” at the end of subclause ii and by adding thereto the following subclauses:

(iv) loans and advances to any corporation doing the business of a bank or to any corporation registered under *The Loan and Trust Corporations Act* are deemed not to be loans and advances to other corporations unless they are issued for a term of 120 days or more and have been held by the corporation for at least 120 days, and

(v) bankers’ acceptances issued for a term less than 120 days are deemed not to be loans and advances to other corporations.

R.S.O. 1970,
c. 254

(2) Clause *d* of subsection 1 of the said section 127, as enacted by the Statutes of Ontario, 1976, chapter 32, section 17 and amended by the Statutes of Ontario, 1977, chapter 58, sections 10 and 26, is further amended by striking out “section 20” in the fifth line and in the amendment of 1977 and inserting in lieu thereof “section 20 or section 20a”.

s. 127 (1) (d),
amended

SECTION 10. This section re-enacts clauses *a* and *d* of subsection 1 of section 126 of the Act relating to the paid-up capital tax, to provide for the calculation of the paid-up capital of corporations incorporated without share capital. The paid-up capital of such a corporation will include the capital contributed by its members and sums or credits advanced or loaned by its members. Clauses *a* and *d* now read as follows:

(a) *the paid-up capital stock of the corporation;*

.

(d) *all sums or credits advanced or loaned to the corporation by its shareholders directly or indirectly or by any person related to any of its shareholders or by any other corporation; and*

.

SECTION 11. This section enacts subclauses iv and v of clause *c* of subsection 1 of section 127 of the Act to provide that advances or loans to banks or loan and trust companies and bankers' acceptances are deemed not to be loans and advances to other corporations for the purpose of the deduction under the said clause *c* unless they are for a term of and are held for at least 120 days.

Clause *d* of subsection 1 of section 127 of the Act is amended to insert a cross-reference to section 20*a* of the said Act as enacted by section 7 of the Bill.

This section also enacts clause *e* of subsection 2 of section 127 of the Act to provide that appraisal surpluses with respect to fixed assets will not be included in paid-up capital.

SECTION 12. This section re-enacts sub-subclause A of subclause ii of clause b of subsection 1 of section 128 to provide for the calculation of the paid-up capital of non-resident corporations incorporated without share capital. This amendment is complementary to the amendment made by section 10 of the Bill. Sub-subclause A now reads as follows:

- (A) *all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by its shareholders directly or indirectly or by any person related to any of its shareholders or by any other corporation, and*

SECTION 13. This section enacts subsection 4 to section 133a, relating to the flat rate of paid-up capital tax, to provide that a corporation that is associated with other corporations will not be eligible for the flat rate of tax allowed for corporations whose taxable paid-up capital does not exceed \$1,000,000 if the paid-up capital of the corporation together with the taxable paid-up capital of all the corporations with which it is associated exceeds \$1,000,000. Similarly, a corporation that is a member of a partnership will not be eligible for this flat rate of paid-up capital tax if the taxable paid-up capital of the corporation together with the taxable paid-up capital of all members of the partnership who are related to the corporation exceeds \$1,000,000.

(3) Subsection 2 of the said section 127, as amended by the Statutes of Ontario, 1974, chapter 75, section 9 and 1979, chapter 28, section 14, is further amended by adding thereto the following clause: s. 127 (2),
amended

(e) that is an appraisal surplus of a corporation arising where its fixed assets are carried in its books of account at an amount that is in excess of the cost thereof.

12. Sub-subclause A of subclause ii of clause b of subsection 1 of section 128 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 11, is repealed and the following substituted therefor: s. 128 (1) (b)
(ii) (A),
re-enacted

(A) all amounts that are advanced or loaned to its permanent establishments in Canada,

1. in the case of a corporation incorporated with share capital, by its shareholders, and
2. in the case of a corporation incorporated without share capital, by its members,

directly or indirectly or by any person related to any of its shareholders or members, as the case may be, or by the corporation itself, or by any other corporation, and

13. Section 133a of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 23, section 6, is amended by adding thereto the following subsection: s. 133a,
amended

(4) This section does not apply to a corporation where,

(a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$1,000,000; or

(b) the corporation is a member of a partnership or a connected partnership as defined in subsection 13 of section 125 of the *Income Tax Act* (Canada), and the aggregate of,

Where corporation is associated or member of a partnership

R.S.C. 1952,
c. 148

- (i) the taxable paid-up capital of the corporation, and
- (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or the connected partnership that are allocable under subsection 4 of section 126 to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause *c* of subsection 4 of section 126 or clause *a* of this subsection,

exceeds \$1,000,000.

s. 148 (3) (a),
re-enacted

14.—(1) Clause *a* of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 14, section 18, is repealed and the following substituted therefor:

(a) on or before,

- (i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,
 - (A) its estimated taxable income and other subject of tax for the taxation year, or
 - (B) its first instalment base for the taxation year, or
- (ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from its first instalment base for the taxation year; and

s. 148,
amended

(2) The said section 148, as amended by the Statutes of Ontario, 1975, chapter 17, section 64, 1976, chapter 32, section 19, 1977, chapter 58, sections 16 and 26, 1978, chapter 14, sec-

SECTION 14. This section re-enacts clause *a* of subsection 3 of section 148 of the Act providing the dates and amounts of the instalments of tax payable. The amendment adopts changes in the corresponding provisions of the *Income Tax Act* (Canada). A corporation will now calculate its instalments on the basis of its estimated tax payable for the year or of its "first instalment base" or its "second instalment base". "First instalment base" and "second instalment base" will be defined by regulation. These changes will mainly affect corporations that have amalgamated or are reorganized, or that have short taxation years. Clause *a* now reads as follows:

(a) *on or before,*

(i) *the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,*

(A) *its estimated taxable income and other subject of tax for the taxation year, or*

(B) *its taxable income and other subject of tax for the immediately preceding taxation year, or*

(ii) *the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and other subject of tax for the immediately preceding taxation year; and*

SECTION 15. This section repeals section 148a of the Act relating to the collection of tax in respect of entertainment produced or presented in Ontario by non-resident entertainment corporations. Such corporations will no longer be liable for corporations tax in respect of their production or presentation of entertainment in Ontario if they do not otherwise have a permanent establishment in Ontario. This amendment is complementary to the amendment made by section 2 of the Bill.

SECTION 16. This section re-enacts subsection 1 of section 153 of the Act relating to credit interest on instalments to provide that the credit interest will also apply where the final payment is overpaid prior to its due date; also this amendment specifies the period for which credit interest under this section is payable.

Subsection 1 of section 153 of the Act now reads as follows:

(1) *Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to,*

(a) *the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause b of subsection 3 of section 148; or*

(b) *the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause a,*

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the amount of the overpayment.

SECTION 17. This section enacts subsection 4 of section 160b of the Act relating to designated assessments. The amendment makes it clear that a re-assessment made by the Minister pursuant to section 106b is valid notwithstanding the expiry of the six year limitation period under subsection 4 of section 150.

tion 18 and 1980, chapter 23, section 8, is further amended by adding thereto the following subsection:

(8) For the purpose of clause *a* of subsection 3, "first instalment base" and "second instalment base" have the meanings prescribed by regulation. Interpretation

15. Section 148*a* of the said Act, as enacted by the Statutes of Ontario, 1979, chapter 28, section 18, is repealed. s. 148*a*, repealed

16. Subsection 1 of section 153 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 14, section 22, is repealed and the following substituted therefor: s. 153 (1), re-enacted

(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to, Credit interest on overpaid instalments

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148; or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause *a*,

whichever is earlier, or where the balance required to be paid pursuant to clause *b* of subsection 3 of section 148 is overpaid prior to the date on or before which such payment was required to be made, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the amount of the overpayment from the day on which the overpayment arose to the beginning of the period in respect of which interest is payable under subsection 3 of section 152.

17. Section 160*b* of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 58, section 24, is amended by adding thereto the following subsection: s. 160*b*, amended

(4) A reassessment made by the Minister pursuant to subsection 2 is not invalid by reason only of not having been made within six years from the day of mailing of a notice of an original assessment or of a notification described in subsection 4 of section 150. Idem

18.—(1) Section 1, subsection 2 of section 2, and sections 3, 10, 11 (except subclause iv of clause *c* of subsection 1 of section 127 of the said Act as enacted by subsection 1 of section 11 of this Act), 12 and 13 shall be deemed to have come into force on the 20th day of May, 1981 and apply to corporations in respect of all taxation years ending after the 19th day of May, 1981. Commencement and application

- Idem (2) Subsection 1 of section 2 and section 15 shall be deemed to have come into force on the 20th day of May, 1981 and apply to performances given after the 19th day of May, 1981.
- Idem (3) Sections 4, 5, 6 (except that portion of clause *b* of subsection 14 of section 20 of the said Act following subclause *vii* thereof, as enacted by section 6 of this Act), and section 7 shall be deemed to have come into force on the 20th day of May, 1981 and apply to outlays or expenses, amounts received in respect of outlays or expenses and dispositions of property made or incurred after the 19th day of May, 1981.
- Idem (4) That portion of clause *b* of subsection 14 of section 20 of the said Act, following subclause *vii* thereof, as enacted by section 6, shall be deemed to have come into force on the 1st day of January, 1981 and applies to corporations in respect of all taxation years ending after 1980.
- Idem (5) Section 8 shall be deemed to have come into force on the 20th day of May, 1981 and applies to dispositions of taxable Canadian property situated in Ontario made during taxation years ending after 1980.
- Idem (6) Section 9 shall be deemed to have come into force on the 1st day of January, 1979 and applies to corporations in respect of all taxation years commencing after 1978.
- Idem (7) Subclause *iv* of clause *c* of subsection 1 of section 127 of the said Act as enacted by subsection 1 of section 11 of this Act shall be deemed to have come into force on the 23rd day of April, 1980 and applies to corporations in respect of all taxation years ending after the 22nd day of April, 1980.
- Idem (8) Section 14 comes into force on the 1st day of October, 1981 and applies to corporations in respect of all taxation years commencing after the 30th day of September, 1981.
- Idem (9) Sections 16 and 17 come into force on the day this Act receives Royal Assent.
- Short title **19.** The short title of this Act is *The Corporations Tax Amendment Act, 1981*.







An Act to amend
The Corporations Tax Act, 1972

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Corporations Tax Act

THE HON. G. L. ASHE
Minister of Revenue

*(Reprinted as revised by Legislative Counsel having reference
to the Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1. This section re-enacts clauses 1 (1) (d) and (e) of the Act relating to family farm corporations and family fishing corporations, respectively, to remove an ambiguity and to relax the strictness of the requirements to qualify as a family farm corporation or family fishing corporation. The amendment makes it clear that all shares of the corporation must be owned by one person or by that person and members of his family. Also it is provided that a corporation will qualify as a family farm corporation or family fishing corporation if 75 per cent of its assets are farming or fishing assets, respectively. Presently 95 per cent of the assets must qualify. Clauses (d) and (e) now read as follows:

- (d) *"family farm corporation" means a corporation that is throughout the taxation year a corporation,*
 - (i) *every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by any such individual and a member or members of his family ordinarily resident in Canada or by another family farm corporation,*
 - (ii) *95 per cent of the assets of which were farming assets, and*
 - (iii) *which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm;*
- (e) *"family fishing corporation" means a corporation that is throughout the taxation year a corporation,*
 - (i) *every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by any such individual and a member or members of his family ordinarily resident in Canada or by another family fishing corporation,*
 - (ii) *95 per cent of the assets of which were fishing assets, and*
 - (iii) *which carried on the business of fishing in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the business.*

In addition, this section adds subclause (vi) to clause 1 (1) (f) of the Act to provide that farming assets will now include a mortgage taken back by a family farm corporation on its sale of farming assets to the extent that the amount of the other farming assets does not exceed 50 per cent of total assets.

BILL 79

1981

An Act to amend the Corporations Tax Act

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

- 1.—(1) Clauses 1 (1) (d) and (e) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor: s. 1 (1) (d, e), re-enacted

(d) “family farm corporation” means a corporation that is throughout the taxation year a corporation,

- (i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by one individual ordinarily resident in Canada or by that individual and a member or members of his family ordinarily resident in Canada or by another family farm corporation,
- (ii) 75 per cent of the assets of which were farming assets, and
- (iii) which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm;

(e) “family fishing corporation” means a corporation that is throughout the taxation year a corporation,

- (i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by one individual ordinarily resident in Canada or by that individual and a member or members of his family ordinarily

resident in Canada or by another family fishing corporation,

- (ii) 75 per cent of the assets of which were fishing assets, and
- (iii) which carried on the business of fishing in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the business.

s. 1 (1) (f),
amended

(2) Clause 1 (1) (f) of the said Act is amended by adding thereto the following subclause:

- (vi) a mortgage taken by the family farm corporation as security for the balance of the sale price on its sale of farming assets referred to in subclause ii, provided that the amount of the aggregate of its remaining farming assets referred to in subclauses (i) to (v) exceeds 50 per cent of its assets.

s. 5 (8),
re-enacted

2.—(1) Subsection 5 (8) of the said Act is repealed and the following substituted therefor:

Idem

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

s. 5 (11),
re-enacted

(2) Subsection 5 (11) of the said Act is repealed and the following substituted therefor:

Idem

(11) Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

s. 12,
amended

3. Section 12 of the said Act is amended by adding thereto the following subsection:

SECTION 2. Subsection (1) of this section re-enacts subsection 5 (8) of the Act relating to the definition of permanent establishment to delete the references to non-resident entertainment corporations. Such corporations will no longer be deemed to have a permanent establishment in Ontario merely by virtue of their production or presentation of entertainment in Ontario, and will not be liable for corporations tax if they do not otherwise have a permanent establishment in Ontario.

Subsection (2) of this section re-enacts subsection 5 (11) of the Act to add a reference to "registered office" and to provide that the head office or registered office will be a permanent establishment only if the corporation has no other permanent establishment in Canada.

Subsections 5 (8) and (11) of the Act now read as follows:

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada whether or not the corporation exported that thing without selling it prior to exportation, or the fact that a non-resident corporation produced or presented any form of entertainment by means of a performance on a public stage or in an auditorium or other public place in Canada, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

(11) A corporation has a permanent establishment in the place designated in its charter or by-laws as being its head office.

SECTION 3. This section enacts subsection 12 (9a) of the Act, to provide that foreign non-business income tax is deductible from income only to the extent that it has not been deducted as a credit under the *Income Tax Act* (Canada).

SECTIONS 4, 5, 6 AND 7. These sections amend sections 14, 16 and 18 of the Act and enact a new section 18*a*, to make applicable to this Act the provisions of the *Income Tax Act* (Canada) relating to Canadian exploration expense, Canadian development expense, Canadian oil and gas property expense, cumulative Canadian exploration expense, cumulative Canadian development expense and cumulative Canadian oil and gas property expense. The undeducted balances of Canadian exploration and development expenses, as currently defined in the Act, incurred prior to May 20th, 1981 will remain deductible, and the new provisions will apply to expenses incurred after May 19th, 1981. Canadian exploration and development expenses will now be divided into three classes of expense—Canadian exploration expense, Canadian development expense, and Canadian oil and gas property expense, and such expenses will be deductible to the same extent as under the *Income Tax Act* (Canada), except that 100 per cent of Canadian development expenses incurred in Ontario may be deducted in the taxation year (under the *Income Tax Act* (Canada) only 30 per cent may be deducted in the year).

(9a) For the purposes of this Act, subsection 20 (12) of the *Income Tax Act* (Canada) does not apply to allow a deduction in computing the income of a corporation for a taxation year except to the extent that the portion of the foreign non-business income tax paid by the corporation to which the subsection applies was not deducted pursuant to subsection 126 (1) of the *Income Tax Act* (Canada).

Foreign
non-business
income tax
R.S.C. 1952,
c. 148

4. Subsection 14 (3) of the said Act is repealed and the following substituted therefor:

s. 14 (3),
re-enacted

(3) In the application of section 59 of the *Income Tax Act* (Canada) for the purposes of this Act,

Disposition
of resource
property

(a) subsection (1), paragraphs 2 (b) and (e), subsection (3), and paragraph (3.2) (a) of the said section are not applicable; and

(b) the references in subsections (2) and (2.1) of the said section to amounts deducted as a reserve in computing income for the immediately preceding taxation year shall include any amount deducted under section 16 of this Act in computing income for the immediately preceding taxation year.

5. Subsections 16 (1) and (3) of the said Act are repealed and the following substituted therefor:

s. 16 (1),
re-enacted;
s. 16 (3),
repealed

(1) Section 64 of the *Income Tax Act* (Canada), except paragraph (1) (a) thereof and subsection (2) thereof, is applicable for the purposes of this Act in so far as the said section applies to corporations.

Reserves in
respect of
consideration
for disposition
of resource
property not
due until sub-
sequent year

6.—(1) Sub-subclause 18 (2) (b) (ii) (C) of the said Act is repealed and the following substituted therefor:

s. 18 (2) (b)
(ii) (C),
re-enacted

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in paragraph 59 (1.2) (b) of the *Income Tax Act* (Canada) or subsection 59 (3.1) of that Act that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 14 (3) in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 16 in respect of the property in computing its income for the taxation year.

s. 18 (5),
re-enacted

- (2) Subsection 18 (5) of the said Act is repealed and the following substituted therefor:

Canadian
exploration
and develop-
ment expenses
deductible by
successor cor-
poration and
second succes-
sor
corporation
R.S.C. 1952,
c. 148

(5) There may be deducted in computing the income for a taxation year of a corporation that is a successor corporation or a second successor corporation, as the case may be, within the meaning of subsection 66 (6) or (7) of the *Income Tax Act* (Canada), the amount, if any, that would be deductible by it under either of those subsections on the basis that,

(a) the reference in paragraph (b) of each of the said subsections,

(i) to "this section" is deemed to be a reference to this section of this Act, and

(ii) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*; and

(b) the references in the said subsections to "Canadian exploration and development expenses" are deemed to be references to Canadian exploration and development expenses incurred before the 20th day of May, 1981.

s. 18,
amended

- (3) Section 18 of the said Act is amended by adding thereto the following subsection:

Idem

(6a) Subsections 66 (10.1), (10.2) and (10.3) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

s. 18 (7),
re-enacted

- (4) Subsection 18 (7) of the said Act is repealed and the following substituted therefor:

Control
change

(7) Subsection 66 (11) of the *Income Tax Act* (Canada), except paragraph (e) thereof, is applicable for the purposes of this Act.

s. 18 (9),
re-enacted

- (5) Subsection 18 (9) of the said Act is repealed and the following substituted therefor:

Limitations

(9) Except as otherwise provided in this section or section 18a, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than

one provision of this section or section 18*a*, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

(6) Subsections 18 (11) and (12) are repealed and the following substituted therefor: s. 18 (11, 12), re-enacted

(11) Subsection 66 (12.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subsection applies to corporations, except that, in its application for the purposes of this Act, the reference in paragraph (a) thereof to "before May 7, 1974" shall be deemed to be a reference to "before the 20th day of May, 1981". Limitation R.S.C. 1952, c. 148

(12) Subsections 66 (12.2), (12.3) and (12.5) of the *Income Tax Act* (Canada) are, in so far as the said subsections apply to corporations, applicable for the purposes of this Act except that, in the application of the said subsection (12.2) for the purposes of this Act, the reference therein to "before May 7, 1974" shall be deemed to be a reference to "before the 20th day of May, 1981". Unitized oil or gas field in Canada

(7) Subsections 18 (14) and (15) of the said Act are repealed and the following substituted therefor: s. 18 (14, 15), re-enacted

(14) In this section and section 18*a* and in the provisions of the *Income Tax Act* (Canada) made applicable for the purposes of this Act, Interpretation

(a) "agreed portion" has the meaning given to that expression by paragraph 66 (15) (a) of the *Income Tax Act* (Canada);

(b) "Canadian exploration and development expenses" incurred by a corporation means any expense incurred before the 20th day of May, 1981 that is,

(i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,

(ii) any prospecting, exploration or development expense incurred by it after 1971 in searching for minerals in Canada,

(iii) notwithstanding paragraph 18 (1) (m) of the *Income Tax Act* (Canada), as that section

applies to this Act by virtue of section 12 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs (i) to (iii) of the said paragraph (*m*) for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph (*m*) applied by virtue of subparagraph (v) thereof,

- (iv) the corporation's share of any of the expenses referred to in subclauses (i), (ii) and (iii) incurred after 1971 by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period the corporation was a member or partner thereof, and
- (v) any expenses referred to in subclauses (i), (ii) and (iii) incurred after 1971 pursuant to an agreement with another corporation under which the corporation incurred the expense solely in consideration for shares of the capital stock of the other corporation issued to it by the other corporation or any interest in such shares or right thereto,

but for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause (v), or
- (vii) any expense described in subclause (v) incurred by another person to the extent that the expense was, by virtue of subclause (v), a Canadian exploration and development expense of that other person,

but no amount of assistance or benefit that a corporation has received or is entitled to receive after the 25th day of May, 1976 in respect of or related to its Canadian exploration and development expenses made or incurred before the 1st day of January, 1981, from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, shall reduce the amount of any of the expenses described in any of subclauses (i) to (v);

- (c) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas has the meaning given to that expression by paragraph 66 (15) (d) of the *Income Tax Act* (Canada); R.S.C. 1952,
c. 148
- (d) "joint exploration corporation" has the meaning given to that expression by paragraph 66 (15) (g) of the *Income Tax Act* (Canada);
- (e) "oil or gas well" has the meaning given to that expression by paragraph 66 (15) (g.1) of the *Income Tax Act* (Canada);
- (f) "Ontario exploration and development expenses" incurred by a corporation means any expenses that would be Canadian exploration and development expenses incurred by the corporation if clause (b) of this subsection were read as if the references therein to,
- (i) "in Canada" were references to "in Ontario",
 - (ii) "after 1971" were references to "after the 9th day of April, 1974 and before the 20th day of May, 1981", and
 - (iii) "Canadian" were references to "Ontario";
- (g) "Ontario resource property" of a corporation means any property that would be a Canadian resource property of the corporation within the meaning of paragraph 66 (15) (c) of the *Income Tax Act* (Canada) if that paragraph were read as if the references therein to,
- (i) "in Canada" were references to "in Ontario", and
 - (ii) "after 1971" were references to "after the 9th day of April, 1974 and before the 20th day of May, 1981";
- (h) "outlay" or "expense" have the meaning given to those expressions by paragraph 66 (15) (g.2) of the *Income Tax Act* (Canada);
- (i) "principal-business corporation" has the meaning given to that expression by paragraph 66 (15) (h) of the *Income Tax Act* (Canada);

- (j) "shareholder corporation" of a joint exploration corporation has the meaning given to that expression by paragraph 66 (15) (i) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

Application

(15) For the purposes of clause 1 (2) (d), this section applies in lieu of section 66 of the *Income Tax Act* (Canada).

s. 18a,
enacted

Canadian
exploration
expense,
Canadian
development
expense and
Canadian oil
and gas
property
expense

7. The said Act is amended by adding thereto the following section:

18a. Sections 66.1, 66.2 and 66.4 of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in so far as the said sections apply to corporations except that, in the application of the said sections for the purposes of this Act,

- (a) the references therein to "Canadian exploration expense", "Canadian development expense", "Canadian oil and gas property expense", "cumulative Canadian exploration expense", "cumulative Canadian development expense" and "cumulative Canadian oil and gas property expense" shall be deemed to be references to such of those outlays or expenses as are made or incurred after the 19th day of May, 1981;

- (b) in addition to the deduction provided under this section by virtue of subsection 66.2 (2) of the *Income Tax Act* (Canada), a corporation may claim in respect of its Canadian development expenses made or incurred in Ontario in the taxation year or in a previous taxation year a deduction of an amount equal to 70 per cent of the amount, if any, by which,

- (i) the aggregate of the amounts described in subparagraphs 66.2 (5) (b) (i) to (iii) of the *Income Tax Act* (Canada) that are in respect of expenses made or incurred in Ontario,

exceeds the aggregate of all amounts each of which is,

- (ii) any amount previously deducted in computing its income for a taxation year by virtue of this clause, or

- (iii) the aggregate of the amounts described in subparagraphs 66.2 (5) (b) (iv) to (xi) of the *Income Tax Act* (Canada) that are in respect of expenses incurred in Ontario; and

- (c) for the purpose of computing a corporation's cumulative Canadian development expense at any time, any



SECTION 8. This section enacts subsection 29 (2) of the Act to provide that capital gains realized on the disposition of taxable Canadian property situated in Ontario will not be taxable under the Act if such dispositions are, by virtue of a Tax Treaty or Convention, not taxable under the *Income Tax Act* (Canada).

SECTION 9. This section amends clause 49 (1) (a) to include therein references to paragraphs 149 (1) (o.1) and (o.2) of the *Income Tax Act* (Canada) relating to pension fund corporations to provide that such corporations will be exempt from tax under this Act.

SECTION 10. This section re-enacts clauses 53 (1) (a) and (d) of the Act relating to the paid-up capital tax, to provide for the calculation of the paid-up capital of corporations incorporated without share capital. The paid-up capital of such a corporation will include the capital contributed by its members and sums or credits advanced or loaned by its members. Clauses (a) and (d) now read as follows:

(a) *the paid-up capital stock of the corporation;*

.

(d) *all sums or credits advanced or loaned to the corporation by its shareholders directly or indirectly or by any person related to any of its shareholders or by any other corporation; and*

.

amount deducted by virtue of clause (b) in computing income for a taxation year ending before that time shall be deemed to be an amount deducted in computing its income for a taxation year ending before that time, but such amount shall not be included in computing the amount under subclause (b) (iii).

8. Section 29 of the said Act is amended by adding thereto the following subsection: s. 29,
amended

(2) For the purpose of subsection (1), the taxable income earned in Canada of a corporation to which clause 2 (3) (b) applies shall not include any amount referred to in paragraph 115 (1) (b) of the *Income Tax Act* (Canada) in respect of the disposition of taxable Canadian property where a Tax Treaty or Convention between Canada and another country has determined that no tax is payable by the corporation in respect of the disposition. Idem
R.S.C. 1952,
c. 148

9. Clause 49 (1) (a) of the said Act is repealed and the following substituted therefor: s. 49 (1) (a),
re-enacted

(a) a corporation referred to in paragraph 149 (1) (c), (d), (e), (f), (h.1), (i), (j), (k), (m), (n), (o), (o.1) or (o.2) of the *Income Tax Act* (Canada). Charities
and other
corporations

10.—(1) Clause 53 (1) (a) of the said Act is repealed and the following substituted therefor: s. 53 (1) (a),
re-enacted

(a) the paid-up capital stock of the corporation or, in the case of a corporation incorporated without share capital, the capital contributed to the corporation by its members.

(2) Clause 53 (1) (d) of the said Act is repealed and the following substituted therefor: s. 53 (1) (d),
re-enacted

(d) all sums or credits advanced or loaned to the corporation,

(i) in the case of a corporation incorporated with share capital, by its shareholders, and

(ii) in the case of a corporation incorporated without share capital, by its members,

directly or indirectly or by any person related to any of its shareholders or members, as the case may be, or by any other corporation; and

s. 54 (1) (c),
amended

11.—(1) Clause 54 (1) (c) of the said Act is amended by striking out “and” at the end of subclause (ii) and by adding thereto the following subclauses:

(iv) loans and advances to any corporation doing the business of a bank or to any corporation registered under the *Loan and Trust Corporations Act* are deemed not to be loans and advances to other corporations unless they are issued for a term of 120 days or more and have been held by the corporation for at least 120 days, and

(v) bankers' acceptances issued for a term less than 120 days are deemed not to be loans and advances to other corporations.

R.S.O. 1980,
c. 249

s. 54 (1) (d),
amended

(2) Clause 54 (1) (d) of the said Act is amended by striking out “section 18” in the fifth line and inserting in lieu thereof “section 18 or section 18a”.

s. 54 (3),
amended

(3) Subsection 54 (3) of the said Act is amended by adding thereto the following clause:

(d) that is an appraisal surplus of a corporation arising where its fixed assets are carried in its books of account at an amount that is in excess of the cost thereof.

s. 55 (1) (b)
(ii) (A),
re-enacted

12. Sub-subclause 55 (1) (b) (ii) (A) of the said Act is repealed and the following substituted therefor:

(A) all amounts that are advanced or loaned to its permanent establishments in Canada,

1. in the case of a corporation incorporated with share capital, by its shareholders, and

2. in the case of a corporation incorporated without share capital, by its members,

directly or indirectly or by any person related to any of its shareholders or members, as the case may be, or by the corporation itself, or by any other corporation, and

SECTION 11. This section enacts subclauses 54 (1) (c) (iv) and (v) of the Act to provide that advances or loans to banks or loan and trust companies and bankers' acceptances are deemed not to be loans and advances to other corporations for the purpose of the deduction under the said clause (c) unless they are for a term of and are held for at least 120 days.

Clause 54 (1) (d) of the Act is amended to insert a cross-reference to section 18a of the said Act as enacted by section 7 of the Bill.

This section also enacts clause 54 (3) (d) of the Act to provide that appraisal surpluses with respect to fixed assets will not be included in paid-up capital.

SECTION 12. This section re-enacts sub-subclause 55 (1) (b) (ii) (A) to provide for the calculation of the paid-up capital of non-resident corporations incorporated without share capital. This amendment is complementary to the amendment made by section 10 of the Bill. Sub-subclause (A) now reads as follows:

- (A) *all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by its shareholders directly or indirectly or by any person related to any of its shareholders or by any other corporation, and*

SECTION 13. This section enacts subsection 61 (4), relating to the flat rate of paid-up capital tax, to provide that a corporation that is associated with other corporations will not be eligible for the flat rate of tax allowed for corporations whose taxable paid-up capital does not exceed \$1,000,000 if the paid-up capital of the corporation together with the taxable paid-up capital of all the corporations with which it is associated exceeds \$1,000,000. Similarly, a corporation that is a member of a partnership will not be eligible for this flat rate of paid-up capital tax if the taxable paid-up capital of the corporation together with the taxable paid-up capital of all members of the partnership who are related to the corporation exceeds \$1,000,000.

SECTION 14. This section re-enacts clause 70 (2) (a) of the Act providing the dates and amounts of the instalments of tax payable. The amendment adopts changes in the corresponding provisions of the *Income Tax Act* (Canada). A corporation will now calculate its instalments on the basis of its estimated tax payable for the year or of its "first instalment base" or its "second instalment base". "First instalment base" and "second instalment base" will be defined by regulation. These changes will mainly affect corporations that have amalgamated or are reorganized, or that have short taxation years. Clause (a) now reads as follows:

(a) *on or before,*

(i) *the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,*

(A) *its estimated taxable income and other subject of tax for the taxation year, or*

(B) *its taxable income and other subject of tax for the immediately preceding taxation year, or*

(ii) *the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and other subject of tax for the immediately preceding taxation year; and*

13. Section 61 of the said Act is amended by adding thereto the following subsection: s. 61,
amended

(4) This section does not apply to a corporation where, Where
corporation is
associated or
member of
a partnership

(a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$1,000,000; or

(b) the corporation is a member of a partnership or a connected partnership as defined in subsection 125 (13) of the *Income Tax Act* (Canada), and the aggregate of, R.S.C. 1952,
c. 148

(i) the taxable paid-up capital of the corporation, and

(ii) the aggregate of the shares of the taxable paid-up capital of the partnership or the connected partnership that are allocable under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$1,000,000.

14.—(1) Clause 70 (2) (a) of the said Act is repealed and the following substituted therefor: s. 70 (2) (a),
re-enacted

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

(A) its estimated taxable income and other subject of tax for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an

instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from its first instalment base for the taxation year; and

s. 70,
amended

(2) Section 70 of the said Act is amended by adding thereto the following subsection:

Interpre-
tation

(7) For the purpose of clause (2) (a), "first instalment base" and "second instalment base" have the meanings prescribed by regulation.

s. 71,
repealed

15. Section 71 of the said Act is repealed.

s. 76 (1),
re-enacted

16. Subsection 76 (1) of the said Act is repealed and the following substituted therefor:

Credit
interest
on overpaid
instalments

(1) Where instalments of tax as required by subsection 70 (2) are overpaid at any time prior to,

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause 70 (2) (b); or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause (a),

whichever is earlier, or where the balance required to be paid pursuant to clause 70 (2) (b) is overpaid prior to the date on or before which such payment was required to be made, interest at such rate as is prescribed for the purpose of subsection 75 (3) shall be allowed on the amount of the overpayment from the day on which the overpayment arose to the beginning of the period in respect of which interest is payable under subsection 75 (3).

s. 85,
amended

17. Section 85 of the said Act is amended by adding thereto the following subsection:

Idem

(4) A reassessment made by the Minister pursuant to subsection (2) is not valid by reason only of not having been made within six years from the day of mailing of a notice of an original assessment or of a notification described in subsection 73 (7).

Commence-
ment and
application

18.—(1) Section 1, subsection 2 (2), and sections 3, 10, 11 (except subclause 54 (1) (c) (iv) of the said Act as enacted by subsection 11 (1) of this Act), 12 and 13 shall be deemed to have come into force on the 20th day of May, 1981 and apply to

SECTION 15. This section repeals section 71 of the Act relating to the collection of tax in respect of entertainment produced or presented in Ontario by non-resident entertainment corporations. Such corporations will no longer be liable for corporations tax in respect of their production or presentation of entertainment in Ontario if they do not otherwise have a permanent establishment in Ontario. This amendment is complementary to the amendment made by section 2 of the Bill.

SECTION 16. This section re-enacts subsection 76 (1) of the Act relating to credit interest on instalments to provide that the credit interest will also apply where the final payment is overpaid prior to its due date; also this amendment specifies the period for which credit interest under this section is payable.

Subsection 76 (1) of the Act now reads as follows:

(1) Where instalments of tax as required by subsection 70 (2) are overpaid at any time prior to,

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause 70 (2) (b);
or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause (a),

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 75 (3) shall be allowed on the amount of the overpayment.

SECTION 17. This section enacts subsection 85 (4) of the Act relating to designated assessments. The amendment makes it clear that a reassessment made by the Minister pursuant to section 85 is valid notwithstanding the expiry of the six year limitation period under subsection 73 (7).



corporations in respect of all taxation years ending after the 19th day of May, 1981.

- (2) Subsection 2 (1) and section 15 shall be deemed to have come into force on the 20th day of May, 1981 and apply to performances given after the 19th day of May, 1981. ^{Idem}
- (3) Sections 4, 5, 6 (except that portion of clause 18 (14) (b) of the said Act following subclause (vii) thereof, as enacted by section 6 of this Act), and section 7 shall be deemed to have come into force on the 20th day of May, 1981 and apply to outlays or expenses, amounts received in respect of outlays or expenses and dispositions of property made or incurred after the 19th day of May, 1981. ^{Idem}
- (4) That portion of clause 18 (14) (b) of the said Act, following subclause (vii) thereof, as enacted by section 6, shall be deemed to have come into force on the 1st day of January, 1981 and applies to corporations in respect of all taxation years ending after 1980. ^{Idem}
- (5) Section 8 shall be deemed to have come into force on the 20th day of May, 1981 and applies to dispositions of taxable Canadian property situated in Ontario made during taxation years ending after 1980. ^{Idem}
- (6) Section 9 shall be deemed to have come into force on the 1st day of January, 1979 and applies to corporations in respect of all taxation years commencing after 1978. ^{Idem}
- (7) Subclause 54 (1) (c) (iv) of the said Act, as enacted by subsection 11 (1) of this Act, shall be deemed to have come into force on the 23rd day of April, 1980 and applies to corporations in respect of all taxation years ending after the 22nd day of April, 1980. ^{Idem}
- (8) Section 14 comes into force on the 1st day of October, 1981 and applies to corporations in respect of all taxation years commencing after the 30th day of September, 1981. ^{Idem}
- (9) Sections 16 and 17 come into force on the day this Act receives Royal Assent. ^{Idem}

19. The short title of this Act is the *Corporations Tax Amendment Act*, Short title 1981.

An Act to amend the
Corporations Tax Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 79

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Corporations Tax Act

THE HON. G. L. ASHE
Minister of Revenue

THE UNIVERSITY OF CHICAGO
LIBRARY

BILL 79

1981

An Act to amend the Corporations Tax Act

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

1.—(1) Clauses 1 (1) (d) and (e) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor: s. 1 (1) (d, e),
re-enacted

(d) “family farm corporation” means a corporation that is throughout the taxation year a corporation,

- (i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by one individual ordinarily resident in Canada or by that individual and a member or members of his family ordinarily resident in Canada or by another family farm corporation,
- (ii) 75 per cent of the assets of which were farming assets, and
- (iii) which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm;

(e) “family fishing corporation” means a corporation that is throughout the taxation year a corporation,

- (i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by one individual ordinarily resident in Canada or by that individual and a member or members of his family ordinarily

resident in Canada or by another family fishing corporation,

- (ii) 75 per cent of the assets of which were fishing assets, and
- (iii) which carried on the business of fishing in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the business.

s. 1 (1) (f),
amended

(2) Clause 1 (1) (f) of the said Act is amended by adding thereto the following subclause:

- (vi) a mortgage taken by the family farm corporation as security for the balance of the sale price on its sale of farming assets referred to in subclause ii, provided that the amount of the aggregate of its remaining farming assets referred to in subclauses (i) to (v) exceeds 50 per cent of its assets.

s. 5 (8),
re-enacted

2.—(1) Subsection 5 (8) of the said Act is repealed and the following substituted therefor:

Idem

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

s. 5 (11),
re-enacted

(2) Subsection 5 (11) of the said Act is repealed and the following substituted therefor:

Idem

(11) Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

s. 12,
amended

3. Section 12 of the said Act is amended by adding thereto the following subsection:

(9a) For the purposes of this Act, subsection 20 (12) of the *Income Tax Act* (Canada) does not apply to allow a deduction in computing the income of a corporation for a taxation year except to the extent that the portion of the foreign non-business income tax paid by the corporation to which the subsection applies was not deducted pursuant to subsection 126 (1) of the *Income Tax Act* (Canada).

Foreign non-business income tax
R.S.C. 1952, c. 148

4. Subsection 14 (3) of the said Act is repealed and the following substituted therefor:

s. 14 (3), re-enacted

(3) In the application of section 59 of the *Income Tax Act* (Canada) for the purposes of this Act,

Disposition of resource property

(a) subsection (1), paragraphs 2 (b) and (e), subsection (3), and paragraph (3.2) (a) of the said section are not applicable; and

(b) the references in subsections (2) and (2.1) of the said section to amounts deducted as a reserve in computing income for the immediately preceding taxation year shall include any amount deducted under section 16 of this Act in computing income for the immediately preceding taxation year.

5. Subsections 16 (1) and (3) of the said Act are repealed and the following substituted therefor:

s. 16 (1), re-enacted;
s. 16 (3), repealed

(1) Section 64 of the *Income Tax Act* (Canada), except paragraph (1) (a) thereof and subsection (2) thereof, is applicable for the purposes of this Act in so far as the said section applies to corporations.

Reserves in respect of consideration for disposition of resource property not due until subsequent year

6.—(1) Sub-subclause 18 (2) (b) (ii) (C) of the said Act is repealed and the following substituted therefor:

s. 18 (2) (b) (ii) (C), re-enacted

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in paragraph 59 (1.2) (b) of the *Income Tax Act* (Canada) or subsection 59 (3.1) of that Act that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 14 (3) in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 16 in respect of the property in computing its income for the taxation year.

s. 18 (5),
re-enacted

- (2) Subsection 18 (5) of the said Act is repealed and the following substituted therefor:

Canadian
exploration
and develop-
ment expenses
deductible by
successor cor-
poration and
second succes-
sor
corporation
R.S.C. 1952,
c. 148

(5) There may be deducted in computing the income for a taxation year of a corporation that is a successor corporation or a second successor corporation, as the case may be, within the meaning of subsection 66 (6) or (7) of the *Income Tax Act* (Canada), the amount, if any, that would be deductible by it under either of those subsections on the basis that,

(a) the reference in paragraph (b) of each of the said subsections,

(i) to "this section" is deemed to be a reference to this section of this Act, and

(ii) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*; and

(b) the references in the said subsections to "Canadian exploration and development expenses" are deemed to be references to Canadian exploration and development expenses incurred before the 20th day of May, 1981.

s. 18,
amended

- (3) Section 18 of the said Act is amended by adding thereto the following subsection:

Idem

(6a) Subsections 66 (10.1), (10.2) and (10.3) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

s. 18 (7),
re-enacted

- (4) Subsection 18 (7) of the said Act is repealed and the following substituted therefor:

Control
change

(7) Subsection 66 (11) of the *Income Tax Act* (Canada), except paragraph (e) thereof, is applicable for the purposes of this Act.

s. 18 (9),
re-enacted

- (5) Subsection 18 (9) of the said Act is repealed and the following substituted therefor:

Limitations

(9) Except as otherwise provided in this section or section 18a, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than

one provision of this section or section 18a, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

(6) Subsections 18 (11) and (12) are repealed and the following substituted therefor: s. 18 (11, 12), re-enacted

(11) Subsection 66 (12.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subsection applies to corporations, except that, in its application for the purposes of this Act, the reference in paragraph (a) thereof to "before May 7, 1974" shall be deemed to be a reference to "before the 20th day of May, 1981". Limitation R.S.C. 1952, c. 148

(12) Subsections 66 (12.2), (12.3) and (12.5) of the *Income Tax Act* (Canada) are, in so far as the said subsections apply to corporations, applicable for the purposes of this Act except that, in the application of the said subsection (12.2) for the purposes of this Act, the reference therein to "before May 7, 1974" shall be deemed to be a reference to "before the 20th day of May, 1981". Unitized oil or gas field in Canada

(7) Subsections 18 (14) and (15) of the said Act are repealed and the following substituted therefor: s. 18 (14, 15), re-enacted

(14) In this section and section 18a and in the provisions of the *Income Tax Act* (Canada) made applicable for the purposes of this Act, Interpretation

(a) "agreed portion" has the meaning given to that expression by paragraph 66 (15) (a) of the *Income Tax Act* (Canada);

(b) "Canadian exploration and development expenses" incurred by a corporation means any expense incurred before the 20th day of May, 1981 that is,

(i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,

(ii) any prospecting, exploration or development expense incurred by it after 1971 in searching for minerals in Canada,

(iii) notwithstanding paragraph 18 (1) (m) of the *Income Tax Act* (Canada), as that section

applies to this Act by virtue of section 12 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs (i) to (iii) of the said paragraph (*m*) for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph (*m*) applied by virtue of subparagraph (v) thereof,

- (iv) the corporation's share of any of the expenses referred to in subclauses (i), (ii) and (iii) incurred after 1971 by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period the corporation was a member or partner thereof, and
- (v) any expenses referred to in subclauses (i), (ii) and (iii) incurred after 1971 pursuant to an agreement with another corporation under which the corporation incurred the expense solely in consideration for shares of the capital stock of the other corporation issued to it by the other corporation or any interest in such shares or right thereto,

but for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause (v), or
- (vii) any expense described in subclause (v) incurred by another person to the extent that the expense was, by virtue of subclause (v), a Canadian exploration and development expense of that other person,

but no amount of assistance or benefit that a corporation has received or is entitled to receive after the 25th day of May, 1976 in respect of or related to its Canadian exploration and development expenses made or incurred before the 1st day of January, 1981, from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, shall reduce the amount of any of the expenses described in any of subclauses (i) to (v);

- (c) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas has the meaning given to that expression by paragraph 66 (15) (d) of the *Income Tax Act* (Canada);
- (d) "joint exploration corporation" has the meaning given to that expression by paragraph 66 (15) (g) of the *Income Tax Act* (Canada);
- (e) "oil or gas well" has the meaning given to that expression by paragraph 66 (15) (g.1) of the *Income Tax Act* (Canada);
- (f) "Ontario exploration and development expenses" incurred by a corporation means any expenses that would be Canadian exploration and development expenses incurred by the corporation if clause (b) of this subsection were read as if the references therein to,
- (i) "in Canada" were references to "in Ontario",
 - (ii) "after 1971" were references to "after the 9th day of April, 1974 and before the 20th day of May, 1981", and
 - (iii) "Canadian" were references to "Ontario";
- (g) "Ontario resource property" of a corporation means any property that would be a Canadian resource property of the corporation within the meaning of paragraph 66 (15) (c) of the *Income Tax Act* (Canada) if that paragraph were read as if the references therein to,
- (i) "in Canada" were references to "in Ontario", and
 - (ii) "after 1971" were references to "after the 9th day of April, 1974 and before the 20th day of May, 1981";
- (h) "outlay" or "expense" have the meaning given to those expressions by paragraph 66 (15) (g.2) of the *Income Tax Act* (Canada);
- (i) "principal-business corporation" has the meaning given to that expression by paragraph 66 (15) (h) of the *Income Tax Act* (Canada);

R.S.C. 1952,
c. 148

Application

s. 18a,
enacted

Canadian
exploration
expense,
Canadian
development
expense and
Canadian oil
and gas
property
expense

(j) "shareholder corporation" of a joint exploration corporation has the meaning given to that expression by paragraph 66 (15) (i) of the *Income Tax Act* (Canada).

(15) For the purposes of clause 1 (2) (d), this section applies in lieu of section 66 of the *Income Tax Act* (Canada).

7. The said Act is amended by adding thereto the following section:

18a. Sections 66.1, 66.2 and 66.4 of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in so far as the said sections apply to corporations except that, in the application of the said sections for the purposes of this Act,

(a) the references therein to "Canadian exploration expense", "Canadian development expense", "Canadian oil and gas property expense", "cumulative Canadian exploration expense", "cumulative Canadian development expense" and "cumulative Canadian oil and gas property expense" shall be deemed to be references to such of those outlays or expenses as are made or incurred after the 19th day of May, 1981;

(b) in addition to the deduction provided under this section by virtue of subsection 66.2 (2) of the *Income Tax Act* (Canada), a corporation may claim in respect of its Canadian development expenses made or incurred in Ontario in the taxation year or in a previous taxation year a deduction of an amount equal to 70 per cent of the amount, if any, by which,

(i) the aggregate of the amounts described in subparagraphs 66.2 (5) (b) (i) to (iii) of the *Income Tax Act* (Canada) that are in respect of expenses made or incurred in Ontario,

exceeds the aggregate of all amounts each of which is,

(ii) any amount previously deducted in computing its income for a taxation year by virtue of this clause, or

(iii) the aggregate of the amounts described in subparagraphs 66.2 (5) (b) (iv) to (xi) of the *Income Tax Act* (Canada) that are in respect of expenses incurred in Ontario; and

(c) for the purpose of computing a corporation's cumulative Canadian development expense at any time, any

amount deducted by virtue of clause (b) in computing income for a taxation year ending before that time shall be deemed to be an amount deducted in computing its income for a taxation year ending before that time, but such amount shall not be included in computing the amount under subclause (b) (iii).

8. Section 29 of the said Act is amended by adding thereto the following subsection: s. 29,
amended

(2) For the purpose of subsection (1), the taxable income earned in Canada of a corporation to which clause 2 (3) (b) applies shall not include any amount referred to in paragraph 115 (1) (b) of the *Income Tax Act* (Canada) in respect of the disposition of taxable Canadian property where a Tax Treaty or Convention between Canada and another country has determined that no tax is payable by the corporation in respect of the disposition. Idem
R.S.C. 1952,
c. 148

9. Clause 49 (1) (a) of the said Act is repealed and the following substituted therefor: s. 49 (1) (a),
re-enacted

(a) a corporation referred to in paragraph 149 (1) (c), (d), (e), (f), (h.1), (i), (j), (k), (m), (n), (o), (o.1) or (o.2) of the *Income Tax Act* (Canada). Charities
and other
corporations

10.—(1) Clause 53 (1) (a) of the said Act is repealed and the following substituted therefor: s. 53 (1) (a),
re-enacted

(a) the paid-up capital stock of the corporation or, in the case of a corporation incorporated without share capital, the capital contributed to the corporation by its members.

(2) Clause 53 (1) (d) of the said Act is repealed and the following substituted therefor: s. 53 (1) (d),
re-enacted

(d) all sums or credits advanced or loaned to the corporation,

(i) in the case of a corporation incorporated with share capital, by its shareholders, and

(ii) in the case of a corporation incorporated without share capital, by its members,

directly or indirectly or by any person related to any of its shareholders or members, as the case may be, or by any other corporation; and

s. 54 (1) (c),
amended

11.—(1) Clause 54 (1) (c) of the said Act is amended by striking out “and” at the end of subclause (ii) and by adding thereto the following subclauses:

(iv) loans and advances to any corporation doing the business of a bank or to any corporation registered under the *Loan and Trust Corporations Act* are deemed not to be loans and advances to other corporations unless they are issued for a term of 120 days or more and have been held by the corporation for at least 120 days, and

(v) bankers’ acceptances issued for a term less than 120 days are deemed not to be loans and advances to other corporations.

R.S.O. 1980,
c. 249

s. 54 (1) (d),
amended

(2) Clause 54 (1) (d) of the said Act is amended by striking out “section 18” in the fifth line and inserting in lieu thereof “section 18 or section 18a”.

s. 54 (3),
amended

(3) Subsection 54 (3) of the said Act is amended by adding thereto the following clause:

(d) that is an appraisal surplus of a corporation arising where its fixed assets are carried in its books of account at an amount that is in excess of the cost thereof.

s. 55 (1) (b)
(ii) (A),
re-enacted

12. Sub-subclause 55 (1) (b) (ii) (A) of the said Act is repealed and the following substituted therefor:

(A) all amounts that are advanced or loaned to its permanent establishments in Canada,

1. in the case of a corporation incorporated with share capital, by its shareholders, and

2. in the case of a corporation incorporated without share capital, by its members,

directly or indirectly or by any person related to any of its shareholders or members, as the case may be, or by the corporation itself, or by any other corporation, and

13. Section 61 of the said Act is amended by adding thereto the following subsection: s. 61,
amended

(4) This section does not apply to a corporation where,

Where
corporation is
associated or
member of
a partnership

(a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$1,000,000; or

(b) the corporation is a member of a partnership or a connected partnership as defined in subsection 125 (13) of the *Income Tax Act* (Canada), and the aggregate of,

R.S.C. 1952,
c. 148

(i) the taxable paid-up capital of the corporation, and

(ii) the aggregate of the shares of the taxable paid-up capital of the partnership or the connected partnership that are allocable under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$1,000,000.

14.—(1) Clause 70 (2) (a) of the said Act is repealed and the following substituted therefor: s. 70 (2) (a),
re-enacted

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

(A) its estimated taxable income and other subject of tax for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an

instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from its first instalment base for the taxation year; and

s. 70,
amended

(2) Section 70 of the said Act is amended by adding thereto the following subsection:

Interpre-
tation

(7) For the purpose of clause (2) (a), "first instalment base" and "second instalment base" have the meanings prescribed by regulation.

s. 71,
repealed

15. Section 71 of the said Act is repealed.

s. 76 (1),
re-enacted

16. Subsection 76 (1) of the said Act is repealed and the following substituted therefor:

Credit
interest
on overpaid
instalments

(1) Where instalments of tax as required by subsection 70 (2) are overpaid at any time prior to,

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause 70 (2) (b); or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause (a),

whichever is earlier, or where the balance required to be paid pursuant to clause 70 (2) (b) is overpaid prior to the date on or before which such payment was required to be made, interest at such rate as is prescribed for the purpose of subsection 75 (3) shall be allowed on the amount of the overpayment from the day on which the overpayment arose to the beginning of the period in respect of which interest is payable under subsection 75 (3).

s. 85,
amended

17. Section 85 of the said Act is amended by adding thereto the following subsection:

Idem

(4) A reassessment made by the Minister pursuant to subsection (2) is not valid by reason only of not having been made within six years from the day of mailing of a notice of an original assessment or of a notification described in subsection 73 (7).

Commence-
ment and
application

18.—(1) Section 1, subsection 2 (2), and sections 3, 10, 11 (except subclause 54 (1) (c) (iv) of the said Act as enacted by subsection 11 (1) of this Act), 12 and 13 shall be deemed to have come into force on the 20th day of May, 1981 and apply to

corporations in respect of all taxation years ending after the 19th day of May, 1981.

- (2) Subsection 2 (1) and section 15 shall be deemed to have come into force on the 20th day of May, 1981 and apply to performances given after the 19th day of May, 1981. ^{Idem}
 - (3) Sections 4, 5, 6 (except that portion of clause 18 (14) (b) of the said Act following subclause (vii) thereof, as enacted by section 6 of this Act), and section 7 shall be deemed to have come into force on the 20th day of May, 1981 and apply to outlays or expenses, amounts received in respect of outlays or expenses and dispositions of property made or incurred after the 19th day of May, 1981. ^{Idem}
 - (4) That portion of clause 18 (14) (b) of the said Act, following subclause (vii) thereof, as enacted by section 6, shall be deemed to have come into force on the 1st day of January, 1981 and applies to corporations in respect of all taxation years ending after 1980. ^{Idem}
 - (5) Section 8 shall be deemed to have come into force on the 20th day of May, 1981 and applies to dispositions of taxable Canadian property situated in Ontario made during taxation years ending after 1980. ^{Idem}
 - (6) Section 9 shall be deemed to have come into force on the 1st day of January, 1979 and applies to corporations in respect of all taxation years commencing after 1978. ^{Idem}
 - (7) Subclause 54 (1) (c) (iv) of the said Act, as enacted by subsection 11 (1) of this Act, shall be deemed to have come into force on the 23rd day of April, 1980 and applies to corporations in respect of all taxation years ending after the 22nd day of April, 1980. ^{Idem}
 - (8) Section 14 comes into force on the 1st day of October, 1981 and applies to corporations in respect of all taxation years commencing after the 30th day of September, 1981. ^{Idem}
 - (9) Sections 16 and 17 come into force on the day this Act receives Royal Assent. ^{Idem}
19. The short title of this Act is the *Corporations Tax Amendment Act*, 1981. ^{Short title}

An Act to amend the
Corporations Tax Act

1st Reading

May 21st, 1981

2nd Reading

October 19th, 1981

3rd Reading

October 19th, 1981

THE HON. G. L. ASHF
Minister of Revenue

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Retail Sales Tax Act

**THE HON. G. L. ASHE
Minister of Revenue**

EXPLANATORY NOTES

GENERAL

This Bill enacts the provision of the Treasurer's Budget exempting kits sold for the conversion of gasoline-or diesel-powered vehicles into vehicles powered exclusively by alternative fuels. In addition, a number of other amendments are proposed in the Bill to deal with the administration of the Act.

SECTION 1. The amendments proposed in subsections 1 and 2 provide that the three-year limitation on the making of refunds applies to tax paid in error otherwise than as the result of an assessment made by the Ministry against the taxpayer. Where the tax is paid to discharge a liability assessed, any refund of the tax assessed will depend on the outcome of the objection and appeal procedure provided for in sections 19 and 20 of the Act. Subsections 8 and 8a of section 2 of the Act now reads as follows:

- (8) *Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, such amount shall be refunded if, within three years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such three years to the satisfaction of the Minister that the amount that may be refunded was not payable as tax under this Act, and where the amount shown not to have been payable as tax under this Act was paid in the course of performing a contract under which a party to the contract, other than the person who paid such amount, reimbursed the person for such amount so paid, the amount that may be refunded under this subsection may be paid to such party.*
- (8a) *Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 20, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act, the amount of such overpayment shall be refunded to him notwithstanding the limitations contained in subsection 8.*

SECTION 2.—Subsection 1. Paragraph 11c to be added by the proposed amendment will exempt conversion kits to convert gasoline-or diesel-powered vehicles into vehicles that meet the conditions for exemption set out in paragraph 11b of subsection 1 of section 5 of the Act. Those conditions are that the vehicle must,

- (a) be one required to be licensed under *The Highway Traffic Act*;
- (b) be operated exclusively on electricity or on fuel from ethyl alcohol, methyl alcohol, natural gas or manufactured gas; and
- (c) not be capable of being operated on gasoline or diesel fuel.

Subsection 2. The amendment removes from the exemption for magazines the reference to periodicals. The reference to periodicals is considered to be redundant. The paragraph to be amended now reads:

47. *magazines and periodicals, as defined by the Minister.*

BILL 80

1981

An Act to amend The Retail Sales Tax Act

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

1.—(1) Subsection 8 of section 2 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 9, section 2 and amended by the Statutes of Ontario, 1979, chapter 27, section 2, is further amended by inserting after “Act” in the second line “and the amount was not paid by the person to discharge liability under an assessment made under this Act”. s. 2 (8),
amended

(2) Subsection 8a of the said section 2, as enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is repealed and the following substituted therefor: s. 2 (8a),
re-enacted

(8a) Subject to subsection 8 of section 15 and to subsection 7 of section 15a, where an assessment or reassessment under this Act or the final decision of a court in proceedings commenced under section 20 establishes that the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act for the period covered by the assessment or reassessment, the amount of such overpayment shall be refunded to him. Idem

2.—(1) Subsection 1 of section 5 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 21, section 1, 1973, chapter 23, section 4, 1974, chapter 7, section 2, 1975, chapter 9, section 4, 1976, chapter 23, section 3, 1976, chapter 82, section 3, 1977, chapter 13, section 4, 1978, chapter 6, section 2, 1979, chapter 27, section 3, 1980, chapter 22, section 1 and 1980, chapter 70, section 1, is further amended by adding thereto the following paragraph: s. 5 (1),
amended

11c. tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that meets all of the requirements for exemption under paragraph 11b.

s. 5 (1),
par. 47,
amended

(2) Paragraph 47 of subsection 1 of the said section 5 is amended by striking out "and periodicals".

s. 5 (1),
par. 59,
re-enacted

(3) Paragraph 59 of subsection 1 of the said section 5 is repealed and the following substituted therefor:

59. tangible personal property that enters directly into and becomes part of real property that is a building or structure and that, upon completion is owned by the governing board of a public hospital, school or university and used for school, university or hospital purposes, including a nurses' residence, if the cost of such tangible personal property is shown to have been directly and substantially borne by the school, university or public hospital, or the governing board thereof, that owns the building or structure into the construction of which such tangible personal property entered.

s. 19,
amended

3. Section 19 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 21, section 3, 1976, chapter 23, section 8 and 1980, chapter 70, section 2, is further amended by adding thereto the following subsection:

Idem

(2a) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection 2.

s. 42 (2) (e),
(ii, iii),
repealed

4. Subclauses ii and iii of clause e of subsection 2 of section 42 of the said Act are repealed.

Commence-
ment

5.—(1) This Act, except subsection 1 of section 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 1 of section 2 shall be deemed to have come into force on the 20th day of May, 1981.

Short title

6. The short title of this Act is *The Retail Sales Tax Amendment Act, 1981*.

Subsection 3. The amendments proposed here and in section 4 of the Bill clarify the exemption for a university, school or public hospital for tangible personal property incorporated into the construction of a building, including a nurses' residence, to be owned and used by a school, university or public hospital. The paragraph to be amended exempts,

59. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by the governing board of a public hospital, nurses' residence, school or university and that will be incorporated into and form part of a public hospital, nurses' residence, school or university building.

SECTION 3. The amendment will enable the Minister to accept a notice of objection even though it is not served in duplicate or by registered mail as required by subsection 2 of section 19 of the Act.

SECTION 4. The provisions to be repealed deal with the rebating of tax on tangible personal property consumed in construction contracts entered into prior to June 1, 1964. The provisions are no longer required.





An Act to amend
The Retail Sales Tax Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Retail Sales Tax Act

THE HON. G. L. ASHE
Minister of Revenue

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

GENERAL

This Bill enacts the provision of the Treasurer's Budget exempting kits sold for the conversion of gasoline-or diesel-powered vehicles into vehicles powered exclusively by alternative fuels. In addition, a number of other amendments are proposed in the Bill to deal with the administration of the Act.

SECTION 1. The amendments proposed in subsections (1) and (2) provide that the three-year limitation on the making of refunds applies to tax paid in error otherwise than as the result of an assessment made by the Ministry against the taxpayer. Where the tax is paid to discharge a liability assessed, any refund of the tax assessed will depend on the outcome of the objection and appeal procedure provided for in sections 22 and 23 of the Act. Subsections 2 (9) and (10) of the Act now read as follows:

- (9) *Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, such amount shall be refunded if, within three years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such three years to the satisfaction of the Minister that the amount that may be refunded was not payable as tax under this Act, and where the amount shown not to have been payable as tax under this Act was paid in the course of performing a contract under which a party to the contract, other than the person who paid such amount, reimbursed the person for such amount so paid, the amount that may be refunded under this subsection may be paid to such party.*
- (10) *Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 23, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act, the amount of such overpayment shall be refunded to him notwithstanding the limitations contained in subsection (9).*

SECTION 2.—Subsection 1. Paragraph 14a to be added by the proposed amendment will exempt conversion kits to convert gasoline-or diesel-powered vehicles into vehicles that meet the conditions for exemption set out in paragraph 14 of subsection 5 (1) of the Act. Those conditions are that the vehicle must,

- (a) be one required to be licensed under the *Highway Traffic Act*;
- (b) be operated exclusively on electricity or on fuel from ethyl alcohol, methyl alcohol, natural gas or manufactured gas; and
- (c) not be capable of being operated on gasoline or diesel fuel.

Subsection 2. The amendment removes from the exemption for magazines the reference to periodicals. The reference to periodicals is considered to be redundant. The paragraph to be amended now reads:

55. magazines and periodicals, as defined by the Minister.

BILL 80

1981

An Act to amend the Retail Sales Tax Act

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

- 1.—(1) Subsection 2 (9) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Act” in the second line “and the amount was not paid by the person to discharge liability under an assessment made under this Act”. s. 2 (9),
amended
- (2) Subsection 2 (10) of the said Act is repealed and the following substituted therefor: s. 2 (10),
re-enacted
- (10) Subject to subsection 16 (8) and to subsection 17 (7), where an assessment or reassessment under this Act or the final decision of a court in proceedings commenced under section 23 establishes that the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act for the period covered by the assessment or reassessment, the amount of such overpayment shall be refunded to him. Idem
- 2.—(1) Subsection 5 (1) of the said Act is amended by adding thereto the following paragraph: s. 5 (1),
amended
- 14a. tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that meets all of the requirements for exemption under paragraph 14.
- (2) Paragraph 55 of subsection 5 (1) of the said Act is amended by striking out “and periodicals” in the first line. s. 5 (1),
par. 55,
amended
- (3) Paragraph 68 of subsection 5 (1) of the said Act is repealed and the following substituted therefor: s. 5 (1),
par. 68,
re-enacted
68. tangible personal property that enters directly into and becomes part of real property that is a building or

structure and that, upon completion is owned by the governing board of a public hospital, school or university and used for school, university or hospital purposes, including a nurses' residence, if the cost of such tangible personal property is shown to have been directly and substantially borne by the school, university or public hospital, or the governing board thereof, that owns the building or structure into the construction of which such tangible personal property entered.

s. 22,
amended

- 3.** Section 22 of the said Act is amended by adding thereto the following subsection:

Idem

(2a) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection (2).

s. 45 (2) (d),
(ii, iii),
repealed

- 4.** Subclauses 45 (2) (d) (ii) and (iii) of the said Act are repealed.

Commence-
ment

- 5.**—(1) This Act, except subsection 2 (1), comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) shall be deemed to have come into force on the 20th day of May, 1981.

Short title

- 6.** The short title of this Act is the *Retail Sales Tax Amendment Act, 1981*.

Subsection 3. The amendments proposed here and in section 4 of the Bill clarify the exemption for a university, school or public hospital for tangible personal property incorporated into the construction of a building, including a nurses' residence, to be owned and used by a school, university or public hospital. The paragraph to be amended exempts,

68. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by the governing board of a public hospital, nurses' residence, school or university and that will be incorporated into and form part of a public hospital, nurses' residence, school or university building.

SECTION 3. The amendment will enable the Minister to accept a notice of objection even though it is not served in duplicate or by registered mail as required by subsection 22 (2) of the Act.

SECTION 4. The provisions to be repealed deal with the rebating of tax on tangible personal property consumed in construction contracts entered into prior to June 1, 1964. The provisions are no longer required.



An Act to amend
the Retail Sales Tax Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

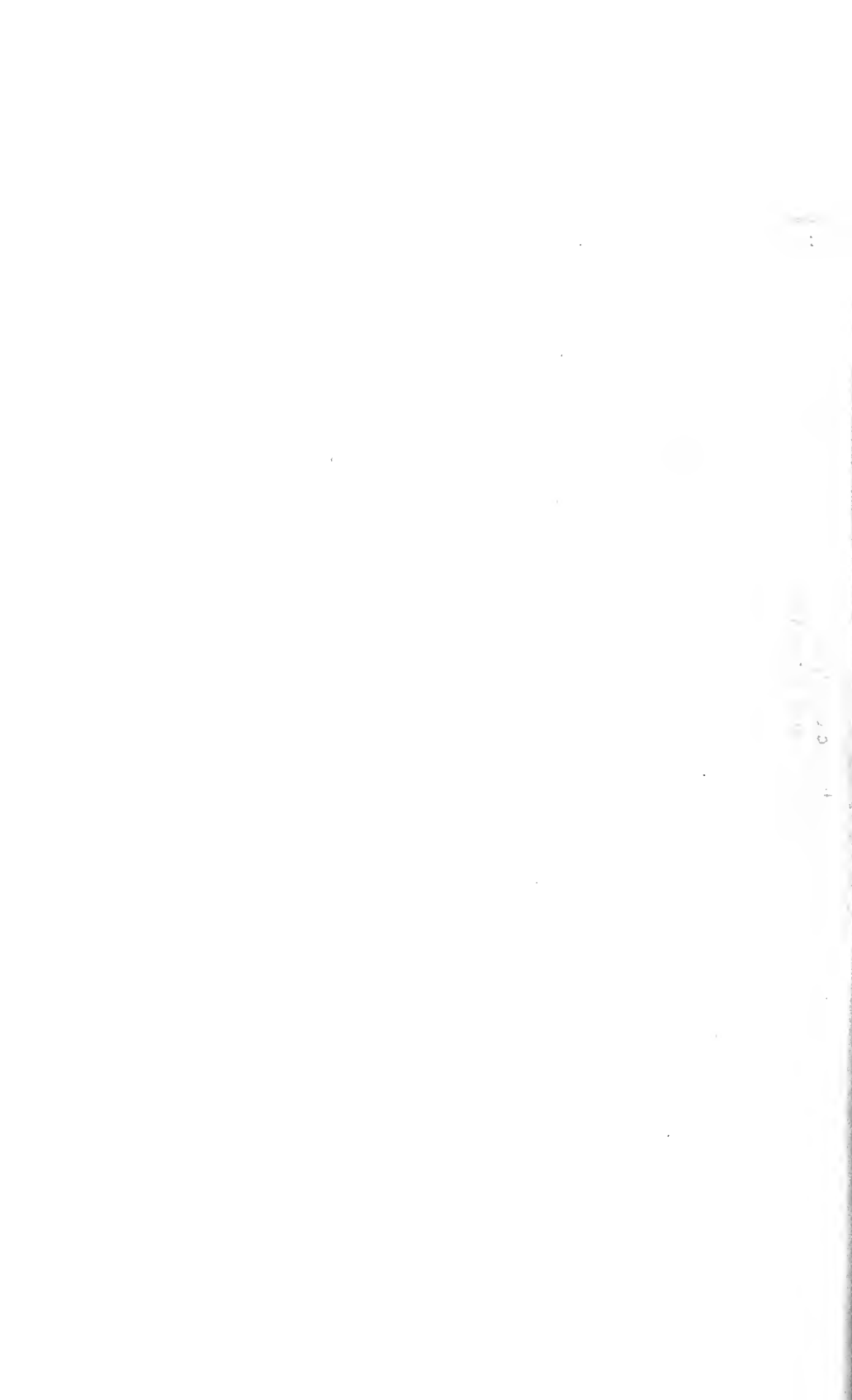
(Government Bill)

BILL 80

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Retail Sales Tax Act

THE HON. G. L. ASHE
Minister of Revenue



BILL 80

1981

An Act to amend the Retail Sales Tax Act

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

- 1.—(1) Subsection 2 (9) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Act” in the second line “and the amount was not paid by the person to discharge liability under an assessment made under this Act”. s. 2 (9),
amended
- (2) Subsection 2 (10) of the said Act is repealed and the following substituted therefor: s. 2 (10),
re-enacted
- (10) Subject to subsection 16 (8) and to subsection 17 (7), where an assessment or reassessment under this Act or the final decision of a court in proceedings commenced under section 23 establishes that the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act for the period covered by the assessment or reassessment, the amount of such overpayment shall be refunded to him. Idem
- 2.—(1) Subsection 5 (1) of the said Act is amended by adding thereto the following paragraph: s. 5 (1),
amended
- 14a. tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that meets all of the requirements for exemption under paragraph 14.
- (2) Paragraph 55 of subsection 5 (1) of the said Act is amended by striking out “and periodicals” in the first line. s. 5 (1),
par. 55,
amended
- (3) Paragraph 68 of subsection 5 (1) of the said Act is repealed and the following substituted therefor: s. 5 (1),
par. 68,
re-enacted
68. tangible personal property that enters directly into and becomes part of real property that is a building or

structure and that, upon completion is owned by the governing board of a public hospital, school or university and used for school, university or hospital purposes, including a nurses' residence, if the cost of such tangible personal property is shown to have been directly and substantially borne by the school, university or public hospital, or the governing board thereof, that owns the building or structure into the construction of which such tangible personal property entered.

s. 22,
amended

- 3.** Section 22 of the said Act is amended by adding thereto the following subsection:

Idem

(2a) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection (2).

s. 45 (2) (d),
(ii, iii),
repealed

- 4.** Subclauses 45 (2) (d) (ii) and (iii) of the said Act are repealed.

Commence-
ment

- 5.**—(1) This Act, except subsection 2 (1), comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) shall be deemed to have come into force on the 20th day of May, 1981.

Short title

- 6.** The short title of this Act is the *Retail Sales Tax Amendment Act, 1981*.







An Act to amend
the Retail Sales Tax Act

1st Reading

May 21st, 1981

2nd Reading

October 19th, 1981

3rd Reading

October 19th, 1981

THE HON. G. L. ASHE
Minister of Revenue

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Race Tracks Tax Act

**THE HON. G. L. ASHE
Minister of Revenue**

EXPLANATORY NOTE

The purpose of the Bill is to increase from 7 per cent to 9 per cent the rate of tax payable on triactor bets at race meetings in Ontario.

The Bill provides that the Minister of Revenue may grant exemption from the application of the additional 2 per cent tax in respect of triactor bets at a race meeting until such time as it is practicable to adapt the pari-mutuel betting system in use at the meeting to take into account the new rate of tax.

An Act to amend The Race Tracks Tax 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 2 of *The Race Tracks Tax Act*, being chapter 397 of the Revised Statutes of Ontario, 1970, are repealed ^{s. 2 (1, 2), re-enacted} and the following substituted therefor:

(1) Every holder of a winning ticket issued under the pari-mutuel system upon a race run at a race meeting shall pay a tax, ^{Tax on bets}

- (a) at the rate of 9 per cent in the case of a triactor bet or wager; and
- (b) at the rate of 7 per cent in the case of all other bets or wagers,

upon the amount that would be payable to him if no percentage were deducted or retained by the person holding the race meeting in respect of such race.

(2) The tax shall be collected by the person holding the race meeting as the agent of the Treasurer by deducting from the total amount bet or wagered upon such race a sum equal to, ^{Collection}

- (a) 9 per cent of the total amount bet or wagered on a triactor bet; and
- (b) 7 per cent of the total amount bet or wagered otherwise than on a triactor bet,

and the sums so deducted shall be paid over to the Treasurer at the close of each day's racing.

- 2.—(1) Section 10 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 20, section 1, is further amended by ^{s. 10, amended} adding thereto the following clause:

(d) defining the term "triator" and the class or kind of bet or wager to which that term applies.

s. 10,
amended

(2) The said section 10 is further amended by adding thereto the following subsection:

Retroactivity

(2) A regulation is, if it so provides, effective with reference to a period before it was filed but not earlier than the 20th day of May, 1981.

Exemption

3. Where the Minister is satisfied that it has not, until some time after the 19th day of May, 1981, proved practicable in any particular case for the person holding a race meeting to adapt the pari-mutuel betting system in use at the race meeting to take into account the tax of 9 per cent provided for herein, the Minister may, by notice in writing to the person holding a race meeting, exempt all persons liable to pay or collect the tax from the amount of the tax in excess of 7 per cent, provided that the exemption shall not be for a period of time longer than that which the Minister considers reasonably necessary to make the adaptation required in any particular case.

Commence-
ment

4. This Act shall be deemed to have come into force on the 20th day of May, 1981.

Short title

5. The short title of this Act is *The Race Tracks Tax Amendment Act, 1981*.







An Act to amend
The Race Tracks Tax Act

1st Reading

May 21st, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(*Government Bill*)

BILL 81

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Race Tracks Tax Act

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 81

1981

An Act to amend The Race Tracks Tax 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 2 of *The Race Tracks Tax Act*, being ^{s. 2 (1, 2), re-enacted} chapter 397 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

(1) Every holder of a winning ticket issued under the pari- ^{Tax on bets} mutuel system upon a race run at a race meeting shall pay a tax,

- (a) at the rate of 9 per cent in the case of a triactor bet or wager; and
- (b) at the rate of 7 per cent in the case of all other bets or wagers,

upon the amount that would be payable to him if no percentage were deducted or retained by the person holding the race meeting in respect of such race.

(2) The tax shall be collected by the person holding the race ^{Collection} meeting as the agent of the Treasurer by deducting from the total amount bet or wagered upon such race a sum equal to,

- (a) 9 per cent of the total amount bet or wagered on a triactor bet; and
- (b) 7 per cent of the total amount bet or wagered otherwise than on a triactor bet,

and the sums so deducted shall be paid over to the Treasurer at the close of each day's racing.

- 2.—(1) Section 10 of the said Act, as amended by the Statutes of ^{s. 10, amended} Ontario, 1972, chapter 20, section 1, is further amended by adding thereto the following clause:

(d) defining the term “tr tractor” and the class or kind of bet or wager to which that term applies.

s. 10,
amended

(2) The said section 10 is further amended by adding thereto the following subsection:

Retroactivity

(2) A regulation is, if it so provides, effective with reference to a period before it was filed but not earlier than the 20th day of May, 1981.

Exemption

3. Where the Minister is satisfied that it has not, until some time after the 19th day of May, 1981, proved practicable in any particular case for the person holding a race meeting to adapt the pari-mutuel betting system in use at the race meeting to take into account the tax of 9 per cent provided for herein, the Minister may, by notice in writing to the person holding a race meeting, exempt all persons liable to pay or collect the tax from the amount of the tax in excess of 7 per cent, provided that the exemption shall not be for a period of time longer than that which the Minister considers reasonably necessary to make the adaptation required in any particular case.

Commence-
ment

4. This Act shall be deemed to have come into force on the 20th day of May, 1981.

Short title

5. The short title of this Act is *The Race Tracks Tax Amendment Act, 1981*.







An Act to amend
The Race Tracks Tax Act

1st Reading

May 21st, 1981

2nd Reading

June 2nd, 1981

3rd Reading

June 12th, 1981

THE HON. G. L. ASHE
Minister of Revenue

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act respecting Insured Services under the Ontario
Health Insurance Plan**

MR. PHILIP

EXPLANATORY NOTE

Self-explanatory.

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BILL 82

1981

An Act respecting Insured Services under the Ontario Health Insurance Plan

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

1. The provision of prostheses and brassieres following a single or double mastectomy, on the prescription of a physician, may be prescribed by the regulations under *The Health Insurance Act, 1972*, as an insured service for the purposes of that Act. Prostheses may be prescribed as insured services 1972, c. 91
2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is *The Insured Health Services Act, 1981*. Short title

An Act respecting Insured Services under
the Ontario Health Insurance Plan

1st Reading

May 22nd, 1981

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Landlord and Tenant Act

MR. BOUDRIA

EXPLANATORY NOTE

The purpose of the Bill is to provide increased protection for tenants residing in a mobile home park who are forced to move from the park by a landlord who requires possession of the park for certain purposes. The Act currently requires the landlord to give the tenant at least 120 days notice before terminating the tenancy agreement. The Bill increases this notice period from 120 days to one year.

BILL 83

1981

An Act to amend The Landlord and Tenant Act

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

1. *The Landlord and Tenant Act*, being chapter 236 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: ^{s. 114a, enacted}

114a.—(1) Notwithstanding section 100, 101, 102, 103, 103a, 103b, or subsection 1 of section 103d, where the landlord of a mobile home park requires possession of residential premises for the purpose of, ^{Termination by landlord for demolition, etc.}

- (a) demolition;
- (b) conversion to any use other than mobile home park;
- (c) repairs or renovations so extensive as to require vacant possession of the premises; or
- (d) cessation of business as a mobile home park,

the landlord may, at any time during the currency of the tenancy agreement, give notice of termination of the tenancy agreement, but the date of termination specified shall not be sooner than one year after the date the notice is given.

(2) Subsections 2 to 6 of section 103d apply with necessary modifications in respect of a notice of termination given under subsection 1 of this section. ^{Application of s. 103d (2-6)}

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
3. The short title of this Act is *The Landlord and Tenant Amendment Act, 1981*. ^{Short title}

An Act to amend
The Landlord and Tenant Act

1st Reading

May 25th, 1981

2nd Reading

3rd Reading

MR. BOUDRIA

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Ministry of Community and Social Services Act**

**THE HON. FRANK DREA
Minister of Community and Social Services**

EXPLANATORY NOTES

SECTION 1. The new subsection makes it clear that a person authorized by a delegation made under subsection 1 of section 4a has the power to sign contracts and enter into agreements that would bind the Crown as if signed or agreed to by the Minister.

SECTION 2. The new section 6a would allow the Lieutenant Governor in Council to make payments for damages or injuries caused by persons in the care or custody or under the control or supervision of the Ministry or for injuries to persons in the care or custody or under the control or supervision of the Ministry. This would also include persons who are Crown wards under *The Child Welfare Act, 1978* or *The Training Schools Act*.

The new section 6b would give the Minister the right to make a claim against a third party to recover benefits paid or provided by the Ministry to a recipient who has a valid claim in law against the third party.

The new section 6c broadens the powers of the Ministry to investigate the financial records of those persons receiving payments under Ministry programs.

The new section 6f would permit certain employees of the Ministry to be designated as commissioners for taking affidavits for the purpose of *The Family Law Reform Act, 1978*.

BILL 84

1981

**An Act to amend
The Ministry of Community and Social Services Act**

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

1. Section 4a of *The Ministry of Community and Social Services Act*, s. 4a, amended being chapter 120 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 95, section 3, is amended by adding thereto the following subsection:

(2) Section 5 of *The Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection 1. Application of R.S.O. 1970, c. 153, s. 5

2. The said Act is amended by adding thereto the following sections: ss. 6a-6c, 6f, enacted

6a. The Lieutenant Governor in Council may, from time to time, direct a payment or payments in such manner and amounts as are determined by the Lieutenant Governor in Council to any person for injury or damage inflicted upon that person by, Payments

(a) any other person who is in the care or custody or under the control or supervision of any employee of the Ministry; or

(b) any other person who is a Crown ward under *The Child Welfare Act, 1978* or *The Training Schools Act*, 1978, c. 85 R.S.O. 1970, c. 467

or for any injury suffered by any person referred to in clause a or b.

6b. Where, as the result of the negligence or other wrongful act or omission of another person, any person suffers a loss for which he receives a benefit from the Ministry, the Minister is subrogated to any right of the person sustaining the loss to recover the cost incurred for a past benefit provided to the person as a result of the loss and the cost that will probably be incurred Subrogation

for future benefits, and the Minister may bring action in his own name or in the name of the person receiving the benefit for the recovery of such costs.

Inspection

6c.—(1) The Minister may designate in writing any person with power to perform an inspection of any book, record or account in respect of any payment made under any Act administered by the Ministry and may require a recipient of such payment to prepare and to submit to such person a financial statement that sets out the details of the disposition of the payment by the recipient.

Regulations,
"recipient"
defined

(2) The Lieutenant Governor in Council may make regulations defining "recipient" for the purposes of this section.

Obstruction
of
inspector

(3) No person shall obstruct the person designated under subsection 1 in the performance of an inspection of any book, record or account or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Offence

(4) Every person who knowingly contravenes subsection 3 and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem,
corporation

(5) Where a corporation is convicted of an offence under subsection 4, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Commissioner
for taking
affidavits
R.S.O. 1970,
c. 72

6f. The Minister may designate an employee or a class or classes of employees of the Ministry to be a commissioner or commissioners for taking affidavits within the meaning of *The Commissioners for Taking Affidavits Act* for the purpose of *The Family Law Reform Act, 1978*.

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 Ministry of Community and Social Services Amendment Act, 1981*.



An Act to amend
The Ministry of Community and
Social Services Act

1st Reading

May 26th, 1981

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Community and Social Services

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
the Ministry of Community and Social Services Act**

THE HON. FRANK DREA
Minister of Community and Social Services

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1. The new subsection makes it clear that a person authorized by a delegation made under subsection (1) of section 5 has the power to sign contracts and enter into agreements that would bind the Crown as if signed or agreed to by the Minister.

SECTION 2. The new section 6a would allow the Lieutenant Governor in Council to make payments for damages or injuries caused by persons in the care or custody or under the control or supervision of the Ministry or for injuries to persons in the care or custody or under the control or supervision of the Ministry. This would also include persons who are Crown wards under the *Child Welfare Act* or the *Training Schools Act*.

The new section 6b would give the Minister the right to make a claim against a third party to recover benefits paid or provided by the Ministry to a recipient who has a valid claim in law against the third party.

The new section 6c broadens the powers of the Ministry to investigate the financial records of those persons receiving payments under Ministry programs.

The new section 6f would permit certain employees of the Ministry to be designated as commissioners for taking affidavits for the purpose of the *Family Law Reform Act*.

BILL 84

1981

An Act to amend the Ministry of Community and Social Services Act

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

1. Section 5 of the *Ministry of Community and Social Services Act*,^{s. 5, amended} being chapter 273 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:
 - (2) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (1).^{Application of R.S.O. 1980, c. 147, s. 6}

2. The said Act is amended by adding thereto the following sections:^{ss. 6a-6c, 6f, enacted}
 - 6a. The Lieutenant Governor in Council may, from time to time, direct a payment or payments in such manner and amounts as are determined by the Lieutenant Governor in Council to any person for injury or damage inflicted upon that person by,^{Payments}
 - (a) any other person who is in the care or custody or under the control or supervision of any employee of the Ministry; or
 - (b) any other person who is a Crown ward under the *Child Welfare Act* or the *Training Schools Act*,^{R.S.O. 1980, cc. 66, 508}

or for any injury suffered by any person referred to in clause (a) or (b).

 - 6b. Where, as the result of the negligence or other wrongful act or omission of another person, any person suffers a loss for which he receives a benefit from the Ministry, the Minister is subrogated to any right of the person sustaining the loss to recover the cost incurred for a past benefit provided to the person as a result of the loss and the cost that will probably be incurred.^{Subrogation}

for future benefits, and the Minister may bring action in his own name or in the name of the person receiving the benefit for the recovery of such costs.

Inspection

6c.—(1) The Minister may designate in writing any person with power to perform an inspection of any book, record or account in respect of any payment made under any Act administered by the Ministry and may require a recipient of such payment to prepare and to submit to such person a financial statement that sets out the details of the disposition of the payment by the recipient.

Regulations,
"recipient"
defined

(2) The Lieutenant Governor in Council may make regulations defining "recipient" for the purposes of this section.

Obstruction
of
inspector

(3) No person shall obstruct the person designated under subsection (1) in the performance of an inspection of any book, record or account or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Offence

(4) Every person who knowingly contravenes subsection (3) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem,
corporation

(5) Where a corporation is convicted of an offence under subsection (4), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Commissioner
for taking
affidavits
R.S.O. 1980,
cc. 75, 152

6f. The Minister may designate an employee or a class or classes of employees of the Ministry to be a commissioner or commissioners for taking affidavits within the meaning of the *Commissioners for Taking Affidavits Act* for the purpose of the *Family Law Reform 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 *Ministry of Community and Social Services Amendment Act, 1981*.







An Act to amend
the Ministry of Community and
Social Services Act

1st Reading

May 26th, 1981

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Community and Social Services

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
the Ministry of Community and Social Services Act**

THE HON. FRANK DREA
Minister of Community and Social Services

*(Reprinted as amended by the Committee of the Whole House and
as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1. The new subsection makes it clear that a person authorized by a delegation made under subsection (1) of section 5 has the power to sign contracts and enter into agreements that would bind the Crown as if signed or agreed to by the Minister.

SECTION 2. The new section 6a would allow the Lieutenant Governor in Council to make payments for damages or injuries caused by persons in the care or custody or under the control or supervision of the Ministry or for injuries to persons in the care or custody or under the control or supervision of the Ministry. This would also include persons who are Crown wards under the *Child Welfare Act* or the *Training Schools Act*.

The new section 6b would give the Minister the right to make a claim against a third party to recover benefits paid or provided by the Ministry to a recipient who has a valid claim in law against the third party.

The new section 6c broadens the powers of the Ministry to investigate the financial records of those persons receiving payments under Ministry programs.

The new section 6f would permit certain employees of the Ministry to be designated as commissioners for taking affidavits for the purpose of the *Family Law Reform Act*.

BILL 84

1981

**An Act to amend
the Ministry of Community and Social Services Act**

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

1. Section 5 of the *Ministry of Community and Social Services Act*, being chapter 273 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:
 - (2) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (1).
2. The said Act is amended by adding thereto the following sections:
 - 6a. The Lieutenant Governor in Council may, from time to time, direct a payment or payments in such manner and amounts as are determined by the Lieutenant Governor in Council to any person for injury or damage inflicted upon that person by,
 - (a) any other person who is in the care or custody or under the control or supervision of any employee of the Ministry; or
 - (b) any other person who is a Crown ward under the *Child Welfare Act* or the *Training Schools Act*,
 or for any injury suffered by any person referred to in clause (a) or (b).
 - 6b. Where, as the result of the negligence or other wrongful act or omission of another person, any person suffers a loss for which he receives a benefit from the Ministry, the Minister is subrogated to any right of the person sustaining the loss to recover the cost incurred for a past benefit provided to the person as a result of the loss and the cost that will probably be incurred

s. 5,
amendedApplication of
R.S.O. 1980,
c. 147, s. 6ss. 6a-6c, 6f,
enacted

Payments

R.S.O. 1980,
cc. 66, 508

Subrogation

for future benefits, and the Minister may bring action in his own name or in the name of the person receiving the benefit for the recovery of such costs.

Inspection

6c.—(1) The Minister may designate in writing any person with power to perform an inspection of any book, record or account in respect of any payment made under any Act administered by the Ministry and may require a recipient of such payment to prepare and to submit to such person a financial statement that sets out the details of the disposition of the payment by the recipient.

Regulations,
"recipient"
defined

(2) The Lieutenant Governor in Council may make regulations defining "recipient" for the purposes of this section.

Obstruction
of
inspector

(3) No person shall obstruct the person designated under subsection (1) in the performance of an inspection of any book, record or account or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Offence

(4) Every person who knowingly contravenes subsection (3) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem,
corporation

(5) Where a corporation is convicted of an offence under subsection (4), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Commissioner
for taking
affidavits
R.S.O. 1980,
cc. 75, 152

6f. The Minister may designate one or more employees of the Ministry to be a commissioner or commissioners for taking affidavits within the meaning of the *Commissioners for Taking Affidavits Act* for the purpose of the *Family Law Reform 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 *Ministry of Community and Social Services Amendment Act, 1981*.







An Act to amend
the Ministry of Community and
Social Services Act

1st Reading

May 26th, 1981

2nd Reading

October 13th, 1981

3rd Reading

THE HON. FRANK DREA
Minister of Community and Social Services

*(Reprinted as amend by the
Committee of the Whole House and
as revised by Legislative Counsel
having reference to the Revised Statutes
of Ontario, 1980)*

BILL 84

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
the Ministry of Community and Social Services Act**

THE HON. FRANK DREA
Minister of Community and Social Services



BILL 84

1981

**An Act to amend
the Ministry of Community and Social Services Act**

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

1. Section 5 of the *Ministry of Community and Social Services Act*, being chapter 273 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 5,
amended

(2) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (1). Application of
R.S.O. 1980,
c. 147, s. 6

2. The said Act is amended by adding thereto the following sections: ss. 6a-6c, 6f,
enacted

6a. The Lieutenant Governor in Council may, from time to time, direct a payment or payments in such manner and amounts as are determined by the Lieutenant Governor in Council to any person for injury or damage inflicted upon that person by, Payments

(a) any other person who is in the care or custody or under the control or supervision of any employee of the Ministry; or

(b) any other person who is a Crown ward under the *Child Welfare Act* or the *Training Schools Act*, R.S.O. 1980,
cc. 66, 508

or for any injury suffered by any person referred to in clause (a) or (b).

6b. Where, as the result of the negligence or other wrongful act or omission of another person, any person suffers a loss for which he receives a benefit from the Ministry, the Minister is subrogated to any right of the person sustaining the loss to recover the cost incurred for a past benefit provided to the person as a result of the loss and the cost that will probably be incurred Subrogation

for future benefits, and the Minister may bring action in his own name or in the name of the person receiving the benefit for the recovery of such costs.

Inspection

6c.—(1) The Minister may designate in writing any person with power to perform an inspection of any book, record or account in respect of any payment made under any Act administered by the Ministry and may require a recipient of such payment to prepare and to submit to such person a financial statement that sets out the details of the disposition of the payment by the recipient.

Regulations,
"recipient"
defined

(2) The Lieutenant Governor in Council may make regulations defining "recipient" for the purposes of this section.

Obstruction
of
inspector

(3) No person shall obstruct the person designated under subsection (1) in the performance of an inspection of any book, record or account or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Offence

(4) Every person who knowingly contravenes subsection (3) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem,
corporation

(5) Where a corporation is convicted of an offence under subsection (4), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Commissioner
for taking
affidavits
R.S.O. 1980,
cc. 75, 152

6f. The Minister may designate one or more employees of the Ministry to be a commissioner or commissioners for taking affidavits within the meaning of the *Commissioners for Taking Affidavits Act* for the purpose of the *Family Law Reform 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 *Ministry of Community and Social Services Amendment Act, 1981*.





An Act to amend
the Ministry of Community and
Social Services Act

1st Reading

May 26th, 1981

2nd Reading

October 13th, 1981

3rd Reading

October 26th, 1981

THE HON. FRANK DREA
Minister of Community and Social Services

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Planning Act

THE HON. C. BENNETT
Minister of Housing

EXPLANATORY NOTES

SECTION 1. Section 29 of the Act prohibits, subject to certain exceptions, the conveyance of land unless a consent is given by the appropriate committee of adjustment or land division committee or, in certain cases, the Minister. Subsection 5g proposed to be added provides that an order for the partition of land made under *The Partition Act* does not have effect in those cases where the land described in the order could not, under section 29, be conveyed without a consent unless a consent is then given to the order.

The new subsection 5h exempts from the operation of section 29 of the Act agreements made under section 2 of *The Drainage Act, 1975*. The effect is that easements may be granted in furtherance of mutual agreement drains without the necessity of obtaining a consent where a consent would otherwise be required under section 29.

SECTION 2. The section to be repealed reads as follows:

- 33a.—(1) *Where an action or proceeding for the partition of land is brought under The Partition Act, notice shall be given to the Minister.*
- (2) *The notice shall include a copy of the application for the partition of land and shall state the day on which the matter is to be heard, and, subject to the rules of court, shall be served not less than ten days before the day of the hearing.*
- (3) *The Minister is entitled as of right to be heard either in person or by counsel notwithstanding that the Crown is not a party to the action or proceeding.*
- (4) *Where the Minister appears in person or by counsel, the Minister shall be deemed to be a party to the action or proceeding for the purpose of an appeal and has the same rights with respect to an appeal as any other party to the action or proceeding.*

The new subsection 5g to section 29 proposed by section 1 of the Bill replaces this provision.

SECTION 3.—Subsection 1. The re-enactment of the subsection is complementary to section 1 of the Bill: clause *b* empowers a committee to give the consent mentioned in respect of an order made under *The Partition Act*.

BILL 85

1981

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 29 of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 2, section 1, 1972, chapter 118, section 3, 1973, chapter 168, section 6, 1974, chapter 53, section 4, 1976, chapter 38, section 2 and 1978, chapter 93, section 2, is further amended by adding thereto the following subsections:

(5g) No order made under *The Partition Act* for the partition of land shall have any effect in law unless, s. 29, amended
Order made under R.S.O. 1970, c. 338

(a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or

(b) a consent is given to the order.

(5h) This section does not apply to an agreement entered into under section 2 of *The Drainage Act, 1975*. Exception 1975, c. 79

2. Section 33a of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 93, section 5, is repealed. s. 33a, repealed

- 3.—(1) Subsection 3 of section 42 of the said Act is repealed and the following substituted therefor: s. 42 (3), re-enacted

(3) In addition to its powers under subsections 1 and 2 and subject to section 30, the committee, upon the application of, Power of committee to give consent

(a) the owner of any land or any person authorized in writing by such owner; or

(b) any person interested in any part of land that is affected by an order made under *The Partition Act*, as mentioned in subsection 5g of section 29, R.S.O. 1970, c. 338

may, notwithstanding any other Act, give a consent as mentioned in section 29, provided that the committee is satisfied that a plan of subdivision under section 33 of the land described in the application is not necessary for the proper and orderly development of the municipality.

s. 42 (6),
amended

(2) Subsection 6 of the said section 42, as amended by the Statutes of Ontario, 1971, chapter 2, section 5, is further amended by striking out "\$50" in the fourth line as inserted by the 1971 amendment and inserting in lieu thereof "\$100".

s. 42 (16),
amended

(3) Subsection 16 of the said section 42 is amended by adding at the end thereof "and there is no right to file a petition under section 94 of *The Ontario Municipal Board Act* in respect of the matter".

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, 1981*.

Subsection 2. The maximum fee that may be charged by a committee of adjustment in connection with an application made to it is increased from \$50 to \$100.

Subsection 3. Section 94 of *The Ontario Municipal Board Act* provides for a petition to the Lieutenant Governor in Council in respect of any order or decision of the Board; the effect of the amendment is to withdraw that right in the case of a decision or order of the Board made on an appeal to the Board from a decision of a committee of adjustment or of a land division committee.

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An Act to amend
The Planning Act

1st Reading

May 28th, 1981

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Housing

(Government Bill)

BILL 85

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Planning Act

THE HON. C. BENNETT
Minister of Housing

BILL 85

1981

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 29 of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 2, section 1, 1972, chapter 118, section 3, 1973, chapter 168, section 6, 1974, chapter 53, section 4, 1976, chapter 38, section 2 and 1978, chapter 93, section 2, is further amended by adding thereto the following subsections:
 - (5g) No order made under *The Partition Act* for the partition of land shall have any effect in law unless,
 - (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or
 - (b) a consent is given to the order.
 - (5h) This section does not apply to an agreement entered into under section 2 of *The Drainage Act, 1975*.
2. Section 33a of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 93, section 5, is repealed.
- 3.—(1) Subsection 3 of section 42 of the said Act is repealed and the following substituted therefor:
 - (3) In addition to its powers under subsections 1 and 2 and subject to section 30, the committee, upon the application of,
 - (a) the owner of any land or any person authorized in writing by such owner; or
 - (b) any person interested in any part of land that is affected by an order made under *The Partition Act*, as mentioned in subsection 5g of section 29,

s. 29,
amendedOrder made
under
R.S.O. 1970,
c. 338Exception
1975, c. 79s. 33a,
repealeds. 42 (3),
re-enactedPower of
committee
to give
consentR.S.O. 1970,
c. 338

may, notwithstanding any other Act, give a consent as mentioned in section 29, provided that the committee is satisfied that a plan of subdivision under section 33 of the land described in the application is not necessary for the proper and orderly development of the municipality.

s. 42 (6),
amended

(2) Subsection 6 of the said section 42, as amended by the Statutes of Ontario, 1971, chapter 2, section 5, is further amended by striking out "\$50" in the fourth line as inserted by the 1971 amendment and inserting in lieu thereof "\$100".

s. 42 (16),
amended

(3) Subsection 16 of the said section 42 is amended by adding at the end thereof "and there is no right to file a petition under section 94 of *The Ontario Municipal Board Act* in respect of the matter".

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, 1981*.



An Act to amend
The Planning Act

1st Reading

May 28th, 1981

2nd Reading

June 26th, 1981

3rd Reading

June 26th, 1981

THE HON. C. BENNETT
Minister of Housing

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Power Corporation Act

THE HON. R. WELCH
Minister of Energy

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “energy conservation program” is self-explanatory. The definition of “heat energy” is related to new sections 58c to 58f of the Act as set out in this Bill.

Subsection 2. The definition of “power” is re-enacted. The definition in the Act is as follows:

“power” includes electrical, pneumatic, hydraulic, mechanical, nuclear, steam, gas or other power and also includes energy.

SECTION 2. Section 17 of the Act requires that the sums described in the section be set apart annually as a sinking fund. The amendment adds a requirement in respect of revenue from the sale of heat energy.

SECTION 3. Section 58 of the Act specifies the purposes and business of the Corporation (Ontario Hydro). New section 58a is added to the Act to state that the purposes and business include the provision of an energy conservation program. Subsection 2 of section 58a sets out the purpose of the program, subsection 3 describes the content of the program and subsection 4 provides for additional services as part of the program.

New section 58b of the Act authorizes the Corporation to make loans as part of the energy conservation program.

An Act to amend The Power Corporation Act

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

- 1.—(1) Section 1 of *The Power Corporation Act*, being chapter 354 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 57, section 3, is further amended by adding thereto the following clauses: s. 1, amended
- (cc) “energy conservation program” means an energy conservation program under sections 58a and 58b;
- (cd) “heat energy” means energy that is conveyed in the medium of steam, hot water or hot air and that is produced for sale.
- (2) Clause *f* of the said section 1 is repealed and the following substituted therefor: s. 1 (f), re-enacted
- (f) “power” means electrical power and includes electrical energy.
2. Section 17 of the said Act is amended by adding thereto the following clause: s. 17, amended
- (ba) such sums as are appropriated by the Corporation for sinking fund purposes out of the revenues received from the sale of heat energy.
3. The said Act is amended by adding thereto the following sections: ss. 58a, 58b, enacted
- 58a.—(1) The purposes and business of the Corporation include the provision of energy conservation programs. Energy conservation program
- (2) The purpose of an energy conservation program is to encourage the safe and efficient use and the conservation of all forms of energy. Purpose of program
- (3) An energy conservation program may provide information, advice and inspection services in respect of the use of all Content of program

forms of energy and may include, but is not limited to, the following:

1. The safe use of electrical energy.
2. The improvement of a system for the use of electrical energy in a building.
3. The conversion of a space heating system to one based in whole or in part on the use of electrical energy.
4. The improvement of the capacity of a building to retain heat.

Additional services

(4) An energy conservation program may provide any other service related to the purposes of the program that is considered necessary or advisable from time to time.

Loans for energy conservation

58b.—(1) As part of an energy conservation program, the Corporation may loan such money as the Corporation determines in order to assist in the doing of work or the acquisition and installation of equipment and material in accordance with the energy conservation program.

Terms and conditions

(2) A loan under this section may be made upon such terms and conditions, including terms and conditions in respect of certification of work, security, repayment, costs of recovery and interest, as the Corporation determines.

Conversion of heating system

(3) The Corporation shall not loan money under this section to assist in the conversion of a space heating system to a system other than one based in whole or in part on the use of electrical energy.

ss. 58c-58f, enacted

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

Heat energy

58c. The purposes and business of the Corporation include the production, sale, supply and delivery of heat energy.

Production, sale, supply and delivery of heat energy

58d. The Corporation, with the approval of the Lieutenant Governor in Council, may,

- (a) use any of its works to produce heat energy, by the use of any fuel, whether alone or in addition to or in lieu of the use of the works to produce power;
- (b) acquire, construct, maintain and operate equipment, facilities and works for the production, supply and delivery of heat energy; and

SECTION 4. Section 58c is added to the Act to enlarge the purposes and business of the Corporation to include the production, sale, supply and delivery of heat energy.

Section 58d provides for the Corporation to act with the approval of the Lieutenant Governor in Council in matters related to heat energy.

Section 58e authorizes the Corporation to acquire lands to carry out an act approved by the Lieutenant Governor in Council under section 58d.

Section 73 of the Act relates to interruptions in the delivery of power. Section 58f states that section 73 will also apply in respect of heat energy.

SECTION 5. Subsection 4 of section 59 of the Act relates to research, development and other work for the production, sale, supply or use of power. The amendment adds to the term "power" in the subsection "or of any source of energy".

SECTION 6. New section 74a is added to the Act to provide for recovery in the event of default in repayment of loans made as part of the energy conservation program.

(c) sell, supply and deliver heat energy to a municipal corporation, municipal commission or any other person.

58e. The Corporation may acquire lands by purchase, lease, expropriation or other means for the purpose of carrying out an act approved by the Lieutenant Governor in Council under section 58d. Acquisition of lands re heat energy

58f. Section 73 applies with necessary modifications in respect of the sale, supply and delivery of heat energy and, for the purpose, heat energy shall be deemed to be power. Application of s. 73

5. Subsection 4 of section 59 of the said Act is amended by inserting after "power" in the fifth line "or of any source of energy". s. 59 (4), amended

6. The said Act is further amended by adding thereto the following section: s. 74a, enacted

74a.—(1) Moneys owing to the Corporation in respect of a loan made to the owner of real property as part of an energy conservation program are a lien and charge upon the real property. Recovery of unpaid energy conservation loan

(2) Where the moneys are not paid to the Corporation in accordance with the terms and conditions of the loan, the Corporation may transmit to the clerk of the municipality in which the real property is situate a statement setting out, Statement to clerk of municipality

(a) the amount owing in respect of the loan;

(b) the name of the owner of the property;

(c) the location of the property; and

(d) that the statement is transmitted under this section.

(3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal taxes on land, and upon collection the amount and the interest collected thereon shall be paid over to the Corporation. Collection

(4) The duty and power under subsection 3 to collect the amount entered in the collector's roll includes, without limiting any other power, the power to sell the real property and to collect interest and costs by the same procedure as for arrears of taxes. Sale of realty

(5) Where a mortgage or lease of the real property is registered in the proper land registry office before the amount owing to the Corporation is entered in the collector's roll, the lien and charge Mortgage or lease

of the Corporation rank after advances actually made under the mortgage and after rent accrued due under the lease before the amount is entered.

Termination
of supply
of power

(6) The Corporation shall not terminate the supply of power to a customer for the purpose or as a means of enforcing repayment of a loan made as part of an energy conservation program.

s. 76,
amended

7. Section 76 of the said Act is amended by adding thereto the following clause:

(aa) the cost of an energy conservation program.

s. 96a,
enacted

8. The said Act is further amended by adding thereto the following section:

96a. The cost of an energy conservation program to a municipal corporation or municipal commission shall be deemed to be a current operating expense of the municipal corporation or municipal commission.

Energy
conservation
program
is current
operating
cost

COMPLEMENTARY AMENDMENT

R.S.O. 1970,
c. 390, s. 18a,
enacted

9. *The Public Utilities Act*, being chapter 390 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

18a.—(1) In this section, “energy conservation program” has the same meaning as in *The Power Corporation Act*.

Interpre-
tation
R.S.O. 1970,
c. 354

(2) The corporation of a municipality, as principal or as agent for Ontario Hydro, may provide, arrange for or participate in the provision of an energy conservation program in the municipality.

Energy
conservation
program

Limitation

(3) Subsection 2 does not apply to authorize the corporation of a municipality to loan money out of its own funds as part of an energy conservation program.

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 Power Corporation Amendment Act, 1981*.

SECTION 7. Section 76 of the Act sets out the items to be included in the price payable for power by a municipal corporation to the Corporation. The section is amended to include the municipal corporation's proportion of the cost of the energy conservation program to the Corporation.

SECTION 8. Self-explanatory.

SECTION 9. Section 18a is added to *The Public Utilities Act* to authorize a municipal corporation to participate with Ontario Hydro in the provision of an energy conservation program.



An Act to amend
The Power Corporation Act

1st Reading

May 28th, 1981

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Energy

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Power Corporation Act

THE HON. R. WELCH
Minister of Energy

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

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “energy conservation program” is self-explanatory. The definition of “heat energy” is related to new sections 58c to 58f of the Act as set out in this Bill.

Subsection 2. The definition of “power” is re-enacted. The definition in the Act is as follows:

“power” includes electrical, pneumatic, hydraulic, mechanical, nuclear, steam, gas or other power and also includes energy.

SECTION 2. Section 17 of the Act requires that the sums described in the section be set apart annually as a sinking fund. The amendment adds a requirement in respect of revenue from the sale of heat energy.

SECTION 3. Section 58 of the Act specifies the purposes and business of the Corporation (Ontario Hydro). New section 58a is added to the Act to state that the purposes and business include the provision of an energy conservation program. Subsection 2 of section 58a sets out the purpose of the program, subsection 3 describes the content of the program and subsection 4 provides for additional services as part of the program.

New section 58b of the Act authorizes the Corporation to make loans as part of the energy conservation program.

An Act to amend The Power Corporation Act

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

- 1.—(1) Section 1 of *The Power Corporation Act*, being chapter 354 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 57, section 3, is further amended by adding thereto the following clauses: s. 1,
amended

(cc) “energy conservation program” means an energy conservation program under sections 58a and 58b;

(cd) “heat energy” means energy that is conveyed in the medium of steam, hot water or hot air and that is produced for sale.

- (2) Clause *f* of the said section 1 is repealed and the following substituted therefor: s. 1 (f),
re-enacted

(f) “power” means electrical power and includes electrical energy.

2. Section 17 of the said Act is amended by adding thereto the following clause: s. 17,
amended

(ba) such sums as are appropriated by the Corporation for sinking fund purposes out of the revenues received from the sale of heat energy.

3. The said Act is amended by adding thereto the following sections: ss. 58a, 58b,
enacted

58a.—(1) The purposes and business of the Corporation include the provision of energy conservation programs. Energy
conservation
program

(2) The purpose of an energy conservation program is to encourage the safe and efficient use and the conservation of all forms of energy. Purpose of
program

(3) An energy conservation program may provide information, advice and inspection services in respect of the use of all Content of
program

forms of energy and may include, but is not limited to, the following:

1. The safe use of electrical energy.
2. The improvement of a system for the use of electrical energy in a building.
3. The conversion of a space heating system to one based in whole or in part on the use of electrical energy.
4. The improvement of the capacity of a building to retain heat.

Additional services

(4) An energy conservation program may provide any other service related to the purposes of the program that is considered necessary or advisable from time to time.

Loans for energy conservation

58b.—(1) As part of an energy conservation program, the Corporation may loan such money as the Corporation determines in order to assist in the doing of work or the acquisition and installation of equipment and material in accordance with the energy conservation program.

Terms and conditions

(2) A loan under this section may be made upon such terms and conditions, including terms and conditions in respect of certification of work, security, repayment, costs of recovery and interest, as the Corporation determines.

Conversion of heating system

(3) The Corporation shall not loan money under this section to assist in the conversion of a space heating system to a system other than one based in whole or in part on the use of electrical energy.

ss. 58c-58f, enacted

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

Heat energy

58c. The purposes and business of the Corporation include the production, sale, supply and delivery of heat energy.

Production, sale, supply and delivery of heat energy

58d. The Corporation, with the approval of the Lieutenant Governor in Council, may,

- (a) use any of its works to produce heat energy, by the use of any fuel, whether alone or in addition to or in lieu of the use of the works to produce power;
- (b) acquire, construct, maintain and operate equipment, facilities and works for the production, supply and delivery of heat energy; and

SECTION 4. Section 58c is added to the Act to enlarge the purposes and business of the Corporation to include the production, sale, supply and delivery of heat energy.

Section 58d provides for the Corporation to act with the approval of the Lieutenant Governor in Council in matters related to heat energy.

Section 58e authorizes the Corporation to acquire lands to carry out an act approved by the Lieutenant Governor in Council under section 58d.

Section 73 of the Act relates to interruptions in the delivery of power. Section 58f states that section 73 will also apply in respect of heat energy.

SECTION 5. Subsection 4 of section 59 of the Act relates to research, development and other work for the production, sale, supply or use of power. The amendment adds to the term "power" in the subsection "or of any source of energy".

SECTION 6. New section 74a is added to the Act to provide for recovery in the event of default in repayment of loans made as part of the energy conservation program.

(c) sell, supply and deliver heat energy to a municipal corporation, municipal commission or any other person.

58e. The Corporation may acquire lands by purchase, lease, expropriation or other means for the purpose of carrying out an act approved by the Lieutenant Governor in Council under section 58d.

Acquisition of lands re heat energy

58f. Section 73 applies with necessary modifications in respect of the sale, supply and delivery of heat energy and, for the purpose, heat energy shall be deemed to be power.

Application of s. 73

5. Subsection 4 of section 59 of the said Act is amended by inserting after "power" in the fifth line "or of any source of energy".

s. 59 (4), amended

6. The said Act is further amended by adding thereto the following section:

s. 74a, enacted

74a.—(1) Where moneys are owing to the Corporation in respect of a loan made to the owner of real property as part of an energy conservation program, the Corporation may register in the proper land registry office a certificate setting out,

Registration of certificate as to unpaid energy conservation loan

- (a) the amount owing in respect of the loan, including the rate of interest thereon;
- (b) the name of the owner of the real property;
- (c) a description of the real property sufficient for registration; and
- (d) that the certificate is registered under this section.

(2) Upon the registration of a certificate under subsection 1, the amount owing and interest at the rate set out in the certificate are a lien and charge upon the real property.

Lien

(3) Where a certificate has been registered under subsection 1 and the moneys owing to the Corporation, as set out in the certificate, are not paid in accordance with the terms and conditions of the loan, the Corporation may transmit to the clerk of the municipality in which the real property is situate a statement setting out the information contained in the certificate and the registration number of the certificate.

Statement to clerk of municipality

(4) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected by the same procedure as municipal taxes on land, and upon collection the amount and the interest collected thereon shall be paid over to the Corporation.

Collection

Sale of
reality

(5) The duty and power under subsection 4 to collect the amount entered in the collector's roll includes, without limiting any other power, the power to sell the real property and to collect interest and costs by the same procedure as for arrears of taxes.

Certificate
as to
payment

(6) Upon repayment of the moneys owing to the Corporation, including interest, as set out in the certificate, the Corporation upon request shall transmit to the owner of the real property a certificate sufficient for registration showing the repayment.

Discharge
of lien

(7) The lien is discharged by the registration of the certificate of the Corporation showing the repayment of the moneys owing to the Corporation.

Termination
of supply
of power

(8) The Corporation shall not terminate the supply of power to a customer for the purpose or as a means of enforcing repayment of a loan made as part of an energy conservation program.

s. 76,
amended

7. Section 76 of the said Act is amended by adding thereto the following clause:

(aa) the cost of an energy conservation program.

s. 96a,
enacted

8. The said Act is further amended by adding thereto the following section:

96a. The cost of an energy conservation program to a municipal corporation or municipal commission shall be deemed to be a current operating expense of the municipal corporation or municipal commission.

Energy
conservation
program
is current
operating
cost

COMPLEMENTARY AMENDMENT

R.S.O. 1970,
c. 390, s. 18a,
enacted

9. *The Public Utilities Act*, being chapter 390 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

18a.—(1) In this section, "energy conservation program" has the same meaning as in *The Power Corporation Act*.

Interpre-
tation
R.S.O. 1970,
c. 354

(2) The corporation of a municipality, as principal or as agent for Ontario Hydro, may provide, arrange for or participate in the provision of an energy conservation program in the municipality.

Energy
conservation
program

Limitation

(3) Subsection 2 does not apply to authorize the corporation of a municipality to loan money out of its own funds as part of an energy conservation program.

Commence-
ment

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

SECTION 7. Section 76 of the Act sets out the items to be included in the price payable for power by a municipal corporation to the Corporation. The section is amended to include the municipal corporation's proportion of the cost of the energy conservation program to the Corporation.

SECTION 8. Self-explanatory.

SECTION 9. Section 18a is added to *The Public Utilities Act* to authorize a municipal corporation to participate with Ontario Hydro in the provision of an energy conservation program.

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11. The short title of this Act is *The Power Corporation Amendment Act, 1981*. Short title

An Act to amend
The Power Corporation Act

1st Reading

May 28th, 1981

2nd Reading

June 16th, 1981

3rd Reading

THE HON. R. WELCH
Minister of Energy

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

BILL 86

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Power Corporation Act

THE HON. R. WELCH
Minister of Energy



An Act to amend The Power Corporation Act

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

- 1.—(1) Section 1 of *The Power Corporation Act*, being chapter 354 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 57, section 3, is further amended by adding thereto the following clauses: s. 1, amended
- (cc) “energy conservation program” means an energy conservation program under sections 58a and 58b;
- (cd) “heat energy” means energy that is conveyed in the medium of steam, hot water or hot air and that is produced for sale.
- (2) Clause *f* of the said section 1 is repealed and the following substituted therefor: s. 1 (f), re-enacted
- (f) “power” means electrical power and includes electrical energy.
2. Section 17 of the said Act is amended by adding thereto the following clause: s. 17, amended
- (ba) such sums as are appropriated by the Corporation for sinking fund purposes out of the revenues received from the sale of heat energy.
3. The said Act is amended by adding thereto the following sections: ss. 58a, 58b, enacted
- 58a.—(1) The purposes and business of the Corporation include the provision of energy conservation programs. Energy conservation program
- (2) The purpose of an energy conservation program is to encourage the safe and efficient use and the conservation of all forms of energy. Purpose of program
- (3) An energy conservation program may provide information, advice and inspection services in respect of the use of all Content of program

forms of energy and may include, but is not limited to, the following:

1. The safe use of electrical energy.
2. The improvement of a system for the use of electrical energy in a building.
3. The conversion of a space heating system to one based in whole or in part on the use of electrical energy.
4. The improvement of the capacity of a building to retain heat.

Additional services

(4) An energy conservation program may provide any other service related to the purposes of the program that is considered necessary or advisable from time to time.

Loans for energy conservation

58b.—(1) As part of an energy conservation program, the Corporation may loan such money as the Corporation determines in order to assist in the doing of work or the acquisition and installation of equipment and material in accordance with the energy conservation program.

Terms and conditions

(2) A loan under this section may be made upon such terms and conditions, including terms and conditions in respect of certification of work, security, repayment, costs of recovery and interest, as the Corporation determines.

Conversion of heating system

(3) The Corporation shall not loan money under this section to assist in the conversion of a space heating system to a system other than one based in whole or in part on the use of electrical energy.

ss. 58c-58f, enacted

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

Heat energy

58c. The purposes and business of the Corporation include the production, sale, supply and delivery of heat energy.

Production, sale, supply and delivery of heat energy

58d. The Corporation, with the approval of the Lieutenant Governor in Council, may,

- (a) use any of its works to produce heat energy, by the use of any fuel, whether alone or in addition to or in lieu of the use of the works to produce power;
- (b) acquire, construct, maintain and operate equipment facilities and works for the production, supply and delivery of heat energy; and

(c) sell, supply and deliver heat energy to a municipal corporation, municipal commission or any other person.

58e. The Corporation may acquire lands by purchase, lease, expropriation or other means for the purpose of carrying out an act approved by the Lieutenant Governor in Council under section 58d. Acquisition of lands re heat energy

58f. Section 73 applies with necessary modifications in respect of the sale, supply and delivery of heat energy and, for the purpose, heat energy shall be deemed to be power. Application of s. 73

5. Subsection 4 of section 59 of the said Act is amended by inserting after "power" in the fifth line "or of any source of energy". s. 59 (4), amended

6. The said Act is further amended by adding thereto the following section: s. 74a, enacted

74a.—(1) Where moneys are owing to the Corporation in respect of a loan made to the owner of real property as part of an energy conservation program, the Corporation may register in the proper land registry office a certificate setting out, Registration of certificate as to unpaid energy conservation loan

(a) the amount owing in respect of the loan, including the rate of interest thereon;

(b) the name of the owner of the real property;

(c) a description of the real property sufficient for registration; and

(d) that the certificate is registered under this section.

(2) Upon the registration of a certificate under subsection 1, the amount owing and interest at the rate set out in the certificate are a lien and charge upon the real property. Lien

(3) Where a certificate has been registered under subsection 1 and the moneys owing to the Corporation, as set out in the certificate, are not paid in accordance with the terms and conditions of the loan, the Corporation may transmit to the clerk of the municipality in which the real property is situate a statement setting out the information contained in the certificate and the registration number of the certificate. Statement to clerk of municipality

(4) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected by the same procedure as municipal taxes on land, and upon collection the amount and the interest collected thereon shall be paid over to the Corporation. Collection

Sale of
realty

(5) The duty and power under subsection 4 to collect the amount entered in the collector's roll includes, without limiting any other power, the power to sell the real property and to collect interest and costs by the same procedure as for arrears of taxes.

Certificate
as to
payment

(6) Upon repayment of the moneys owing to the Corporation, including interest, as set out in the certificate, the Corporation upon request shall transmit to the owner of the real property a certificate sufficient for registration showing the repayment.

Discharge
of lien

(7) The lien is discharged by the registration of the certificate of the Corporation showing the repayment of the moneys owing to the Corporation.

Termination
of supply
of power

(8) The Corporation shall not terminate the supply of power to a customer for the purpose or as a means of enforcing repayment of a loan made as part of an energy conservation program.

s. 76,
amended

7. Section 76 of the said Act is amended by adding thereto the following clause:

(aa) the cost of an energy conservation program.

s. 96a,
enacted

8. The said Act is further amended by adding thereto the following section:

96a. The cost of an energy conservation program to a municipal corporation or municipal commission shall be deemed to be a current operating expense of the municipal corporation or municipal commission.

Energy
conservation
program
is current
operating
cost

COMPLEMENTARY AMENDMENT

R.S.O. 1970,
c. 390, s. 18a,
enacted

9. *The Public Utilities Act*, being chapter 390 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

18a.—(1) In this section, "energy conservation program" has the same meaning as in *The Power Corporation Act*.

Interpre-
tation
R.S.O. 1970,
c. 354
Energy
conservation
program

(2) The corporation of a municipality, as principal or as agent for Ontario Hydro, may provide, arrange for or participate in the provision of an energy conservation program in the municipality.

Limitation

(3) Subsection 2 does not apply to authorize the corporation of a municipality to loan money out of its own funds as part of an energy conservation program.

Commence-
ment

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

11. The short title of this Act is *The Power Corporation Amendment Act, 1981*. Short title

An Act to amend
The Power Corporation Act

1st Reading

May 28th, 1981

2nd Reading

June 16th, 1981

3rd Reading

June 26th, 1981

THE HON. R. WELCH
Minister of Energy

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to ensure the Safety of Prescribed Burns in Ontario

MR. VAN HORNE

EXPLANATORY NOTE

The purpose of the Bill is to ensure that prescribed burns are conducted in a safe manner. The Bill provides for the appointment of a Fire Safety Officer who is required to examine each place at which it is intended to set a prescribed burn. Prescribed burns are prohibited unless permission is first obtained from the Fire Safety Officer. The Fire Safety Officer must refuse permission if, in the opinion of the officer, it would not be safe to set the prescribed burn. The Bill contains a provision that extends the application of the Bill to the Crown.

BILL 87

1981

An Act to ensure the Safety of Prescribed Burns 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, "prescribed burn" means a fire that results from the deliberate application of fire to forest fuels in a specified area for silvicultural, wildlife management, sanitary or hazard reduction purposes. Interpretation

2.—(1) There shall be an officer of the Ministry of the Solicitor General, to be known as the Fire Safety Officer, who shall be appointed by the Lieutenant Governor in Council. Fire Safety Officer

(2) The Lieutenant Governor in Council may appoint one or more Deputy Fire Safety Officers who may exercise the powers of the Fire Safety Officer under the authority of or in the absence, illness or incapacity of the Fire Safety Officer. Deputy Fire Safety Officers

3. No person shall set a fire for the purpose of effecting a prescribed burn without having first obtained permission in writing from the Fire Safety Officer, which permission may be limited as to duration and area and may contain such terms and conditions as the Fire Safety Officer considers necessary. Leave to be obtained

4. The Fire Safety Officer, on being requested to set a prescribed burn, shall examine the place at which it is intended to set the fire and the adjacent land and the timber, trees and other property thereon, and he shall refuse the request if, in his opinion, it would not be safe to set a prescribed burn. Inspection by Fire Safety Officer

5. The Fire Safety Officer may, at any time, in the interest of safety extinguish a prescribed burn or order any person in charge or apparently in charge of a prescribed burn to extinguish it. Order to extinguish

6. The permission of a Fire Safety Officer to set a prescribed burn shall not be pleaded or given in evidence in any action for negligently setting a prescribed burn or in mitigation of damages, Leave not to be relied on in actions for negligence

but the absence of such permission is *prima facie* evidence of negligence.

Offence

7. Every person who contravenes section 3 or who fails to comply with an order under section 5 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Application
to Crown

8. This Act binds the Crown.

Commence-
ment

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

Short title

10. The short title of this Act is *The Prescribed Burns Safety Act, 1981*.



An Act to ensure the Safety of
Prescribed Burns in Ontario

1st Reading

May 28th, 1981

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Consumer Protection Act

MR. VAN HORNE

EXPLANATORY NOTE

The purpose of the Bill is to provide protection against the sale of stolen property. The Bill requires persons who deal in used goods to record the name and address of each person from whom they purchase used goods. A dealer in used goods is prohibited from reselling the goods for a period of seven days after the date of purchase. Where the dealer has reason to suspect that the used goods have been stolen, the dealer is under a duty to report the matter to the police.

An Act to amend The Consumer Protection Act

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

1. *The Consumer Protection Act*, being chapter 82 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: ^{s. 46b, enacted}

46b.—(1) In this section, “dealer in used goods” means a person, association of individuals, partnership or corporation that carries on business as a buyer of used goods for the purposes of resale. ^{Interpre-}
^{tation}

(2) Every dealer in used goods shall record each purchase of used goods in a book to be kept by the dealer and shall indicate for each purchase, ^{Record of used goods purchase}

- (a) the day, month and year in which the purchase was made;
- (b) the full name, address and a description of the person selling the used goods reasonably sufficient to identify that person, and where the person selling the used goods states that he is the agent of the owner, the name and address of the owner;
- (c) a description of the goods reasonably sufficient to identify them; and
- (d) the purchase price of the used goods.

(3) Where a dealer has reasonable cause to suspect that used goods have been stolen or otherwise unlawfully obtained, the dealer shall forthwith report the matter to a member of the police force of the municipality in which the dealer carries on business. ^{Where goods suspected to have been stolen}

Waiting period

(4) A dealer shall not offer used goods for sale for at least seven days after the date on which the goods were purchased by the dealer.

Commencement

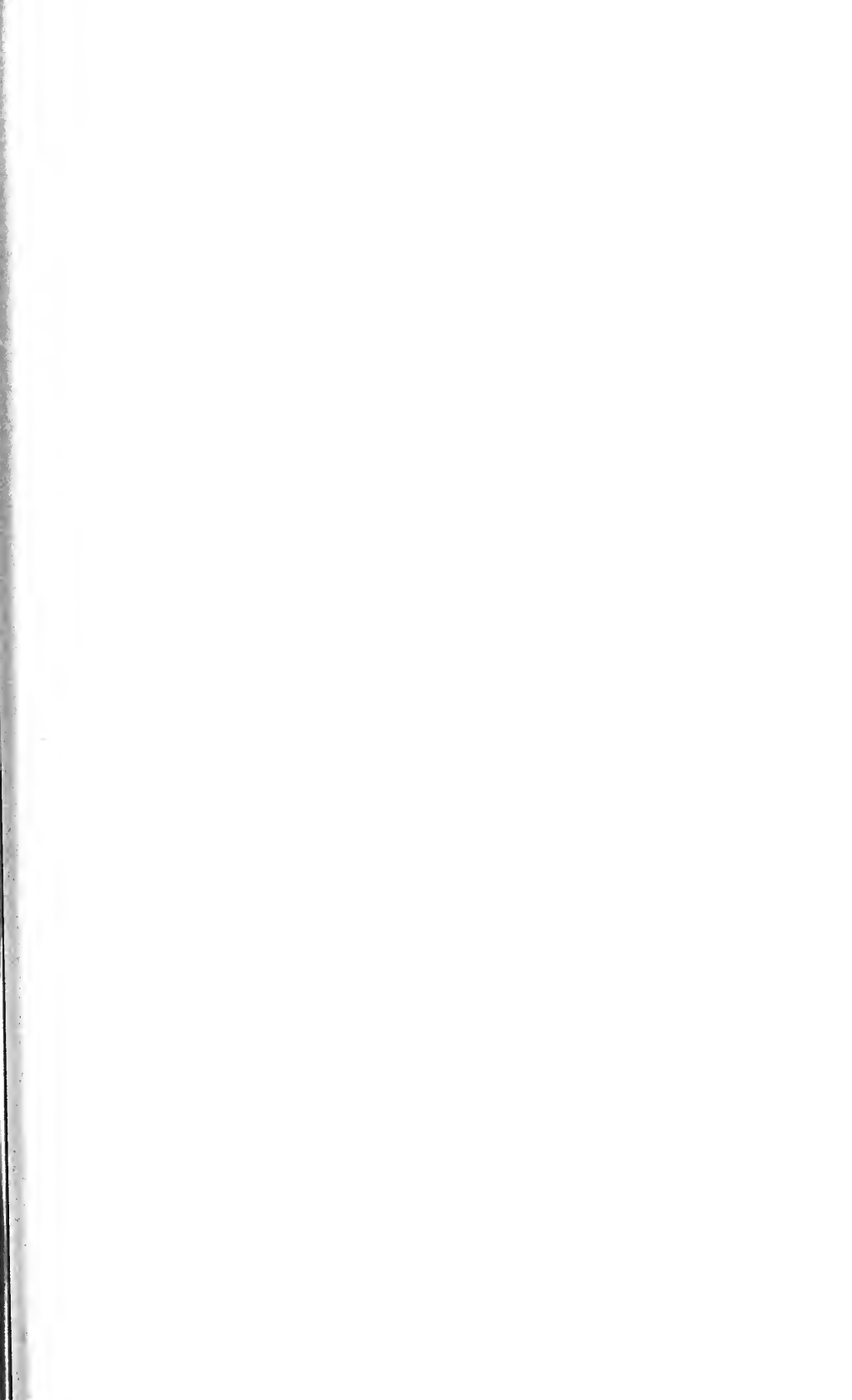
2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Consumer Protection Amendment Act, 1981*.







An Act to amend
The Consumer Protection Act

1st Reading

May 28th, 1981

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to provide for the Consolidation of
Hearings under certain Acts of the Legislature**

**THE HON. K. C. NORTON
Minister of the Environment**

EXPLANATORY NOTES

The Bill provides for a single hearing in respect of an undertaking in place of the hearings under the Acts listed in the Schedule or prescribed by the regulations.

For the purpose of the single hearing, a joint board will be drawn from the members of the Environmental Assessment Board and the Ontario Municipal Board.

Section 3 requires the proponent of an undertaking that would be subject to more than one hearing to give notice to the Hearings Registrar.

Section 4 requires the Hearings Registrar to list the matter for hearing upon receipt of the notice and provides for the formation of the joint board to hold the hearing.

Section 5 provides for the holding of a joint board hearing and the authority of the joint board.

Section 6 provides for the withdrawal or amendment of notice.

Sections 7 to 12 provide for notice of a hearing, the filing of documents, who may be heard at or take part in the proceedings, the sittings of a joint board, expert assistance, stating a case for the opinion of the court, rehearings, who may participate in a decision and who must be given a copy of a decision.

Section 13 provides for an application to the Lieutenant Governor in Council for an order confirming, varying, rescinding or substituting a decision for a decision of a joint board or requiring a new hearing by a joint board.

Section 14 states when a decision of a joint board becomes final and section 15 sets out the effect of a joint board decision.

Section 16 provides for a Hearings Registrar to act as registrar of joint boards.

Section 17 relates to testimony in a civil suit or proceeding by the Hearings Registrar or a member or appointee of a joint board.

Section 18 provides for the disclosure of information that would be permitted in proceedings under the Acts listed in the Schedule or prescribed by the regulations.

Section 19 relates to regulations.

Section 20 prohibits the holding of the hearings replaced by a joint board hearing and section 21 makes it clear that other hearings or proceedings are not prevented.

Section 22 relates to service of notices, orders and other documents.

Section 23 states that this Act binds the Crown.

Section 24 is a transitional provision in respect of hearings commenced before the 1st day of January, 1982 under any Act listed in the Schedule or prescribed by the regulations.

BILL 89

1981

An Act to provide for the Consolidation of Hearings under certain Acts of the Legislature

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) "establishing authority" means the chairmen or vice-chairmen of the Environmental Assessment Board and the Ontario Municipal Board, as provided in section 4;
- (b) "Hearings Registrar" means the Hearings Registrar under this Act;
- (c) "joint board" means a joint board established under this Act;
- (d) "joint board hearing" means a hearing under this Act by a joint board;
- (e) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization;
- (f) "person" includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association; R.S.O. 1970,
c. 100
- (g) "proponent" means a person who carries out or proposes to carry out or is the owner or person having charge, management or control of an undertaking;

- (h) "regulations" means regulations made under this Act;
- (i) "tribunal" means one or more persons, whether or not incorporated and however described, upon whom a power, right or duty to hold a hearing is conferred by or under an Act;
- (j) "undertaking" means an enterprise or activity, or a proposal, plan or program in respect of an enterprise or activity.

Application
of Act

2. This Act applies in respect of an undertaking in relation to which more than one hearing is required or may be required or held by more than one tribunal under one or more of the Acts set out in the Schedule or prescribed by the regulations.

Notice of
undertaking

3.—(1) The proponent of an undertaking to which this Act applies shall give written notice to the Hearings Registrar.

Contents
of notice

(2) A notice under subsection 1 must specify the general nature of the undertaking, the hearings that are required or that may be required or held, and the Acts under which the hearings are required or may be required or held.

Application
to
Divisional
Court

(3) Upon application by originating notice by any person who is or may be affected by an undertaking mentioned in subsection 1, the Divisional Court may order the proponent of the undertaking to give to the Hearings Registrar the written notice required by subsection 1.

Joint board

4.—(1) Upon receipt of notice in accordance with section 3, the Hearings Registrar shall refer the matter to the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board.

Establish-
ment

(2) Where a matter is referred under subsection 1, the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board together by order shall establish the joint board and together shall determine the composition of the joint board.

Idem

(3) Where either of the chairmen mentioned in subsection 2 is unable to act or the office of chairman is vacant, a vice-chairman of the board shall act as and have all the powers of the chairman for the purposes of this Act.

Composition

(4) The joint board shall be composed of one or more members of either or both of the Environmental Assessment Board and the Ontario Municipal Board.

(5) The establishing authority may change the composition of a joint board that has not commenced to hold a hearing. Change of composition

(6) The establishing authority by order, Appointment of members, chairman and vice-chairman

(a) shall appoint the members of the joint board; and

(b) shall appoint the chairman and may appoint a vice-chairman of the joint board from the members of the joint board.

(7) Where the chairman of a joint board is absent or unable to act or the office of chairman is vacant, the vice-chairman of the joint board shall act as and have all the powers of the chairman. Authority of vice-chairman

(8) Where a joint board commences to hold a hearing under this Act and the term of office on the Environmental Assessment Board or the Ontario Municipal Board of a member sitting for the joint hearing expires or is terminated before the proceeding is disposed of, the member shall remain a member of the joint board for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of membership

(9) A majority of the members of a joint board constitutes a quorum of the joint board, but where a vacancy occurs in the membership of a joint board the establishing authority by order, Quorum

(a) may confirm the existence of the vacancy; and

(b) may establish the number of members that constitute a quorum of the joint board.

(10) The decision of a majority of the members of a joint board presiding at a hearing is the decision of the joint board. Decision

(11) The joint board has the authority and the duty, Powers of joint board

(a) to hold a hearing in respect of and to consider the matters that could be considered at the hearings specified in the notice to the Hearings Registrar under section 3; and

(b) to make and issue a decision in respect of matters considered by the joint board.

5.—(1) The joint board shall appoint a time and place for and shall hold a public hearing in respect of the matters in relation to which a hearing is required or may be required or held as specified in the notice to the Hearings Registrar under section 3. Hearing

- Decision (2) The joint board may make any decision that might be made by a tribunal that has a power, right or duty to hold a hearing in respect of which the joint board hearing was held or that might be made by any body or person after the holding of the hearing including but not limited to the granting of any authority or directing the granting or issuing of a permit or licence and the imposition of terms and conditions.
- Deferral (3) A joint board may defer any matter or part of any matter,
- (a) to be heard and decided under this Act by the joint board or another joint board at another date; or
 - (b) to be decided by the tribunal, body, or person that, but for this Act, would have a power, right or duty to deal with the matter or part under any Act set out in the Schedule or prescribed by the regulations.
- Idem, terms, etc. (4) Where a joint board defers a matter or part of a matter under subsection 3,
- (a) the joint board may impose such terms and conditions or give such directions, or both, in respect of the proceedings or the matter or part deferred as the joint board considers proper;
 - (b) the joint board may direct that the matter or part deferred be decided without a hearing; and
 - (c) the joint board, tribunal, body or person to whom the matter or part is deferred has power to decide the matter or part in accordance with such terms, conditions and directions.
- Idem, application of Act (5) Where a matter or part of a matter is deferred under subsection 3 to another joint board, this Act applies with necessary modifications in respect of the matter or part and, for the purpose, the matter or part deferred shall be deemed to be an undertaking mentioned in section 3.
- Where hearing not required (6) A joint board may make any decision mentioned in subsection 2 without holding a hearing if the joint board is satisfied that in the circumstances a hearing would not be required or would be dispensed with under the Act specified in the Schedule or prescribed by the regulations that, but for this Act, would apply in respect of the undertaking.
- Withdrawal of notice 6.—(1) A proponent who does not intend to proceed with an undertaking may withdraw the notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing.

(2) Upon application with notice, a joint board that is satisfied Idem that a proponent does not intend to proceed with an undertaking by order may permit the proponent to withdraw the notice given under section 3 in respect of the undertaking, subject to such terms and conditions as the joint board considers proper in the circumstances.

(3) A proponent may amend an incorrect or incomplete notice Amendment of notice by proponent given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing.

(4) A joint board may amend a notice given under section 3 on Amendment of notice by joint board motion by a person entitled to take part in the proceedings or on its own initiative after the commencement of the joint board hearing and in so doing may impose such terms and conditions and give such directions as the joint board considers proper.

7.—(1) Subject to subsection 2 and to any rule of conduct or Notices and filing of documents practice or procedure prescribed by the regulations, the notices and the documents that would be required to be given or filed in respect of a hearing by a tribunal shall be given or filed, as the case may be, in the same manner in respect of the joint board hearing by the joint board established in respect of the hearing.

(2) Upon application without notice, a joint board may Modification of requirements change the requirements as to filing of documents or giving of notice in respect of any hearing in respect of which the joint board has been established if the joint board is satisfied that the change will facilitate the joint board hearing and is not unfair to any person entitled to be heard at or to attend the joint board hearing.

(3) Subject to this Act and the regulations, a joint board may Practice and procedure determine its own practice and procedure.

(4) A joint board may award the costs of a proceeding before Costs the joint board.

(5) A joint board that awards costs may order by whom and to Payment whom the costs are to be paid.

(6) A joint board that awards costs may fix the amount of the Taxation costs or direct that the amount be taxed, the scale according to which they are to be taxed and by whom they are to be taxed.

8.—(1) A person entitled to be heard at a hearing or to take Parties part in proceedings before a tribunal that has a power, right or duty to hold a hearing in respect of which a joint board has been established has the same entitlement in respect of the proceedings before the joint board.

Ministers
entitled
to take
part in
proceedings

(2) Any minister of the Crown in right of Ontario is entitled, by counsel or otherwise, to take part in proceedings before a joint board.

Joint board
may appoint
class repre-
sentative

(3) For the purpose of proceedings before a joint board, the joint board may appoint from among a class of parties to the proceedings having, in the opinion of the joint board, a common interest, a person to represent that class in the proceedings, but any other member of the class for which such appointment was made may, with the consent of the joint board, take part in the proceedings notwithstanding the appointment.

Additional
parties

(4) A joint board may specify additional persons who shall be parties to proceedings before the joint board.

Sittings

9.—(1) A joint board shall sit at such times and places as the chairman of the joint board may designate and, for the purposes of proceedings before it, the joint board may sit jointly either within or outside Ontario with any tribunal established under the law of another jurisdiction.

Use of
court house

(2) Subject to the needs of the Supreme Court, a joint board has the same right as a judge of the Supreme Court with respect to the use of the court house in a municipality for a sitting of the joint board.

Use of
town hall

(3) Where there is no court house in a municipality but there is a hall in the municipality belonging to the corporation of the municipality, a joint board has the right to use the hall for a sitting of the joint board and the corporation of the municipality shall make all arrangements necessary for the purpose.

Expert
assistance

10. A joint 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 joint board and to assist the joint board in any capacity in respect of any matter before it.

Stating
case for
opinion

11.—(1) A joint board may state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the joint board, is a question of law.

Action
thereon

(2) The Divisional Court shall hear and determine the stated case and remit it to the joint board with the opinion of the Divisional Court thereon.

Rehearing

12.—(1) A joint board may rehear all or part of any matter before issuing its decision in the proceedings before it.

Amendment
of decision

(2) Upon application, the establishing authority may re-establish a joint board where the establishing authority is of the opin-

ion that part of the decision of the joint board requires clarification, and the re-established joint board may amend its decision in order to clarify the part and may rehear any part of the matter it considers necessary before making the amendment.

(3) No member of a joint board shall participate in a decision of the joint board following upon a joint board hearing unless he was present throughout the joint board hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(4) A joint board shall give a copy of its decision and written reasons therefor to, Giving of decision

(a) the proponent;

(b) any person appointed under subsection 3 of section 8 to represent a class of parties to the proceedings; and

(c) any other party to the proceedings who took part in the proceedings before the joint board;

(d) the member of the Executive Council responsible for the administration of any Act in respect of which the decision is made;

(e) such other persons as the joint board may specify.

(5) In determining the persons, if any, to specify under clause *e* of subsection 4, the joint board shall take into consideration the persons who would have been entitled to notice of a decision by a tribunal or any other body or person that, but for this Act, would have a power, right or duty to hold a hearing or make a decision after a hearing in respect of the undertaking. Idem

13.—(1) Upon application, the Lieutenant Governor in Council by order, Powers of Lieutenant Governor in Council

(a) may confirm, vary or rescind all or any part of a decision of a joint board;

(b) may substitute for the decision of a joint board such decision as the Lieutenant Governor in Council considers appropriate; or

(c) may require a joint board or a different joint board to hold a new hearing as to all or any part of the matters in respect of which the joint board was established.

(2) An application under subsection 1 may be made by any person entitled to be heard at or to take part in proceedings before the joint board. Who may apply

Time for application

(3) An application under subsection 1 must be made within twenty-eight days after the day the decision or amended decision, as the case may be, of the joint board is issued.

Where member unable to act on new hearing

(4) Where the Lieutenant Governor in Council by order requires a joint board to hold a new hearing under this Act and one or more of the members of the joint board is unable to participate in the proceedings, the establishing authority by order shall appoint a member of the Environmental Assessment Board or the Ontario Municipal Board, as the case requires, in the place of the member unable to participate.

New hearing by different joint board

(5) Where the Lieutenant Governor in Council by order requires a different joint board to hold a new hearing under this Act, the establishing authority shall establish the joint board in accordance with section 4 and the joint board shall hold the new hearing in accordance with the order.

When decision final

14. A decision of a joint board becomes final,

- (a) where no application is made to the Lieutenant Governor in Council under section 13, with the expiry of the twenty-eighth day after the issuance of the decision;
- (b) where an application is made to the Lieutenant Governor in Council under section 13 and,
 - (i) the joint board is required to hold a new hearing, when the joint board issues its decision following upon the new hearing, or
 - (ii) the joint board is not required to hold a new hearing, upon the disposition of the application by the Lieutenant Governor in Council.

Effect of joint board hearing and decision

15.—(1) Where a hearing is required or may be required or held under any Act set out in the Schedule or prescribed by the regulations and a joint board makes a decision in respect of the hearing, subject to section 13,

- (a) the joint board decision stands for all purposes in place of the hearing;
- (b) the decision of the joint board stands for all purposes in place of any decision, order or action that is required or may be made or taken by the tribunal that has a power, right or duty to hold the hearing or by any other body or person after the holding of the hearing; and
- (c) no proceedings shall be taken by way of appeal in respect of the hearing or the decision except in accordance with this Act.

(2) An application for judicial review under *The Judicial Review Procedure Act, 1971*, or the bringing of proceedings specified in subsection 1 of section 2 of that Act, is not an appeal within the meaning of clause *c* of subsection 1. Judicial review
1971, c. 48

16.—(1) There shall be a Hearings Registrar appointed by the Lieutenant Governor in Council. Hearings Registrar

(2) The Hearings Registrar is the registrar of each joint board and is responsible for, Duties

(a) assisting in the establishment and operation of each joint board; and

(b) such other duties as may be prescribed by the regulations or assigned to him by or under any other Act.

17. The Hearings Registrar shall not be required and no member or appointee of a joint board shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties as Hearings Registrar or as a member or appointee of the joint board. Testimony
by member
or appointee
of joint
board

18. Where a person is prohibited under any Act set out in the Schedule or prescribed by the regulations from disclosing information but is permitted to disclose the information in or for the purpose of proceedings under that Act, the person may disclose the information in or for the purposes of the proceedings of a joint board under this Act. Disclosure
of
information

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

(a) for the conduct of and governing practice and procedure of joint board proceedings;

(b) prescribing forms and providing for their use;

(c) requiring the payment of fees in respect of proceedings before joint boards and prescribing the amounts thereof;

(d) prescribing any matter referred to in this Act as prescribed by the regulations;

(e) exempting any undertaking or class of undertakings or any hearing or class of hearings from the application of this Act or the regulations or any portion or section of this Act or the regulations, and prescribing conditions that shall apply to any such exemption.

Application of
R.S.O. 1970,
c. 410

(2) *The Regulations Act* does not apply to an order or decision under any other section of this Act.

Hearings
under
certain Acts

20.—(1) Where a proponent of an undertaking gives notice under section 3 to the Hearings Registrar, no person acting under any Act specified in the Schedule or prescribed by the regulations shall hold in respect of the undertaking a hearing specified in the notice or in any amendment to the notice.

Exception
where notice
withdrawn

(2) Subsection 1 does not apply where the notice under section 3 is withdrawn in accordance with section 6.

Other
proceedings

21. Nothing in this Act shall be construed to prevent a hearing or other proceeding under any other Act in respect of any matter not determined in a decision or order under this Act.

Service

22.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by prepaid mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Hearings Registrar.

Idem

(2) Where notice is given or service is made by prepaid mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or 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, order or other document until a later date.

Public
notice

(3) Where a joint board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the joint board may instead of doing so cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the joint board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

Decision
of joint
board

(4) A decision of a joint board shall be deemed to be issued on the day that a copy of the decision is delivered personally or is sent by prepaid mail or is given under subsection 3 to the last of the persons mentioned in subsection 4 of section 12.

Crown

23. This Act binds the Crown.

Transitional

24.—(1) This Act does not apply in respect of an undertaking in relation to which, before a day to be named by proclamation of

the Lieutenant Governor, a hearing has been commenced under an Act set out in the Schedule or prescribed by the regulations.

(2) Notwithstanding subsection 1, the tribunal holding the hearing mentioned in subsection 1, upon application with notice by a party to the proceedings, may order the proponent of the undertaking to give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3. Application and order

(3) Upon the making of the order, this Act applies in respect of the undertaking. Effect of order

(4) Subsection 1 does not apply if the hearing has been completed before the day referred to in subsection 1, whether or not a decision has been made or issued following upon the hearing. Exception

(5) Where a hearing mentioned in subsection 1 has been completed before the date referred to in subsection 1, and more than one further hearing is required or may be required or held under one or more of the Acts set out in the Schedule or prescribed by the regulations, the proponent may give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3. Notice by proponent

(6) Where the proponent of an undertaking gives notice under subsection 5, this Act applies in respect of the undertaking. Effect of notice

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

26. The short title of this Act is *The Consolidated Hearings Act, 1981*. Short title

SCHEDULE

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Expropriations Act, sections 6, 7 and 8

The Municipal Act

The Municipality of Metropolitan Toronto Act, section 65 (4)

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Municipal Board Act

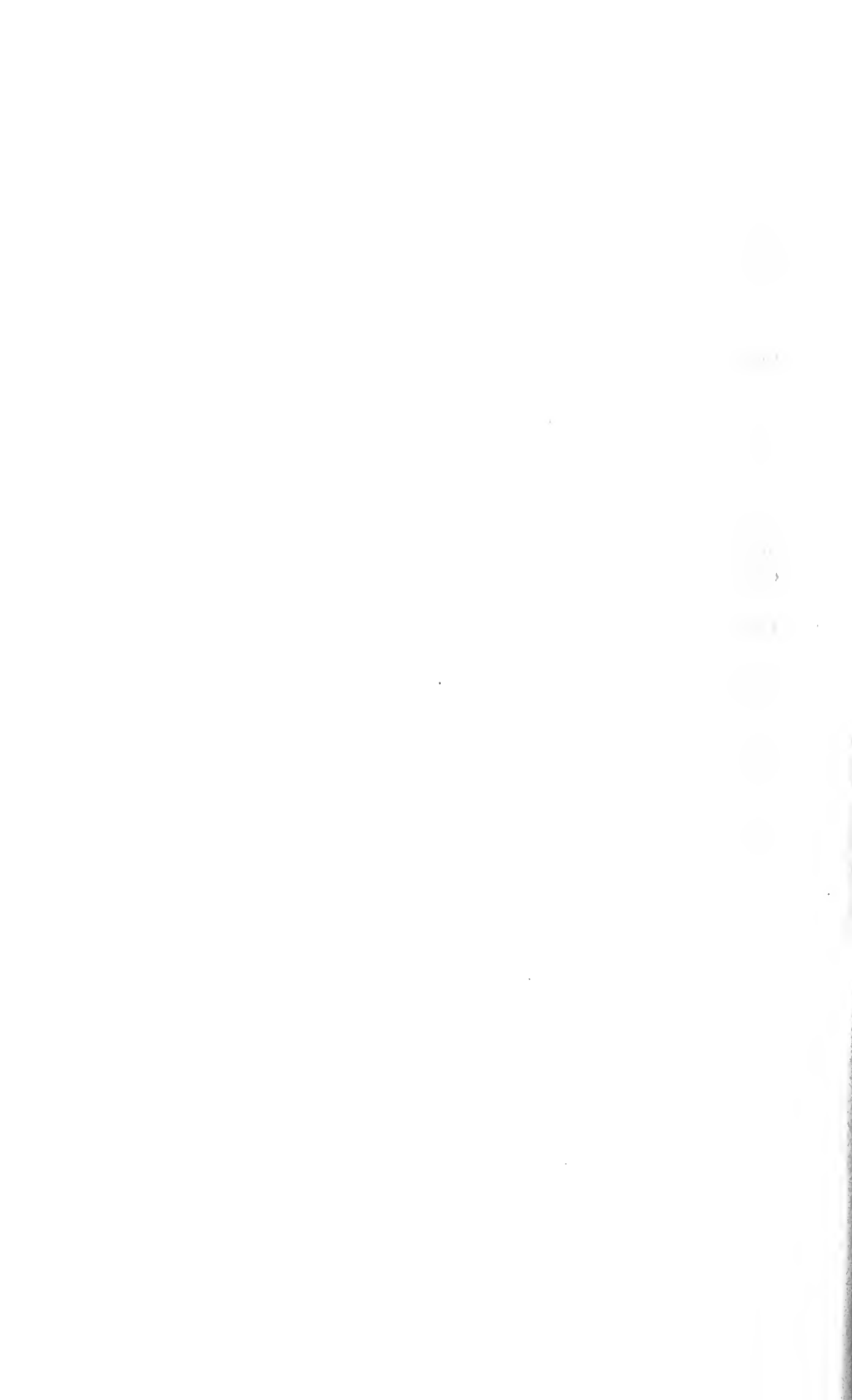
The Ontario Water Resources Act

The Parkway Belt Planning and Development Act, 1973

The Planning Act

The Regional Municipality of Ottawa-Carleton Act, section 140a (9)

The Regional Municipality of York Act, section 166 (3) and (9)



An Act to provide for
the Consolidation of Hearings under
certain Acts of the Legislature

1st Reading

June 1st, 1981

2nd Reading

3rd Reading

THE HON. K. C. NORTON
Minister of the Environment

(Government Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to provide for the Consolidation of
Hearings under certain Acts of the Legislature**

**THE HON. K. C. NORTON
Minister of the Environment**

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill provides for a single hearing in respect of an undertaking in place of the hearings under the Acts listed in the Schedule or prescribed by the regulations.

For the purpose of the single hearing, a joint board will be drawn from the members of the Environmental Assessment Board and the Ontario Municipal Board.

Section 3 requires the proponent of an undertaking that would be subject to more than one hearing to give notice to the Hearings Registrar.

Section 4 requires the Hearings Registrar to list the matter for hearing upon receipt of the notice and provides for the formation of the joint board to hold the hearing.

Section 5 provides for the holding of a joint board hearing and the authority of the joint board.

Section 6 provides for the withdrawal or amendment of notice.

Sections 7 to 12 provide for notice of a hearing, the filing of documents, who may be heard at or take part in the proceedings, the sittings of a joint board, expert assistance, stating a case for the opinion of the court, rehearings, who may participate in a decision and who must be given a copy of a decision.

Section 13 provides for an application to the Lieutenant Governor in Council for an order confirming, varying, rescinding or substituting a decision for a decision of a joint board or requiring a new hearing by a joint board.

Section 14 states when a decision of a joint board becomes final and section 15 sets out the effect of a joint board decision.

Section 16 provides for a Hearings Registrar to act as registrar of joint boards.

Section 17 relates to testimony in a civil suit or proceeding by the Hearings Registrar or a member or appointee of a joint board.

Section 18 provides for the disclosure of information that would be permitted in proceedings under the Acts listed in the Schedule or prescribed by the regulations.

Section 19 relates to regulations.

Section 20 prohibits the holding of the hearings replaced by a joint board hearing and section 21 makes it clear that other hearings or proceedings are not prevented.

Section 22 relates to service of notices, orders and other documents.

Section 23 states that this Act binds the Crown.

Section 24 is a transitional provision in respect of hearings commenced under any Act listed in the Schedule or prescribed by the regulations before a day to be named by proclamation.

BILL 89

1981

An Act to provide for the Consolidation of Hearings under certain Acts of the Legislature

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,

Inter-
pretation

- (a) "establishing authority" means the chairmen or vice-chairmen of the Environmental Assessment Board and the Ontario Municipal Board, as provided in section 4;
- (b) "Hearings Registrar" means the Hearings Registrar under this Act;
- (c) "joint board" means a joint board established under this Act;
- (d) "joint board hearing" means a hearing under this Act by a joint board;
- (e) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization;
- (f) "person" includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association; R.S.O. 1970,
c. 100
- (g) "proponent" means a person who carries out or proposes to carry out or is the owner or person having charge, management or control of an undertaking;

- (h) "regulations" means regulations made under this Act;
- (i) "tribunal" means one or more persons, whether or not incorporated and however described, upon whom a power, right or duty to hold a hearing is conferred by or under an Act;
- (j) "undertaking" means an enterprise or activity, or a proposal, plan or program in respect of an enterprise or activity.

Application
of Act

2. This Act applies in respect of an undertaking in relation to which more than one hearing is required or may be required or held by more than one tribunal under one or more of the Acts set out in the Schedule or prescribed by the regulations.

Notice of
undertaking

3.—(1) The proponent of an undertaking to which this Act applies shall give written notice to the Hearings Registrar.

Contents
of notice

(2) A notice under subsection 1 must specify the general nature of the undertaking, the hearings that are required or that may be required or held, and the Acts under which the hearings are required or may be required or held.

Application
to
Divisional
Court

(3) Upon application by originating notice by any person who is or may be affected by an undertaking mentioned in subsection 1, the Divisional Court may order the proponent of the undertaking to give to the Hearings Registrar the written notice required by subsection 1.

Application
of subs. 3

(4) Subsection 3 does not apply before a day to be named by proclamation of the Lieutenant Governor.

Joint board

4.—(1) Upon receipt of notice in accordance with section 3, the Hearings Registrar shall refer the matter to the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board.

Establish-
ment

(2) Where a matter is referred under subsection 1, the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board together by order shall establish the joint board and together shall determine the composition of the joint board.

Idem

(3) Where either of the chairmen mentioned in subsection 2 is unable to act or the office of chairman is vacant, a vice-chairman of the board shall act as and have all the powers of the chairman for the purposes of this Act.

(4) The joint board shall be composed of one or more members of either or both of the Environmental Assessment Board and the Ontario Municipal Board. Composition

(5) The establishing authority may change the composition of a joint board that has not commenced to hold a hearing. Change of composition

(6) The establishing authority by order,

Appointment
of members,
chairman and
vice-chairman

(a) shall appoint the members of the joint board; and

(b) shall appoint the chairman and may appoint a vice-chairman of the joint board from the members of the joint board.

(7) Where the chairman of a joint board is absent or unable to act or the office of chairman is vacant, the vice-chairman of the joint board shall act as and have all the powers of the chairman. Authority
of
vice-chairman

(8) Where a joint board commences to hold a hearing under this Act and the term of office on the Environmental Assessment Board or the Ontario Municipal Board of a member sitting for the joint hearing expires or is terminated before the proceeding is disposed of, the member shall remain a member of the joint board for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation
on expiry of
membership

(9) A majority of the members of a joint board constitutes a quorum of the joint board, but where a vacancy occurs in the membership of a joint board the establishing authority by order, Quorum

(a) may confirm the existence of the vacancy; and

(b) may establish the number of members that constitute a quorum of the joint board.

(10) The decision of a majority of the members of a joint board presiding at a hearing is the decision of the joint board. Decision

(11) The joint board has the authority and the duty,

Powers of
joint board

(a) to hold a hearing in respect of and to consider the matters that could be considered at the hearings specified in the notice to the Hearings Registrar under section 3; and

(b) to make and issue a decision in respect of matters considered by the joint board.

Hearing

5.—(1) The joint board shall appoint a time and place for and shall hold a public hearing in respect of the matters in relation to which a hearing is required or may be required or held as specified in the notice to the Hearings Registrar under section 3.

Decision

(2) The joint board may make any decision that might be made by a tribunal that has a power, right or duty to hold a hearing in respect of which the joint board hearing was held or that might be made by any body or person after the holding of the hearing including but not limited to the granting of any authority or directing the granting or issuing of a permit or licence and the imposition of terms and conditions.

Deferral

(3) A joint board may defer any matter or part of any matter,

(a) to be heard and decided under this Act by the joint board or another joint board at another date; or

(b) to be decided by the tribunal, body, or person that, but for this Act, would have a power, right or duty to deal with the matter or part under any Act set out in the Schedule or prescribed by the regulations.

Idem,
terms, etc.

(4) Where a joint board defers a matter or part of a matter under subsection 3,

(a) the joint board may impose such terms and conditions or give such directions, or both, in respect of the proceedings or the matter or part deferred as the joint board considers proper;

(b) the joint board may direct that the matter or part deferred be decided without a hearing if, in the opinion of the joint board, the matter or part is not in controversy; and

(c) the joint board, tribunal, body or person to whom the matter or part is deferred has power to decide the matter or part in accordance with such terms, conditions and directions.

Idem,
application
of Act

(5) Where a matter or part of a matter is deferred under subsection 3 to another joint board, this Act applies with necessary modifications in respect of the matter or part and, for the purpose, the matter or part deferred shall be deemed to be an undertaking mentioned in section 3.

Where
hearing not
required

(6) A joint board may make any decision mentioned in subsection 2 without holding a hearing if the joint board is satisfied that in the circumstances a hearing would not be required or would be dispensed with under the Act specified in the Schedule

or prescribed by the regulations that, but for this Act, would apply in respect of the undertaking.

6.—(1) A proponent who does not intend to proceed with an undertaking may withdraw the notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Withdrawal of notice

(2) Upon application with notice, a joint board that is satisfied that a proponent does not intend to proceed with an undertaking by order may permit the proponent to withdraw the notice given under section 3 in respect of the undertaking, subject to such terms and conditions as the joint board considers proper in the circumstances. Idem

(3) A proponent may amend an incorrect or incomplete notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Amendment of notice by proponent

(4) A joint board may amend a notice given under section 3 on motion by a person entitled to take part in the proceedings or on its own initiative after the commencement of the joint board hearing and in so doing may impose such terms and conditions and give such directions as the joint board considers proper. Amendment of notice by joint board

7.—(1) Subject to subsection 2 and to any rule of conduct or practice or procedure prescribed by the regulations, the notices and the documents that would be required to be given or filed in respect of a hearing by a tribunal shall be given or filed, as the case may be, in the same manner in respect of the joint board hearing by the joint board established in respect of the hearing. Notices and filing of documents

(2) Upon application without notice, a joint board may change the requirements as to filing of documents or giving of notice in respect of any hearing in respect of which the joint board has been established if the joint board is satisfied that the change will facilitate the joint board hearing and is not unfair to any person entitled to be heard at or to attend the joint board hearing. Modification of requirements

(3) Subject to this Act and the regulations, a joint board may determine its own practice and procedure. Practice and procedure

(4) A joint board may award the costs of a proceeding before the joint board. Costs

(5) A joint board that awards costs may order by whom and to whom the costs are to be paid. Payment

Taxation

(6) A joint board that awards costs may fix the amount of the costs or direct that the amount be taxed, the scale according to which they are to be taxed and by whom they are to be taxed.

Parties

8.—(1) A person entitled to be heard at a hearing or to take part in proceedings before a tribunal that has a power, right or duty to hold a hearing in respect of which a joint board has been established has the same entitlement in respect of the proceedings before the joint board.

Ministers entitled to take part in proceedings

(2) Any minister of the Crown in right of Ontario is entitled, by counsel or otherwise, to take part in proceedings before a joint board.

Joint board may appoint class representative

(3) Upon application by a party other than the proponent, a joint board may, from among a class of parties having a common interest, recognize a person as representing the class, but any other member of the class may, with the consent of the joint board, take part in the proceedings notwithstanding the appointment.

Additional parties

(4) A joint board may specify additional persons who shall be parties to proceedings before the joint board.

Sittings

9.—(1) A joint board shall sit at such times and places as the chairman of the joint board may designate and, for the purposes of proceedings before it, the joint board may sit jointly either within or outside Ontario with any tribunal established under the law of another jurisdiction.

Use of court house

(2) Subject to the needs of the Supreme Court, a joint board has the same right as a judge of the Supreme Court with respect to the use of the court house in a municipality for a sitting of the joint board.

Use of town hall

(3) Where there is no court house in a municipality but there is a hall in the municipality belonging to the corporation of the municipality, a joint board has the right to use the hall for a sitting of the joint board and the corporation of the municipality shall make all arrangements necessary for the purpose.

Expert assistance

10. A joint 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 joint board and to assist the joint board in any capacity in respect of any matter before it.

Stating case for opinion

11.—(1) A joint board may state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the joint board, is a question of law.

(2) The Divisional Court shall hear and determine the stated case and remit it to the joint board with the opinion of the Divisional Court thereon. ^{Action thereon}

12.—(1) A joint board may rehear all or part of any matter before issuing its decision in the proceedings before it. ^{Rehearing}

(2) Upon application, the establishing authority may re-establish a joint board where the establishing authority is of the opinion that part of the decision of the joint board requires clarification, and the re-established joint board may amend its decision in order to clarify the part and may rehear any part of the matter it considers necessary before making the amendment. ^{Amendment of decision}

(3) No member of a joint board shall participate in a decision of the joint board following upon a joint board hearing unless he was present throughout the joint board hearing and heard the evidence and argument of the parties. ^{Only members at hearing to participate in decision}

(4) A joint board shall give a copy of its decision and written reasons therefor to, ^{Giving of decision}

(a) the proponent;

(b) any person appointed under subsection 3 of section 8 to represent a class of parties to the proceedings; and

(c) any other party to the proceedings who took part in the proceedings before the joint board;

(d) the member of the Executive Council responsible for the administration of any Act in respect of which the decision is made;

(e) such other persons as the joint board may specify.

(5) In determining the persons, if any, to specify under clause *e* of subsection 4, the joint board shall take into consideration the persons who would have been entitled to notice of a decision by a tribunal or any other body or person that, but for this Act, would have a power, right or duty to hold a hearing or make a decision after a hearing in respect of the undertaking. ^{Idem}

13.—(1) Upon application, the Lieutenant Governor in Council by order, ^{Powers of Lieutenant Governor in Council}

(a) may confirm, vary or rescind all or any part of a decision of a joint board;

(b) may substitute for the decision of a joint board such decision as the Lieutenant Governor in Council considers appropriate; or

(c) may require a joint board or a different joint board to hold a new hearing as to all or any part of the matters in respect of which the joint board was established.

Who may apply

(2) An application under subsection 1 may be made by any person entitled to be heard at or to take part in proceedings before the joint board.

Time for application

(3) An application under subsection 1 must be made within twenty-eight days after the day the decision or amended decision, as the case may be, of the joint board is issued.

Where member unable to act on new hearing

(4) Where the Lieutenant Governor in Council by order requires a joint board to hold a new hearing under this Act and one or more of the members of the joint board is unable to participate in the proceedings, the establishing authority by order shall appoint a member of the Environmental Assessment Board or the Ontario Municipal Board, as the case requires, in the place of the member unable to participate.

New hearing by different joint board

(5) Where the Lieutenant Governor in Council by order requires a different joint board to hold a new hearing under this Act, the establishing authority shall establish the joint board in accordance with section 4 and the joint board shall hold the new hearing in accordance with the order.

Interpretation

(6) A decision by a tribunal, body or person mentioned in section 5 shall be deemed to be a decision by a joint board.

When decision final

14. A decision of a joint board becomes final,

- (a) where no application is made to the Lieutenant Governor in Council under section 13, with the expiry of the twenty-eighth day after the issuance of the decision;
- (b) where an application is made to the Lieutenant Governor in Council under section 13 and,
 - (i) the joint board is required to hold a new hearing, when the joint board issues its decision following upon the new hearing, or
 - (ii) the joint board is not required to hold a new hearing, upon the disposition of the application by the Lieutenant Governor in Council.

Effect of joint board hearing and decision

15.—(1) Where a hearing is required or may be required or held under any Act set out in the Schedule or prescribed by the regulations and a joint board makes a decision in respect of the hearing, subject to section 13,

- (a) the joint board decision stands for all purposes in place of the hearing;
- (b) the decision of the joint board stands for all purposes in place of any decision, order or action that is required or may be made or taken by the tribunal that has a power, right or duty to hold the hearing or by any other body or person after the holding of the hearing; and
- (c) no proceedings shall be taken by way of appeal in respect of the hearing or the decision except in accordance with this Act.

(2) An application for judicial review under *The Judicial Review Procedure Act, 1971*, or the bringing of proceedings specified in subsection 1 of section 2 of that Act, is not an appeal within the meaning of clause *c* of subsection 1. Judicial review
1971, c. 48

16.—(1) There shall be a Hearings Registrar appointed by the Lieutenant Governor in Council. Hearings Registrar

(2) The Hearings Registrar is the registrar of each joint board and is responsible for, Duties

- (a) assisting in the establishment and operation of each joint board; and
- (b) such other duties as may be prescribed by the regulations or assigned to him by or under any other Act.

17. The Hearings Registrar shall not be required and no member or appointee of a joint board shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties as Hearings Registrar or as a member or appointee of the joint board. Testimony by member or appointee of joint board

18. Where a person is prohibited under any Act set out in the Schedule or prescribed by the regulations from disclosing information but is permitted to disclose the information in or for the purpose of proceedings under that Act, the person may disclose the information in or for the purposes of the proceedings of a joint board under this Act. Disclosure of information

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

- (a) for the conduct of and governing practice and procedure of joint board proceedings;
- (b) prescribing forms and providing for their use;

- (c) requiring the payment of fees in respect of proceedings before joint boards and prescribing the amounts thereof;
- (d) prescribing any matter referred to in this Act as prescribed by the regulations;
- (e) exempting any undertaking or class of undertakings or any hearing or class of hearings from the application of this Act or the regulations or any portion or section of this Act or the regulations, and prescribing conditions that shall apply to any such exemption.

Application of
R.S.O. 1970,
c. 410

(2) *The Regulations Act* does not apply to an order or decision under any other section of this Act.

Hearings
under
certain Acts

20.—(1) Where a proponent of an undertaking gives notice under section 3 to the Hearings Registrar, no person acting under any Act specified in the Schedule or prescribed by the regulations shall hold in respect of the undertaking a hearing specified in the notice or in any amendment to the notice.

Exception
where notice
withdrawn

(2) Subsection 1 does not apply where the notice under section 3 is withdrawn in accordance with section 6.

Other
proceedings

21. Nothing in this Act shall be construed to prevent a hearing or other proceeding under any other Act in respect of any matter not determined in a decision or order under this Act.

Service

22.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by prepaid mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Hearings Registrar.

Idem

(2) Where notice is given or service is made by prepaid mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or 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, order or other document until a later date.

Public
notice

(3) Where a joint board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the joint board may instead of doing so cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the joint

board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

(4) A decision of a joint board shall be deemed to be issued on the day that a copy of the decision is delivered personally or is sent by prepaid mail or is given under subsection 3 to the last of the persons mentioned in subsection 4 of section 12. Decision of joint board

23. This Act binds the Crown. Crown

24.—(1) This Act does not apply in respect of an undertaking in relation to which, before the day referred to in section 3, a hearing has been commenced under an Act set out in the Schedule or prescribed by the regulations. Transitional

(2) Notwithstanding subsection 1, the tribunal holding the hearing mentioned in subsection 1, upon application with notice by a party to the proceedings, may order the proponent of the undertaking to give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3. Application and order

(3) Upon the making of the order, this Act applies in respect of the undertaking. Effect of order

(4) Subsection 1 does not apply if the hearing has been completed before the day referred to in subsection 1, whether or not a decision has been made or issued following upon the hearing. Exception

(5) Where a hearing mentioned in subsection 1 has been completed before the date referred to in subsection 1, and more than one further hearing is required or may be required or held under one or more of the Acts set out in the Schedule or prescribed by the regulations, the proponent may give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3. Notice by proponent

(6) Where the proponent of an undertaking gives notice under subsection 5, this Act applies in respect of the undertaking. Effect of notice

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

26. The short title of this Act is *The Consolidated Hearings Act, 1981*. Short title

SCHEDULE

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Expropriations Act, sections 6, 7 and 8

The Municipal Act

The Municipality of Metropolitan Toronto Act, section 65 (4)

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Municipal Board Act

The Ontario Water Resources Act

The Parkway Belt Planning and Development Act, 1973

The Planning Act

The Regional Municipality of Ottawa-Carleton Act, section 140*a* (9)

The Regional Municipality of York Act, section 166 (3) and (9)

An Act to provide for
the Consolidation of Hearings under
certain Acts of the Legislature

1st Reading

June 1st, 1981

2nd Reading

June 16th, 1981

3rd Reading

THE HON. K. C. NORTON
Minister of the Environment

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

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to provide for the Consolidation of
Hearings under certain Acts of the Legislature**

THE HON. K. C. NORTON
Minister of the Environment

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

EXPLANATORY NOTES

The Bill provides for a single hearing in respect of an undertaking in place of the hearings under the Acts listed in the Schedule or prescribed by the regulations.

For the purpose of the single hearing, a joint board will be drawn from the members of the Environmental Assessment Board and the Ontario Municipal Board.

Section 3 requires the proponent of an undertaking that would be subject to more than one hearing to give notice to the Hearings Registrar.

Section 4 requires the Hearings Registrar to list the matter for hearing upon receipt of the notice and provides for the formation of the joint board to hold the hearing.

Section 5 provides for the holding of a joint board hearing and the authority of the joint board.

Section 6 provides for the withdrawal or amendment of notice.

Sections 7 to 12 provide for notice of a hearing, the filing of documents, who may be heard at or take part in the proceedings, the sittings of a joint board, expert assistance, stating a case for the opinion of the court, rehearings, who may participate in a decision and who must be given a copy of a decision.

Section 13 provides for an application to the Lieutenant Governor in Council for an order confirming, varying, rescinding or substituting a decision for a decision of a joint board or requiring a new hearing by a joint board.

Section 14 states when a decision of a joint board becomes final and section 15 sets out the effect of a joint board decision.

Section 16 provides for a Hearings Registrar to act as registrar of joint boards.

Section 17 relates to testimony in a civil suit or proceeding by the Hearings Registrar or a member or appointee of a joint board.

Section 18 provides for the disclosure of information that would be permitted in proceedings under the Acts listed in the Schedule or prescribed by the regulations.

Section 19 relates to regulations.

Section 20 prohibits the holding of the hearings replaced by a joint board hearing and section 21 makes it clear that other hearings or proceedings are not prevented.

Section 22 relates to service of notices, orders and other documents.

Section 23 states that this Act binds the Crown.

Section 24 is a transitional provision in respect of hearings commenced under any Act listed in the Schedule or prescribed by the regulations before a day to be named by proclamation.

BILL 89

1981

An Act to provide for the Consolidation of Hearings under certain Acts of the Legislature

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) "establishing authority" means the chairmen or vice-chairmen of the Environmental Assessment Board and the Ontario Municipal Board, as provided in section 4;
- (b) "Hearings Registrar" means the Hearings Registrar under this Act;
- (c) "joint board" means a joint board established under this Act;
- (d) "joint board hearing" means a hearing under this Act by a joint board;
- (e) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization;
- (f) "person" includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association;
- (g) "proponent" means a person who carries out or proposes to carry out or is the owner or person having charge, management or control of an undertaking;

R.S.O. 1970,
c. 100

- (h) "regulations" means regulations made under this Act;
- (i) "tribunal" means one or more persons, whether or not incorporated and however described, upon whom a power, right or duty to hold a hearing is conferred by or under an Act;
- (j) "undertaking" means an enterprise or activity, or a proposal, plan or program in respect of an enterprise or activity.

Application
of Act

2. This Act applies in respect of an undertaking in relation to which more than one hearing is required or may be required or held by more than one tribunal under one or more of the Acts set out in the Schedule or prescribed by the regulations.

Notice of
undertaking

3.—(1) The proponent of an undertaking to which this Act applies shall give written notice to the Hearings Registrar.

Contents
of notice

(2) A notice under subsection 1 must specify the general nature of the undertaking, the hearings that are required or that may be required or held, and the Acts under which the hearings are required or may be required or held.

Application
to
Divisional
Court

(3) Upon application by originating notice by any person who is or may be affected by an undertaking mentioned in subsection 1, the Divisional Court may order the proponent of the undertaking to give to the Hearings Registrar the written notice required by subsection 1.

Application
of subs. 3

(4) Subsection 3 does not apply before a day to be named by proclamation of the Lieutenant Governor.

Joint board

4.—(1) Upon receipt of notice in accordance with section 3, the Hearings Registrar shall refer the matter to the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board.

Establish-
ment

(2) Where a matter is referred under subsection 1, the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board together by order shall establish the joint board and together shall determine the composition of the joint board.

Idem

(3) Where either of the chairmen mentioned in subsection 2 is unable to act or the office of chairman is vacant, a vice-chairman of the board shall act as and have all the powers of the chairman for the purposes of this Act.

(4) The joint board shall be composed of one or more members of either or both of the Environmental Assessment Board and the Ontario Municipal Board. Composition

(5) The establishing authority may change the composition of a joint board that has not commenced to hold a hearing. Change of composition

(6) The establishing authority by order, Appointment of members, chairman and vice-chairman

(a) shall appoint the members of the joint board; and

(b) shall appoint the chairman and may appoint a vice-chairman of the joint board from the members of the joint board.

(7) Where the chairman of a joint board is absent or unable to act or the office of chairman is vacant, the vice-chairman of the joint board shall act as and have all the powers of the chairman. Authority of vice-chairman

(8) Where a joint board commences to hold a hearing under this Act and the term of office on the Environmental Assessment Board or the Ontario Municipal Board of a member sitting for the joint hearing expires or is terminated before the proceeding is disposed of, the member shall remain a member of the joint board for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of membership

(9) A majority of the members of a joint board constitutes a quorum of the joint board, but where a vacancy occurs in the membership of a joint board the establishing authority by order, Quorum

(a) may confirm the existence of the vacancy; and

(b) may establish the number of members that constitute a quorum of the joint board.

(10) The decision of a majority of the members of a joint board presiding at a hearing is the decision of the joint board. Decision

(11) The joint board has the authority and the duty, Powers of joint board

(a) to hold a hearing in respect of and to consider the matters that could be considered at the hearings specified in the notice to the Hearings Registrar under section 3; and

(b) to make and issue a decision in respect of matters considered by the joint board.

Hearing

5.—(1) The joint board shall appoint a time and place for and shall hold a public hearing in respect of the matters in relation to which a hearing is required or may be required or held as specified in the notice to the Hearings Registrar under section 3.

Decision

(2) The joint board may make any decision that might be made by a tribunal that has a power, right or duty to hold a hearing in respect of which the joint board hearing was held or that might be made by any body or person after the holding of the hearing including but not limited to the granting of any authority or directing the granting or issuing of a permit or licence and the imposition of terms and conditions.

Deferral

(3) A joint board may defer any matter or part of any matter,

(a) to be heard and decided under this Act by the joint board or another joint board at another date; or

(b) to be decided by the tribunal, body, or person that, but for this Act, would have a power, right or duty to deal with the matter or part under any Act set out in the Schedule or prescribed by the regulations.

Idem,
terms, etc.

(4) Where a joint board defers a matter or part of a matter under subsection 3,

(a) the joint board may impose such terms and conditions or give such directions, or both, in respect of the proceedings or the matter or part deferred as the joint board considers proper;

(b) the joint board may direct that the matter or part deferred be decided without a hearing if, in the opinion of the joint board, the matter or part is not in controversy; and

(c) the joint board, tribunal, body or person to whom the matter or part is deferred has power to decide the matter or part in accordance with such terms, conditions and directions.

Idem,
application
of Act

(5) Where a matter or part of a matter is deferred under subsection 3 to another joint board, this Act applies with necessary modifications in respect of the matter or part and, for the purpose, the matter or part deferred shall be deemed to be an undertaking mentioned in section 3.

Where
hearing not
required

(6) A joint board may make any decision mentioned in subsection 2 without holding a hearing if the joint board is satisfied that in the circumstances a hearing would not be required or would be dispensed with under the Act specified in the Schedule

or prescribed by the regulations that, but for this Act, would apply in respect of the undertaking.

(7) The standards and criteria in or under an Act specified in a notice under section 3 that relate to the undertaking specified in the notice apply with necessary modifications in respect of a decision that may be made by a joint board under this Act. Standards and criteria

6.—(1) A proponent who does not intend to proceed with an undertaking may withdraw the notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Withdrawal of notice

(2) Upon application with notice, a joint board that is satisfied that a proponent does not intend to proceed with an undertaking by order may permit the proponent to withdraw the notice given under section 3 in respect of the undertaking, subject to such terms and conditions as the joint board considers proper in the circumstances. Idem

(3) A proponent may amend an incorrect or incomplete notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Amendment of notice by proponent

(4) A joint board may amend a notice given under section 3 on motion by a person entitled to take part in the proceedings or on its own initiative after the commencement of the joint board hearing and in so doing may impose such terms and conditions and give such directions as the joint board considers proper. Amendment of notice by joint board

7.—(1) Subject to subsection 2 and to any rule of conduct or practice or procedure prescribed by the regulations, the notices and the documents that would be required to be given or filed in respect of a hearing by a tribunal shall be given or filed, as the case may be, in the same manner in respect of the joint board hearing by the joint board established in respect of the hearing. Notices and filing of documents

(2) Upon application without notice, a joint board may change the requirements as to filing of documents or giving of notice in respect of any hearing in respect of which the joint board has been established if the joint board is satisfied that the change will facilitate the joint board hearing and is not unfair to any person entitled to be heard at or to attend the joint board hearing. Modification of requirements

(3) Subject to this Act and the regulations, a joint board may determine its own practice and procedure. Practice and procedure

- Costs (4) A joint board may award the costs of a proceeding before the joint board.
- Payment (5) A joint board that awards costs may order by whom and to whom the costs are to be paid.
- Taxation (6) A joint board that awards costs may fix the amount of the costs or direct that the amount be taxed, the scale according to which they are to be taxed and by whom they are to be taxed.
- Parties **8.**—(1) A person entitled to be heard at a hearing or to take part in proceedings before a tribunal that has a power, right or duty to hold a hearing in respect of which a joint board has been established has the same entitlement in respect of the proceedings before the joint board.
- Ministers entitled to take part in proceedings (2) Any minister of the Crown in right of Ontario is entitled, by counsel or otherwise, to take part in proceedings before a joint board.
- Joint board may appoint class representative (3) Upon application by a party other than the proponent, a joint board may, from among a class of parties having a common interest, recognize a person as representing the class, but any other member of the class may, with the consent of the joint board, take part in the proceedings notwithstanding the appointment.
- Additional parties (4) A joint board may specify additional persons who shall be parties to proceedings before the joint board.
- Sittings **9.**—(1) A joint board shall sit at such times and places as the chairman of the joint board may designate and, for the purposes of proceedings before it, the joint board may sit jointly either within or outside Ontario with any tribunal established under the law of another jurisdiction.
- Use of court house (2) Subject to the needs of the Supreme Court, a joint board has the same right as a judge of the Supreme Court with respect to the use of the court house in a municipality for a sitting of the joint board.
- Use of town hall (3) Where there is no court house in a municipality but there is a hall in the municipality belonging to the corporation of the municipality, a joint board has the right to use the hall for a sitting of the joint board and the corporation of the municipality shall make all arrangements necessary for the purpose.
- Expert assistance **10.** A joint 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 joint board and to assist the joint board in any capacity in respect of any matter before it.

11.—(1) A joint board may state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the joint board, is a question of law. Stating case for opinion

(2) The Divisional Court shall hear and determine the stated case and remit it to the joint board with the opinion of the Divisional Court thereon. Action thereon

12.—(1) A joint board may rehear all or part of any matter before issuing its decision in the proceedings before it. Rehearing

(2) Upon application, the establishing authority may re-establish a joint board where the establishing authority is of the opinion that part of the decision of the joint board requires clarification, and the re-established joint board may amend its decision in order to clarify the part and may rehear any part of the matter it considers necessary before making the amendment. Amendment of decision

(3) No member of a joint board shall participate in a decision of the joint board following upon a joint board hearing unless he was present throughout the joint board hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(4) A joint board shall give a copy of its decision and written reasons therefor to, Giving of decision

- (a) the proponent;
- (b) any person appointed under subsection 3 of section 8 to represent a class of parties to the proceedings; and
- (c) any other party to the proceedings who took part in the proceedings before the joint board;
- (d) the member of the Executive Council responsible for the administration of any Act in respect of which the decision is made;
- (e) such other persons as the joint board may specify.

(5) In determining the persons, if any, to specify under clause *e* of subsection 4, the joint board shall take into consideration the persons who would have been entitled to notice of a decision by a tribunal or any other body or person that, but for this Act, would have a power, right or duty to hold a hearing or make a decision after a hearing in respect of the undertaking. Idem

13.—(1) Upon application, the Lieutenant Governor in Council by order, Powers of Lieutenant Governor in Council

- (a) may confirm, vary or rescind all or any part of a decision of a joint board;
- (b) may substitute for the decision of a joint board such decision as the Lieutenant Governor in Council considers appropriate; or
- (c) may require a joint board or a different joint board to hold a new hearing as to all or any part of the matters in respect of which the joint board was established.

Who may apply

(2) An application under subsection 1 may be made by any person entitled to be heard at or to take part in proceedings before the joint board.

Time for application

(3) An application under subsection 1 must be made within twenty-eight days after the day the decision or amended decision, as the case may be, of the joint board is issued.

Where member unable to act on new hearing

(4) Where the Lieutenant Governor in Council by order requires a joint board to hold a new hearing under this Act and one or more of the members of the joint board is unable to participate in the proceedings, the establishing authority by order shall appoint a member of the Environmental Assessment Board or the Ontario Municipal Board, as the case requires, in the place of the member unable to participate.

New hearing by different joint board

(5) Where the Lieutenant Governor in Council by order requires a different joint board to hold a new hearing under this Act, the establishing authority shall establish the joint board in accordance with section 4 and the joint board shall hold the new hearing in accordance with the order.

Interpretation

(6) A decision by a tribunal, body or person mentioned in section 5 shall be deemed to be a decision by a joint board.

When decision final

14. A decision of a joint board becomes final,

- (a) where no application is made to the Lieutenant Governor in Council under section 13, with the expiry of the twenty-eighth day after the issuance of the decision;
- (b) where an application is made to the Lieutenant Governor in Council under section 13 and,
 - (i) the joint board is required to hold a new hearing, when the joint board issues its decision following upon the new hearing, or

- (ii) the joint board is not required to hold a new hearing, upon the disposition of the application by the Lieutenant Governor in Council.

15.—(1) Where a hearing is required or may be required or held under any Act set out in the Schedule or prescribed by the regulations and a joint board makes a decision in respect of the hearing, subject to section 13, Effect of joint board hearing and decision

- (a) the joint board decision stands for all purposes in place of the hearing;
- (b) the decision of the joint board stands for all purposes in place of any decision, order or action that is required or may be made or taken by the tribunal that has a power, right or duty to hold the hearing or by any other body or person after the holding of the hearing; and
- (c) no proceedings shall be taken by way of appeal in respect of the hearing or the decision except in accordance with this Act.

(2) An application for judicial review under *The Judicial Review Procedure Act, 1971*, or the bringing of proceedings specified in subsection 1 of section 2 of that Act, is not an appeal within the meaning of clause *c* of subsection 1. Judicial review 1971, c. 48

16.—(1) There shall be a Hearings Registrar appointed by the Lieutenant Governor in Council. Hearings Registrar

(2) The Hearings Registrar is the registrar of each joint board and is responsible for, Duties

- (a) assisting in the establishment and operation of each joint board; and
- (b) such other duties as may be prescribed by the regulations or assigned to him by or under any other Act.

17. The Hearings Registrar shall not be required and no member or appointee of a joint board shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties as Hearings Registrar or as a member or appointee of the joint board. Testimony by member or appointee of joint board

18. Where a person is prohibited under any Act set out in the Schedule or prescribed by the regulations from disclosing information but is permitted to disclose the information in or for the purpose of proceedings under that Act, the person may disclose the information in or for the purposes of the proceedings of a joint board under this Act. Disclosure of information

- Regulations **19.**—(1) The Lieutenant Governor in Council may make regulations,
- (a) for the conduct of and governing practice and procedure of joint board proceedings;
 - (b) prescribing forms and providing for their use;
 - (c) requiring the payment of fees in respect of proceedings before joint boards and prescribing the amounts thereof;
 - (d) prescribing any matter referred to in this Act as prescribed by the regulations;
 - (e) exempting any undertaking or class of undertakings or any hearing or class of hearings from the application of this Act or the regulations or any portion or section of this Act or the regulations, and prescribing conditions that shall apply to any such exemption.
- Application of R.S.O. 1970, c. 410 (2) *The Regulations Act* does not apply to an order or decision under any other section of this Act.
- Hearings under certain Acts **20.**—(1) Where a proponent of an undertaking gives notice under section 3 to the Hearings Registrar, no person acting under any Act specified in the Schedule or prescribed by the regulations shall hold in respect of the undertaking a hearing specified in the notice or in any amendment to the notice.
- Exception where notice withdrawn (2) Subsection 1 does not apply where the notice under section 3 is withdrawn in accordance with section 6.
- Other proceedings **21.** Nothing in this Act shall be construed to prevent a hearing or other proceeding under any other Act in respect of any matter not determined in a decision or order under this Act.
- Service **22.**—(1) Any notice, order or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by prepaid mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Hearings Registrar.
- Idem (2) Where notice is given or service is made by prepaid mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or 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, order or other document until a later date.

(3) Where a joint board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the joint board may instead of doing so cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the joint board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given. Public notice

(4) A decision of a joint board shall be deemed to be issued on the day that a copy of the decision is delivered personally or is sent by prepaid mail or is given under subsection 3 to the last of the persons mentioned in subsection 4 of section 12. Decision of joint board

23. This Act binds the Crown. Crown

24.—(1) This Act does not apply in respect of an undertaking in relation to which, before the day referred to in section 3, a hearing has been commenced under an Act set out in the Schedule or prescribed by the regulations. Transitional

(2) Notwithstanding subsection 1, the tribunal holding the hearing mentioned in subsection 1, upon application with notice by a party to the proceedings, may order the proponent of the undertaking to give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3. Application and order

(3) Upon the making of the order, this Act applies in respect of the undertaking. Effect of order

(4) Subsection 1 does not apply if the hearing has been completed before the day referred to in subsection 1, whether or not a decision has been made or issued following upon the hearing. Exception

(5) Where a hearing mentioned in subsection 1 has been completed before the date referred to in subsection 1, and more than one further hearing is required or may be required or held under one or more of the Acts set out in the Schedule or prescribed by the regulations, the proponent may give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3. Notice by proponent

(6) Where the proponent of an undertaking gives notice under subsection 5, this Act applies in respect of the undertaking. Effect of notice

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 Consolidated Hearings Act, 1981*.

SCHEDULE

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Expropriations Act, sections 6, 7 and 8

The Municipal Act

The Municipality of Metropolitan Toronto Act, section 65 (4)

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Municipal Board Act

The Ontario Water Resources Act

The Parkway Belt Planning and Development Act, 1973

The Planning Act

The Regional Municipality of Ottawa-Carleton Act, section 140a (9)

The Regional Municipality of York Act, section 166 (3) and (9)



An Act to provide for
the Consolidation of Hearings under
certain Acts of the Legislature

1st Reading

June 1st, 1981

2nd Reading

June 16th, 1981

3rd Reading

THE HON. K. C. NORTON
Minister of the Environment

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

BILL 89

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to provide for the Consolidation of Hearings under certain Acts of the Legislature

THE HON. K. C. NORTON
Minister of the Environment



An Act to provide for the Consolidation of Hearings under certain Acts of the Legislature

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) "establishing authority" means the chairmen or vice-chairmen of the Environmental Assessment Board and the Ontario Municipal Board, as provided in section 4;
- (b) "Hearings Registrar" means the Hearings Registrar under this Act;
- (c) "joint board" means a joint board established under this Act;
- (d) "joint board hearing" means a hearing under this Act by a joint board;
- (e) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization;
- (f) "person" includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association; R.S.O. 1970,
c. 100
- (g) "proponent" means a person who carries out or proposes to carry out or is the owner or person having charge, management or control of an undertaking;

- (h) "regulations" means regulations made under this Act;
- (i) "tribunal" means one or more persons, whether or not incorporated and however described, upon whom a power, right or duty to hold a hearing is conferred by or under an Act;
- (j) "undertaking" means an enterprise or activity, or a proposal, plan or program in respect of an enterprise or activity.

Application
of Act

2. This Act applies in respect of an undertaking in relation to which more than one hearing is required or may be required or held by more than one tribunal under one or more of the Acts set out in the Schedule or prescribed by the regulations.

Notice of
undertaking

3.—(1) The proponent of an undertaking to which this Act applies shall give written notice to the Hearings Registrar.

Contents
of notice

(2) A notice under subsection 1 must specify the general nature of the undertaking, the hearings that are required or that may be required or held, and the Acts under which the hearings are required or may be required or held.

Application
to
Divisional
Court

(3) Upon application by originating notice by any person who is or may be affected by an undertaking mentioned in subsection 1, the Divisional Court may order the proponent of the undertaking to give to the Hearings Registrar the written notice required by subsection 1.

Application
of subs. 3

(4) Subsection 3 does not apply before a day to be named by proclamation of the Lieutenant Governor.

Joint board

4.—(1) Upon receipt of notice in accordance with section 3, the Hearings Registrar shall refer the matter to the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board.

Establish-
ment

(2) Where a matter is referred under subsection 1, the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board together by order shall establish the joint board and together shall determine the composition of the joint board.

Idem

(3) Where either of the chairmen mentioned in subsection 2 is unable to act or the office of chairman is vacant, a vice-chairman of the board shall act as and have all the powers of the chairman for the purposes of this Act.

(4) The joint board shall be composed of one or more members of either or both of the Environmental Assessment Board and the Ontario Municipal Board. Composition

(5) The establishing authority may change the composition of a joint board that has not commenced to hold a hearing. Change of composition

(6) The establishing authority by order, Appointment of members, chairman and vice-chairman

(a) shall appoint the members of the joint board; and

(b) shall appoint the chairman and may appoint a vice-chairman of the joint board from the members of the joint board.

(7) Where the chairman of a joint board is absent or unable to act or the office of chairman is vacant, the vice-chairman of the joint board shall act as and have all the powers of the chairman. Authority of vice-chairman

(8) Where a joint board commences to hold a hearing under this Act and the term of office on the Environmental Assessment Board or the Ontario Municipal Board of a member sitting for the joint hearing expires or is terminated before the proceeding is disposed of, the member shall remain a member of the joint board for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of membership

(9) A majority of the members of a joint board constitutes a quorum of the joint board, but where a vacancy occurs in the membership of a joint board the establishing authority by order, Quorum

(a) may confirm the existence of the vacancy; and

(b) may establish the number of members that constitute a quorum of the joint board.

(10) The decision of a majority of the members of a joint board presiding at a hearing is the decision of the joint board. Decision

(11) The joint board has the authority and the duty, Powers of joint board

(a) to hold a hearing in respect of and to consider the matters that could be considered at the hearings specified in the notice to the Hearings Registrar under section 3; and

(b) to make and issue a decision in respect of matters considered by the joint board.

Hearing

5.—(1) The joint board shall appoint a time and place for and shall hold a public hearing in respect of the matters in relation to which a hearing is required or may be required or held as specified in the notice to the Hearings Registrar under section 3.

Decision

(2) The joint board may make any decision that might be made by a tribunal that has a power, right or duty to hold a hearing in respect of which the joint board hearing was held or that might be made by any body or person after the holding of the hearing including but not limited to the granting of any authority or directing the granting or issuing of a permit or licence and the imposition of terms and conditions.

Deferral

(3) A joint board may defer any matter or part of any matter,

(a) to be heard and decided under this Act by the joint board or another joint board at another date; or

(b) to be decided by the tribunal, body, or person that, but for this Act, would have a power, right or duty to deal with the matter or part under any Act set out in the Schedule or prescribed by the regulations.

Idem,
terms, etc.

(4) Where a joint board defers a matter or part of a matter under subsection 3,

(a) the joint board may impose such terms and conditions or give such directions, or both, in respect of the proceedings or the matter or part deferred as the joint board considers proper;

(b) the joint board may direct that the matter or part deferred be decided without a hearing if, in the opinion of the joint board, the matter or part is not in controversy; and

(c) the joint board, tribunal, body or person to whom the matter or part is deferred has power to decide the matter or part in accordance with such terms, conditions and directions.

Idem,
application
of Act

(5) Where a matter or part of a matter is deferred under subsection 3 to another joint board, this Act applies with necessary modifications in respect of the matter or part and, for the purpose, the matter or part deferred shall be deemed to be an undertaking mentioned in section 3.

Where
hearing not
required

(6) A joint board may make any decision mentioned in subsection 2 without holding a hearing if the joint board is satisfied that in the circumstances a hearing would not be required or would be dispensed with under the Act specified in the Schedule

or prescribed by the regulations that, but for this Act, would apply in respect of the undertaking.

(7) The standards and criteria in or under an Act specified in a notice under section 3 that relate to the undertaking specified in the notice apply with necessary modifications in respect of a decision that may be made by a joint board under this Act. Standards and criteria

6.—(1) A proponent who does not intend to proceed with an undertaking may withdraw the notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Withdrawal of notice

(2) Upon application with notice, a joint board that is satisfied that a proponent does not intend to proceed with an undertaking by order may permit the proponent to withdraw the notice given under section 3 in respect of the undertaking, subject to such terms and conditions as the joint board considers proper in the circumstances. Idem

(3) A proponent may amend an incorrect or incomplete notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Amendment of notice by proponent

(4) A joint board may amend a notice given under section 3 on motion by a person entitled to take part in the proceedings or on its own initiative after the commencement of the joint board hearing and in so doing may impose such terms and conditions and give such directions as the joint board considers proper. Amendment of notice by joint board

7.—(1) Subject to subsection 2 and to any rule of conduct or practice or procedure prescribed by the regulations, the notices and the documents that would be required to be given or filed in respect of a hearing by a tribunal shall be given or filed, as the case may be, in the same manner in respect of the joint board hearing by the joint board established in respect of the hearing. Notices and filing of documents

(2) Upon application without notice, a joint board may change the requirements as to filing of documents or giving of notice in respect of any hearing in respect of which the joint board has been established if the joint board is satisfied that the change will facilitate the joint board hearing and is not unfair to any person entitled to be heard at or to attend the joint board hearing. Modification of requirements

(3) Subject to this Act and the regulations, a joint board may determine its own practice and procedure. Practice and procedure

- Costs (4) A joint board may award the costs of a proceeding before the joint board.
- Payment (5) A joint board that awards costs may order by whom and to whom the costs are to be paid.
- Taxation (6) A joint board that awards costs may fix the amount of the costs or direct that the amount be taxed, the scale according to which they are to be taxed and by whom they are to be taxed.
- Parties **8.—**(1) A person entitled to be heard at a hearing or to take part in proceedings before a tribunal that has a power, right or duty to hold a hearing in respect of which a joint board has been established has the same entitlement in respect of the proceedings before the joint board.
- Ministers entitled to take part in proceedings (2) Any minister of the Crown in right of Ontario is entitled, by counsel or otherwise, to take part in proceedings before a joint board.
- Joint board may appoint class representative (3) Upon application by a party other than the proponent, a joint board may, from among a class of parties having a common interest, recognize a person as representing the class, but any other member of the class may, with the consent of the joint board, take part in the proceedings notwithstanding the appointment.
- Additional parties (4) A joint board may specify additional persons who shall be parties to proceedings before the joint board.
- Sittings **9.—**(1) A joint board shall sit at such times and places as the chairman of the joint board may designate and, for the purposes of proceedings before it, the joint board may sit jointly either within or outside Ontario with any tribunal established under the law of another jurisdiction.
- Use of court house (2) Subject to the needs of the Supreme Court, a joint board has the same right as a judge of the Supreme Court with respect to the use of the court house in a municipality for a sitting of the joint board.
- Use of town hall (3) Where there is no court house in a municipality but there is a hall in the municipality belonging to the corporation of the municipality, a joint board has the right to use the hall for a sitting of the joint board and the corporation of the municipality shall make all arrangements necessary for the purpose.
- Expert assistance **10.** A joint 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 joint board and to assist the joint board in any capacity in respect of any matter before it.

11.—(1) A joint board may state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the joint board, is a question of law. Stating case for opinion

(2) The Divisional Court shall hear and determine the stated case and remit it to the joint board with the opinion of the Divisional Court thereon. Action thereon

12.—(1) A joint board may rehear all or part of any matter before issuing its decision in the proceedings before it. Rehearing

(2) Upon application, the establishing authority may re-establish a joint board where the establishing authority is of the opinion that part of the decision of the joint board requires clarification, and the re-established joint board may amend its decision in order to clarify the part and may rehear any part of the matter it considers necessary before making the amendment. Amendment of decision

(3) No member of a joint board shall participate in a decision of the joint board following upon a joint board hearing unless he was present throughout the joint board hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(4) A joint board shall give a copy of its decision and written reasons therefor to, Giving of decision

(a) the proponent;

(b) any person appointed under subsection 3 of section 8 to represent a class of parties to the proceedings; and

(c) any other party to the proceedings who took part in the proceedings before the joint board;

(d) the member of the Executive Council responsible for the administration of any Act in respect of which the decision is made;

(e) such other persons as the joint board may specify.

(5) In determining the persons, if any, to specify under clause *e* of subsection 4, the joint board shall take into consideration the persons who would have been entitled to notice of a decision by a tribunal or any other body or person that, but for this Act, would have a power, right or duty to hold a hearing or make a decision after a hearing in respect of the undertaking. Idem

13.—(1) Upon application, the Lieutenant Governor in Council by order, Powers of Lieutenant Governor in Council

- (a) may confirm, vary or rescind all or any part of a decision of a joint board;
- (b) may substitute for the decision of a joint board such decision as the Lieutenant Governor in Council considers appropriate; or
- (c) may require a joint board or a different joint board to hold a new hearing as to all or any part of the matters in respect of which the joint board was established.

Who may apply

(2) An application under subsection 1 may be made by any person entitled to be heard at or to take part in proceedings before the joint board.

Time for application

(3) An application under subsection 1 must be made within twenty-eight days after the day the decision or amended decision, as the case may be, of the joint board is issued.

Where member unable to act on new hearing

(4) Where the Lieutenant Governor in Council by order requires a joint board to hold a new hearing under this Act and one or more of the members of the joint board is unable to participate in the proceedings, the establishing authority by order shall appoint a member of the Environmental Assessment Board or the Ontario Municipal Board, as the case requires, in the place of the member unable to participate.

New hearing by different joint board

(5) Where the Lieutenant Governor in Council by order requires a different joint board to hold a new hearing under this Act, the establishing authority shall establish the joint board in accordance with section 4 and the joint board shall hold the new hearing in accordance with the order.

Interpretation

(6) A decision by a tribunal, body or person mentioned in section 5 shall be deemed to be a decision by a joint board.

When decision final

14. A decision of a joint board becomes final,

- (a) where no application is made to the Lieutenant Governor in Council under section 13, with the expiry of the twenty-eighth day after the issuance of the decision;
- (b) where an application is made to the Lieutenant Governor in Council under section 13 and,
 - (i) the joint board is required to hold a new hearing, when the joint board issues its decision following upon the new hearing, or

- (ii) the joint board is not required to hold a new hearing, upon the disposition of the application by the Lieutenant Governor in Council.

15.—(1) Where a hearing is required or may be required or held under any Act set out in the Schedule or prescribed by the regulations and a joint board makes a decision in respect of the hearing, subject to section 13, Effect of joint board hearing and decision

- (a) the joint board decision stands for all purposes in place of the hearing;
- (b) the decision of the joint board stands for all purposes in place of any decision, order or action that is required or may be made or taken by the tribunal that has a power, right or duty to hold the hearing or by any other body or person after the holding of the hearing; and
- (c) no proceedings shall be taken by way of appeal in respect of the hearing or the decision except in accordance with this Act.

(2) An application for judicial review under *The Judicial Review Procedure Act, 1971*, or the bringing of proceedings specified in subsection 1 of section 2 of that Act, is not an appeal within the meaning of clause *c* of subsection 1. Judicial review 1971, c. 48

16.—(1) There shall be a Hearings Registrar appointed by the Lieutenant Governor in Council. Hearings Registrar

(2) The Hearings Registrar is the registrar of each joint board and is responsible for, Duties

- (a) assisting in the establishment and operation of each joint board; and
- (b) such other duties as may be prescribed by the regulations or assigned to him by or under any other Act.

17. The Hearings Registrar shall not be required and no member or appointee of a joint board shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties as Hearings Registrar or as a member or appointee of the joint board. Testimony by member or appointee of joint board

18. Where a person is prohibited under any Act set out in the Schedule or prescribed by the regulations from disclosing information but is permitted to disclose the information in or for the purpose of proceedings under that Act, the person may disclose the information in or for the purposes of the proceedings of a joint board under this Act. Disclosure of information

Regulations

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

- (a) for the conduct of and governing practice and procedure of joint board proceedings;
- (b) prescribing forms and providing for their use;
- (c) requiring the payment of fees in respect of proceedings before joint boards and prescribing the amounts thereof;
- (d) prescribing any matter referred to in this Act as prescribed by the regulations;
- (e) exempting any undertaking or class of undertakings or any hearing or class of hearings from the application of this Act or the regulations or any portion or section of this Act or the regulations, and prescribing conditions that shall apply to any such exemption.

Application of
R.S.O. 1970,
c. 410

(2) *The Regulations Act* does not apply to an order or decision under any other section of this Act.

Hearings
under
certain Acts

20.—(1) Where a proponent of an undertaking gives notice under section 3 to the Hearings Registrar, no person acting under any Act specified in the Schedule or prescribed by the regulations shall hold in respect of the undertaking a hearing specified in the notice or in any amendment to the notice.

Exception
where notice
withdrawn

(2) Subsection 1 does not apply where the notice under section 3 is withdrawn in accordance with section 6.

Other
proceedings

21. Nothing in this Act shall be construed to prevent a hearing or other proceeding under any other Act in respect of any matter not determined in a decision or order under this Act.

Service

22.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by prepaid mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Hearings Registrar.

Idem

(2) Where notice is given or service is made by prepaid mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or 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, order or other document until a later date.

(3) Where a joint board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the joint board may instead of doing so cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the joint board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

Public
notice

(4) A decision of a joint board shall be deemed to be issued on the day that a copy of the decision is delivered personally or is sent by prepaid mail or is given under subsection 3 to the last of the persons mentioned in subsection 4 of section 12.

Decision
of joint
board

23. This Act binds the Crown.

Crown

24.—(1) This Act does not apply in respect of an undertaking in relation to which, before the day referred to in section 3, a hearing has been commenced under an Act set out in the Schedule or prescribed by the regulations.

Transitional

(2) Notwithstanding subsection 1, the tribunal holding the hearing mentioned in subsection 1, upon application with notice by a party to the proceedings, may order the proponent of the undertaking to give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3.

Application
and order

(3) Upon the making of the order, this Act applies in respect of the undertaking.

Effect
of order

(4) Subsection 1 does not apply if the hearing has been completed before the day referred to in subsection 1, whether or not a decision has been made or issued following upon the hearing.

Exception

(5) Where a hearing mentioned in subsection 1 has been completed before the date referred to in subsection 1, and more than one further hearing is required or may be required or held under one or more of the Acts set out in the Schedule or prescribed by the regulations, the proponent may give to the Hearings Registrar the written notice mentioned in subsection 1 of section 3.

Notice by
proponent

(6) Where the proponent of an undertaking gives notice under subsection 5, this Act applies in respect of the undertaking.

Effect of
notice

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 Consolidated Hearings Act, 1981*.

SCHEDULE

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Expropriations Act, sections 6, 7 and 8

The Municipal Act

The Municipality of Metropolitan Toronto Act, section 65 (4)

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Municipal Board Act

The Ontario Water Resources Act

The Parkway Belt Planning and Development Act, 1973

The Planning Act

The Regional Municipality of Ottawa-Carleton Act, section 140a (9)

The Regional Municipality of York Act, section 166 (3) and (9)



An Act to provide for
the Consolidation of Hearings under
certain Acts of the Legislature

1st Reading

June 1st, 1981

2nd Reading

June 16th, 1981

3rd Reading

July 2nd, 1981

THE HON. K. C. NORTON
Minister of the Environment

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to establish
the Ontario Waste Management Corporation**

THE HON. K. C. NORTON
Minister of the Environment

EXPLANATORY NOTES

The Bill establishes a Corporation to research, develop, establish, operate and maintain facilities for the transmission, reception, collection, examination, storage, treatment and disposal of wastes.

The Corporation will be an agent of the Crown.

The Bill provides for the transfer to the Corporation of all the assets and liabilities of the share capital corporation known as Ontario Waste Management Corp.

The Corporation will have a board of directors composed of not fewer than seven members appointed by the Lieutenant Governor in Council.

The Corporation will not be permitted to borrow money without the approval of the Lieutenant Governor in Council.

The Corporation will not be permitted to establish, alter or enlarge any facility in respect of wastes on any property other than the property described in the Schedule to the Bill without the approval of the Lieutenant Governor in Council.

The Environmental Assessment Act, 1975 and section 33a of *The Environmental Protection Act, 1971* and section 43 of *The Ontario Water Resources Act* (which require public hearings), will not apply in respect of the Corporation or any activity, enterprise or facility of the Corporation in respect of the property described in the Schedule or any activity, enterprise or facility approved by the Lieutenant Governor in Council.

The Lieutenant Governor in Council will be empowered to formulate policies to be followed by the Corporation in carrying out its objects.

The accounts and financial transactions of the Corporation will be audited annually by the Provincial Auditor.

BILL 90

1981

An Act to establish the Ontario Waste Management Corporation

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

1. In this Act,

Interpre-
tation

(a) "Board" means the board of directors of the Corporation;

(b) "Corporation" means the Ontario Waste Management Corporation established by section 2;

(c) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act.

2.—(1) There is hereby established a corporation without share capital under the name of "Ontario Waste Management Corporation".

Incorporation

(2) The Corporation is a Crown agency within the meaning of *The Crown Agency Act*.

Application of
R.S.O. 1970,
c. 100

3. The objects of the Corporation are,

Objects

(a) to research, develop, establish, operate and maintain facilities for the transmission, reception, collection, examination, storage, treatment and disposal of wastes including sewage; and

(b) to perform such other duties as may be assigned to it under this or any other Act.

4. The Lieutenant Governor in Council may formulate policies for the Corporation and the Corporation shall follow such policies in carrying out its objects under this Act.

Policies

Transfer of
assets and
liabilities
R.S.O. 1970,
c. 53

5. On the day this section comes into force, all assets and all liabilities of Ontario Waste Management Corp., a corporation incorporated under *The Business Corporations Act* by articles of incorporation filed by Her Majesty the Queen in right of Ontario as represented by the Minister of the Environment, are, without compensation, assets and liabilities of the Corporation.

Board of
directors

6.—(1) There shall be a board of directors of the Corporation composed of not fewer than seven members who shall be appointed by the Lieutenant Governor in Council.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall appoint a chairman and a vice-chairman of the Board from the members of the Board.

Term of
office

(3) A member of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for successive terms not exceeding three years each.

Quorum

7. A majority of the members of the Board for the time being constitutes a quorum for the transaction of business at meetings of the Board.

Acting
chairman

8.—(1) If the chairman is absent or unable to act or if the office of chairman is vacant, the vice-chairman shall act as and have all the powers of the chairman, and in the absence of the chairman and the vice-chairman from any meeting 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.

Vacancy

(2) In the event of a vacancy in the office of a member of the Board caused by the death, resignation or incapacity of the member, the Lieutenant Governor in Council may appoint a person to hold office in place of the member for the remainder of the term of the member.

Remuneration
of members
of Board

9. The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

Removal
of member
of Board
for cause

10. The Lieutenant Governor in Council may remove a member of the Board from office before the expiration of his term for cause and the Lieutenant Governor in Council may appoint a person in place of the member for the remainder of the term of the member.

Staff

11.—(1) The Corporation may employ such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation.

(2) *The Public Service Superannuation Act* applies to the permanent and probationary employees of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Application of
R. S. O. 1970,
c. 387

(3) The Corporation may engage persons under contract other than those employed under subsection 1 to provide professional, technical or other assistance to or on behalf of the Corporation.

Expert
assistance

(4) Where the Corporation employs a person previously employed as a civil servant within the meaning of *The Public Service Act*, any attendance credits and vacation credits standing to the credit of the person as a civil servant immediately before his employment by the Corporation shall continue to stand to the credit of the person as an employee of the Corporation.

Attendance
and vacation
credits
R. S. O. 1970,
c. 386

(5) Any benefit or group plan applicable from time to time to civil servants within the meaning of *The Public Service Act* under any Act may be made applicable to the employees of the Corporation by order of the Lieutenant Governor in Council.

Application of
employee
benefit
or group
plan of
civil servants

12.—(1) *The Corporations Act* does not apply to the Corporation.

Application of
R. S. O. 1970,
c. 89

(2) The Corporation shall have a seal which shall be adopted by by-law.

Corporate
seal

(3) The Corporation has all the capacity and powers of a natural person, except as limited by this Act.

Capacity and
powers of
Corporation

13.—(1) The Board may pass by-laws regulating its proceedings, specifying the powers and duties of the officers and employees of the Corporation and generally for the conduct and management of the business and affairs of the Corporation.

By-laws, by
Corporation

(2) Except with the approval of the Lieutenant Governor in Council, the Board shall not pass a by-law for borrowing money on the credit of the Corporation or for mortgaging or pledging any of the real or personal property of the Corporation to secure any money borrowed by or any obligation or liability of the Corporation.

Borrowing
by-laws

14.—(1) Except with the prior approval of the Lieutenant Governor in Council, the Corporation shall not establish, alter or enlarge an activity, enterprise or facility in respect of wastes on any property other than the property described in the Schedule.

Where
approval
required to
establish, etc.,
facility

(2) The Lieutenant Governor in Council may attach terms, conditions and limitations to an approval mentioned in subsection 1.

Terms, con-
ditions and
limitations

Application of
1975, c. 69,
1971, c. 86,
R.S.O. 1970,
c. 332

15.—(1) *The Environmental Assessment Act, 1975*, section 33a of *The Environmental Protection Act, 1971* and section 43 of *The Ontario Water Resources Act* do not apply in respect of the following:

1. An activity, enterprise or facility,

(a) of the Corporation; or

(b) that is ancillary to an activity, enterprise or facility of the Corporation,

in respect of the property described in the Schedule.

2. An activity, enterprise or facility of the Corporation approved by the Lieutenant Governor in Council under section 14.

Idem

(2) On a day to be named by proclamation of the Lieutenant Governor, subsection 1 ceases to apply except in respect of such activities, enterprises or facilities as may be specified in the proclamation.

Review of
activity or
proposed
activity

16.—(1) The Lieutenant Governor in Council from time to time may appoint one or more persons to review any activity or proposed activity of the Corporation and to report thereon to the Lieutenant Governor in Council.

Powers

1971, c. 49

(2) Where the Lieutenant Governor in Council by order so declares, the person or persons appointed under subsection 1 shall have the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part shall apply to such review as if it were an inquiry under that Act.

Fiscal
year of
Corporation

17. The fiscal year of the Corporation begins on the 1st day of April and ends on the 31st day of March in the following year.

Minister
may require
reports

18. The Minister may require the Corporation to make reports and provide information to the Minister pertaining to any aspect of the business and affairs of the Corporation in such form and at such times as the Minister may specify and the Corporation shall comply with such requirements by the Minister.

Accounting
system

19.—(1) The Corporation shall establish and maintain an accounting system satisfactory to the Minister.

Audit

(2) The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor and the Provincial Auditor shall report on the audit to the Minister and the Corporation.

20. The net profits of the Corporation shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Minister may direct. ^{Profits}

21.—(1) This Act, except section 5, comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

(2) Section 5 comes into force on a day to be named by proclamation of the Lieutenant Governor. ^{Idem}

22. The short title of this Act is *The Ontario Waste Management Corporation Act, 1981*. ^{Short title}

SCHEDULE

Lots 10 to 21, concession 4 and lots 10 to 21, concession 5 in the Town of Haldimand, formerly in the Township of South Cayuga, in The Regional Municipality of Haldimand-Norfolk.

An Act to establish the
Ontario Waste Management Corporation

1st Reading

June 1st, 1981

2nd Reading

3rd Reading

THE HON. K. C. NORTON
Minister of the Environment

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to establish
the Ontario Waste Management Corporation**

THE HON. K. C. NORTON
Minister of the Environment

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

EXPLANATORY NOTES

The Bill establishes a Corporation to research, develop, establish, operate and maintain facilities for the transmission, reception, collection, examination, storage, treatment and disposal of wastes.

The Corporation will be an agent of the Crown.

The Bill provides for the transfer to the Corporation of all the assets and liabilities of the share capital corporation known as Ontario Waste Management Corp.

The Corporation will have a board of directors composed of not fewer than seven members appointed by the Lieutenant Governor in Council.

The Corporation will not be permitted to borrow money without the approval of the Lieutenant Governor in Council.

The Corporation will not be permitted to establish, alter or enlarge any facility in respect of wastes on any property other than the property described in the Schedule to the Bill without the approval of the Lieutenant Governor in Council.

The Environmental Assessment Act, 1975 and section 33a of *The Environmental Protection Act, 1971* and section 43 of *The Ontario Water Resources Act* (which require public hearings), will not apply in respect of the Corporation or any activity, enterprise or facility of the Corporation in respect of the property described in the Schedule or any activity, enterprise or facility approved by the Lieutenant Governor in Council.

The Lieutenant Governor in Council is empowered to appoint one or more persons to review and report on any activity or proposed activity of the Corporation.

The Corporation will not be permitted to establish a facility for the reception, storage, treatment or disposal of waste on any part of the property described in the Schedule, unless the person or persons appointed by the Lieutenant Governor in Council report, and the Board of the Corporation concurs, that the part of the property is a safe place for the facility and that the proposal for the facility is technologically sound. This provision and the provision noted above with respect to *The Environmental Assessment Act, 1975*, section 33a of *The Environmental Protection Act, 1971* and section 43 of *The Ontario Water Resources Act* will cease to apply on a day to be named by proclamation of the Lieutenant Governor in Council, except as may be specified in the proclamation.

The Lieutenant Governor in Council will be empowered to formulate policies to be followed by the Corporation in carrying out its objects.

The accounts and financial transactions of the Corporation will be audited annually by the Provincial Auditor.

The Corporation will be required to file annual reports with the Minister and the Minister will be required to submit the reports to the Lieutenant Governor in Council and then to lay the reports before the Assembly.

BILL 90

1981

An Act to establish the Ontario Waste Management Corporation

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

1. In this Act,

Interpre-
tation

- (a) "Board" means the board of directors of the Corporation;
- (b) "Corporation" means the Ontario Waste Management Corporation established by section 2;
- (c) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act.

2.—(1) There is hereby established a corporation without share capital under the name of "Ontario Waste Management Corporation".

Incorporation

(2) The Corporation is a Crown agency within the meaning of *The Crown Agency Act*.

Application of
R.S.O. 1970,
c. 100

3. The objects of the Corporation are,

Objects

- (a) to research, develop, establish, operate and maintain facilities for the transmission, reception, collection, examination, storage, treatment and disposal of wastes including sewage; and
- (b) to perform such other duties as may be assigned to it under this or any other Act.

4. The Lieutenant Governor in Council may formulate policies for the Corporation and the Corporation shall follow such policies in carrying out its objects under this Act.

Policies

Transfer of
assets and
liabilities
R.S.O. 1970,
c. 53

5. On the day this section comes into force, all assets and all liabilities of Ontario Waste Management Corp., a corporation incorporated under *The Business Corporations Act* by articles of incorporation filed by Her Majesty the Queen in right of Ontario as represented by the Minister of the Environment, are, without compensation, assets and liabilities of the Corporation.

Board of
directors

6.—(1) There shall be a board of directors of the Corporation composed of not fewer than seven members who shall be appointed by the Lieutenant Governor in Council.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall appoint a chairman and a vice-chairman of the Board from the members of the Board.

Term of
office

(3) A member of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for successive terms not exceeding three years each.

Quorum

7. A majority of the members of the Board for the time being constitutes a quorum for the transaction of business at meetings of the Board.

Acting
chairman

8.—(1) If the chairman is absent or unable to act or if the office of chairman is vacant, the vice-chairman shall act as and have all the powers of the chairman, and in the absence of the chairman and the vice-chairman from any meeting 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.

Vacancy

(2) In the event of a vacancy in the office of a member of the Board caused by the death, resignation or incapacity of the member, the Lieutenant Governor in Council may appoint a person to hold office in place of the member for the remainder of the term of the member.

Remuneration
of members
of Board

9. The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

Removal
of member
of Board
for cause

10. The Lieutenant Governor in Council may remove a member of the Board from office before the expiration of his term for cause and the Lieutenant Governor in Council may appoint a person in place of the member for the remainder of the term of the member.

Staff

11.—(1) The Corporation may employ such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation.

(2) *The Public Service Superannuation Act* applies to the permanent and probationary employees of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 27 of that Act. Application of R.S.O. 1970, c. 387

(3) The Corporation may engage persons under contract other than those employed under subsection 1 to provide professional, technical or other assistance to or on behalf of the Corporation. Expert assistance

(4) Where the Corporation employes a person previously employed as a civil servant within the meaning of *The Public Service Act*, any attendance credits and vacation credits standing to the credit of the person as a civil servant immediately before his employment by the Corporation shall continue to stand to the credit of the person as an employee of the Corporation. Attendance and vacation credits R.S.O. 1970, c. 386

(5) Any benefit or group plan applicable from time to time to civil servants within the meaning of *The Public Service Act* under any Act may be made applicable to the employees of the Corporation by order of the Lieutenant Governor in Council. Application of employee benefit or group plan of civil servants

12.—(1) *The Corporations Act* does not apply to the Corporation. Application of R.S.O. 1970, c. 89

(2) The Corporation shall have a seal which shall be adopted by by-law. Corporate seal

(3) The Corporation has all the capacity and powers of a natural person, except as limited by this Act. Capacity and powers of Corporation

13.—(1) The Board may pass by-laws regulating its proceedings, specifying the powers and duties of the officers and employees of the Corporation and generally for the conduct and management of the business and affairs of the Corporation. By-laws, by Corporation

(2) Except with the approval of the Lieutenant Governor in Council, the Board shall not pass a by-law for borrowing money on the credit of the Corporation or for mortgaging or pledging any of the real or personal property of the Corporation to secure any money borrowed by or any obligation or liability of the Corporation. Borrowing by-laws

14.—(1) Except with the prior approval of the Lieutenant Governor in Council, the Corporation shall not establish, alter or enlarge an activity, enterprise or facility in respect of wastes on any property other than the property described in the Schedule. Where approval required to establish, etc., facility

(2) The Lieutenant Governor in Council may attach terms, conditions and limitations to an approval mentioned in subsection 1. Terms, conditions and limitations

Application of
1975, c. 69,
1971, c. 86,
R.S.O. 1970,
c. 332

15.—(1) *The Environmental Assessment Act, 1975*, section 33a of *The Environmental Protection Act, 1971* and section 43 of *The Ontario Water Resources Act* do not apply in respect of the following:

1. An activity, enterprise or facility,

(a) of the Corporation; or

(b) that is ancillary to an activity, enterprise or facility of the Corporation,

in respect of the property described in the Schedule.

2. An activity, enterprise or facility of the Corporation approved by the Lieutenant Governor in Council under section 14.

Limitation

(2) The Corporation shall not establish a facility referred to in paragraph 1 of subsection 1 for the reception, storage, treatment or disposal of waste on any part of the property described in the Schedule unless a report is made under section 16, and the Board concurs, that the part of the property is a safe place for the facility and that the proposal for the facility is technologically sound.

Continued
application

(3) On a day to be named by proclamation of the Lieutenant Governor, subsections 1 and 2 cease to apply except in respect of such activities, enterprises or facilities as may be specified in the proclamation.

Review of
activity or
proposed
activity

16.—(1) The Lieutenant Governor in Council from time to time may appoint one or more persons to review any activity or proposed activity of the Corporation and to report thereon to the Lieutenant Governor in Council.

Powers

1971, c. 49

(2) Where the Lieutenant Governor in Council by order so declares, the person or persons appointed under subsection 1 shall have the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part shall apply to such review as if it were an inquiry under that Act.

Fiscal
year of
Corporation

17. The fiscal year of the Corporation begins on the 1st day of April and ends on the 31st day of March in the following year.

Minister
may require
reports

18. The Minister may require the Corporation to make reports and provide information to the Minister pertaining to any aspect of the business and affairs of the Corporation in such form and at such times as the Minister may specify and the Corporation shall comply with such requirements by the Minister.

19.—(1) The Corporation shall establish and maintain an accounting system satisfactory to the Minister. Accounting system

(2) The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor and the Provincial Auditor shall report on the audit to the Minister and the Corporation. Audit

20. The net profits of the Corporation shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Minister may direct. Profits

21. The Corporation shall, after the close of each fiscal year, file with the Minister an annual report upon the affairs of the Corporation signed by the chairman or the vice-chairman of the Corporation and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Annual report

22.—(1) This Act, except section 5, comes into force on the day it receives Royal Assent. Commencement

(2) Section 5 comes into force on a day to be named by proclamation of the Lieutenant Governor. Idem

23. The short title of this Act is *The Ontario Waste Management Corporation Act, 1981*. Short title

SCHEDULE

Lots 10 to 21, concession 4 and lots 10 to 21, concession 5 in the Town of Haldimand, formerly in the Township of South Cayuga, in The Regional Municipality of Haldimand-Norfolk.

An Act to establish the
Ontario Waste Management Corporation

1st Reading

June 1st, 1981

2nd Reading

June 23rd, 1981

3rd Reading

THE HON. K. C. NORTON
Minister of the Environment

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

BILL 90

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to establish the Ontario Waste Management Corporation

THE HON. K. C. NORTON
Minister of the Environment

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 90

1981

**An Act to establish
the Ontario Waste Management Corporation**

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

1. In this Act,

Interpre-
tation

- (a) "Board" means the board of directors of the Corporation;
- (b) "Corporation" means the Ontario Waste Management Corporation established by section 2;
- (c) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act.

2.—(1) There is hereby established a corporation without share capital under the name of "Ontario Waste Management Corporation".

Incorporation

(2) The Corporation is a Crown agency within the meaning of *The Crown Agency Act*.

Application of
R.S.O. 1970,
c. 100

3. The objects of the Corporation are,

Objects

- (a) to research, develop, establish, operate and maintain facilities for the transmission, reception, collection, examination, storage, treatment and disposal of wastes including sewage; and
- (b) to perform such other duties as may be assigned to it under this or any other Act.

4. The Lieutenant Governor in Council may formulate policies for the Corporation and the Corporation shall follow such policies in carrying out its objects under this Act.

Policies

Transfer of
assets and
liabilities
R.S.O. 1970,
c. 53

5. On the day this section comes into force, all assets and all liabilities of Ontario Waste Management Corp., a corporation incorporated under *The Business Corporations Act* by articles of incorporation filed by Her Majesty the Queen in right of Ontario as represented by the Minister of the Environment, are, without compensation, assets and liabilities of the Corporation.

Board of
directors

6.—(1) There shall be a board of directors of the Corporation composed of not fewer than seven members who shall be appointed by the Lieutenant Governor in Council.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall appoint a chairman and a vice-chairman of the Board from the members of the Board.

Term of
office

(3) A member of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for successive terms not exceeding three years each.

Quorum

7. A majority of the members of the Board for the time being constitutes a quorum for the transaction of business at meetings of the Board.

Acting
chairman

8.—(1) If the chairman is absent or unable to act or if the office of chairman is vacant, the vice-chairman shall act as and have all the powers of the chairman, and in the absence of the chairman and the vice-chairman from any meeting 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.

Vacancy

(2) In the event of a vacancy in the office of a member of the Board caused by the death, resignation or incapacity of the member, the Lieutenant Governor in Council may appoint a person to hold office in place of the member for the remainder of the term of the member.

Remuneration
of members
of Board

9. The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

Removal
of member
of Board
for cause

10. The Lieutenant Governor in Council may remove a member of the Board from office before the expiration of his term for cause and the Lieutenant Governor in Council may appoint a person in place of the member for the remainder of the term of the member.

Staff

11.—(1) The Corporation may employ such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation.

(2) *The Public Service Superannuation Act* applies to the permanent and probationary employees of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 27 of that Act. Application of R.S.O. 1970, c. 387

(3) The Corporation may engage persons under contract other than those employed under subsection 1 to provide professional, technical or other assistance to or on behalf of the Corporation. Expert assistance

(4) Where the Corporation employes a person previously employed as a civil servant within the meaning of *The Public Service Act*, any attendance credits and vacation credits standing to the credit of the person as a civil servant immediately before his employment by the Corporation shall continue to stand to the credit of the person as an employee of the Corporation. Attendance and vacation credits
R.S.O. 1970, c. 386

(5) Any benefit or group plan applicable from time to time to civil servants within the meaning of *The Public Service Act* under any Act may be made applicable to the employees of the Corporation by order of the Lieutenant Governor in Council. Application of employee benefit or group plan of civil servants

12.—(1) *The Corporations Act* does not apply to the Corporation. Application of R.S.O. 1970, c. 89

(2) The Corporation shall have a seal which shall be adopted by by-law. Corporate seal

(3) The Corporation has all the capacity and powers of a natural person, except as limited by this Act. Capacity and powers of Corporation

13.—(1) The Board may pass by-laws regulating its proceedings, specifying the powers and duties of the officers and employees of the Corporation and generally for the conduct and management of the business and affairs of the Corporation. By-laws, by Corporation

(2) Except with the approval of the Lieutenant Governor in Council, the Board shall not pass a by-law for borrowing money on the credit of the Corporation or for mortgaging or pledging any of the real or personal property of the Corporation to secure any money borrowed by or any obligation or liability of the Corporation. Borrowing by-laws

14.—(1) Except with the prior approval of the Lieutenant Governor in Council, the Corporation shall not establish, alter or enlarge an activity, enterprise or facility in respect of wastes on any property other than the property described in the Schedule. Where approval required to establish, etc., facility

(2) The Lieutenant Governor in Council may attach terms, conditions and limitations to an approval mentioned in subsection 1. Terms, conditions and limitations

Application of
1975, c. 69,
1971, c. 86,
R.S.O. 1970,
c. 332

15.—(1) *The Environmental Assessment Act, 1975*, section 33a of *The Environmental Protection Act, 1971* and section 43 of *The Ontario Water Resources Act* do not apply in respect of the following:

1. An activity, enterprise or facility,

(a) of the Corporation; or

(b) that is ancillary to an activity, enterprise or facility of the Corporation,

in respect of the property described in the Schedule.

2. An activity, enterprise or facility of the Corporation approved by the Lieutenant Governor in Council under section 14.

Limitation

(2) The Corporation shall not establish a facility referred to in paragraph 1 of subsection 1 for the reception, storage, treatment or disposal of waste on any part of the property described in the Schedule unless a report is made under section 16, and the Board concurs, that the part of the property is a safe place for the facility and that the proposal for the facility is technologically sound.

Continued
application

(3) On a day to be named by proclamation of the Lieutenant Governor, subsections 1 and 2 cease to apply except in respect of such activities, enterprises or facilities as may be specified in the proclamation.

Review of
activity or
proposed
activity

16.—(1) The Lieutenant Governor in Council from time to time may appoint one or more persons to review any activity or proposed activity of the Corporation and to report thereon to the Lieutenant Governor in Council.

Powers

1971, c. 49

(2) Where the Lieutenant Governor in Council by order so declares, the person or persons appointed under subsection 1 shall have the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part shall apply to such review as if it were an inquiry under that Act.

Fiscal
year of
Corporation

17. The fiscal year of the Corporation begins on the 1st day of April and ends on the 31st day of March in the following year.

Minister
may require
reports

18. The Minister may require the Corporation to make reports and provide information to the Minister pertaining to any aspect of the business and affairs of the Corporation in such form and at such times as the Minister may specify and the Corporation shall comply with such requirements by the Minister.

19.—(1) The Corporation shall establish and maintain an accounting system satisfactory to the Minister. ^{Accounting system}

(2) The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor and the Provincial Auditor shall report on the audit to the Minister and the Corporation. ^{Audit}

20. The net profits of the Corporation shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Minister may direct. ^{Profits}

21. The Corporation shall, after the close of each fiscal year, file with the Minister an annual report upon the affairs of the Corporation signed by the chairman or the vice-chairman of the Corporation and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. ^{Annual report}

22.—(1) This Act, except section 5, comes into force on the day it receives Royal Assent. ^{Commencement}

(2) Section 5 comes into force on a day to be named by proclamation of the Lieutenant Governor. ^{Idem}

23. The short title of this Act is *The Ontario Waste Management Corporation Act, 1981*. ^{Short title}

SCHEDULE

Lots 10 to 21, concession 4 and lots 10 to 21, concession 5 in the Town of Haldimand, formerly in the Township of South Cayuga, in The Regional Municipality of Haldimand-Norfolk.

An Act to establish the
Ontario Waste Management Corporation

1st Reading

June 1st, 1981

2nd Reading

June 23rd, 1981

3rd Reading

July 2nd, 1981

THE HON. K. C. NORTON
Minister of the Environment

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Municipal Act

MR. BREAUH

EXPLANATORY NOTE

The purpose of the Bill is to authorize municipalities to provide retired employees with a range of benefits including health insurance, nursing and dental services and accident and sickness insurance.

BILL 91

1981

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. Clause *a* of paragraph 66 of section 352 of *The Municipal Act*, ^{s. 352,} being chapter 284 of the Revised Statutes of Ontario, 1970, ^{par. 66 (a),} is ^{re-enacted} repealed and the following substituted therefor:
 - (a) In this paragraph, "employee" means an employee as defined in paragraph 64 and a retired employee.
2. Clause *a* of paragraph 67 of section 352 of the said Act is repealed ^{s. 352,} and the following substituted therefor: ^{par. 67 (a),} ^{re-enacted}
 - (a) In this paragraph, "employee" means an employee as defined in paragraph 64 and a retired employee.
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Municipal Amendment Act, 1981*. Short title

An Act to amend The Municipal Act

1st Reading

June 1st, 1981

2nd Reading

3rd Reading

MR. BREAUGH

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Registry Act

**THE HON. G. W. WALKER
Minister of Consumer and Commercial Relations**

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The proposed amendment will allow a land registrar reasonable time to abstract the discharge of a mortgage before he returns the duplicate of the mortgage to the person who registered the discharge.

Subsection 2. The proposed new subsections will permit a land registrar to delete an entry of a mortgage from the abstract index as soon as a discharge is registered. A claim arising under an instrument that has been deleted will not affect the land and people searching title will be able to rely on the abstract index with respect to such deleted entries. Under the proposed Part IV of the Act, as set out in section 5 of the Bill, a person wrongfully deprived of land because of a deletion in the abstract index will be able to claim compensation from the Land Titles Assurance Fund.

BILL 92

1981

An Act to amend The Registry 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 4 of section 54 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 22 and amended by 1979, chapter 94, section 47, is further amended by inserting after “shall” in the fourth line “within a reasonable time”. s. 54 (4),
amended
- (2) The said section 54 is amended by adding thereto the following subsections: s. 54,
amended
- (6) Where the land registrar is satisfied that a registered instrument purporting to discharge a mortgage validly discharges the land described in the mortgage, or that part of the land described in the discharging instrument, from any claim arising under the mortgage or under any other instrument relating exclusively thereto, the land registrar shall delete from the abstract index the entry of the mortgage and any other instrument relating exclusively thereto. Deletion of
entries from
abstract index
- (7) Notwithstanding subsection 6, the land registrar shall not delete the entry of an instrument in the abstract index for a lot or part of a lot unless he is satisfied that all the lot or part is free from claims under the instrument. Exception
- (8) Where the land registrar has deleted from the abstract index the entry of a mortgage under subsection 6, the land described in the mortgage, or that part of the land described in the discharging instrument, as the case may be, is not affected by any claim under the mortgage or under any other instrument relating exclusively thereto. Effect of
deletion
- (9) Where it appears from the abstract index that an instrument purporting to be a valid discharge of a mortgage has been Discharge
of mortgage
registered
for ten
years

registered for ten or more years, and the entry of the mortgage or any other instrument relating exclusively thereto has not been deleted from the abstract index, the land described in the mortgage or instrument, or that part of the land described in the discharging instrument, as the case may be, is not affected by any claim under the mortgage or instrument or under any instrument relating exclusively thereto.

Application of
subss. 6-9
to instruments
under s. 26

(10) Subsections 6 to 9 apply with necessary modifications to every instrument purporting to discharge an instrument under section 26 and to an instrument under that section.

s. 65 (1),
repealed

2. Subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 26 and amended by 1979, chapter 94, section 24, is repealed.

s. 76 (2),
amended

3. Subsection 2 of section 76 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 29 and amended by 1979, chapter 94, section 27, is further amended by inserting after "recording" in the second line "or deleting".

Part III,
re-enacted

4. Part III of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 40 and 1979, chapter 94, sections 45 and 46, is repealed and the following substituted therefor:

PART III

INVESTIGATION OF TITLES

Interpre-
tation

110.—(1) In this Part,

(a) "claim" means a right, title, interest, claim, or demand of any kind or nature whatsoever affecting land set forth in, based upon or arising out of a registered instrument, and, without limiting the generality of the foregoing, includes a mortgage, lien, easement, agreement, contract, option, charge, annuity, lease, dower right, and restriction as to the use of land or other encumbrance affecting land;

(b) "notice of claim" means a notice of claim registered under subsection 2 of section 112 and includes a notice registered under a predecessor of this Part or under *The Investigation of Titles Act*, being chapter 193 of the Revised Statutes of Ontario, 1960, or a predecessor thereof;

(c) "notice period" means the period ending on the day forty years after the day of the registration of an instrument or a notice of claim, as the case may be;

SECTION 2. The repeal of section 65 (1) of the Act is complementary to the enactment of section 54 (9), as set out in section 1 (2) of the Bill.

SECTION 3. Section 76 (2) of the Act provides for the correction of the abstract index where there has been a recording error. The proposed amendment extends the power of the land registrar to make corrections where there has been an error in making deletions and is complementary to the enactment of sections 54 (6) and 54 (10) of the Act, as set out in section 1 (2) of the Bill.

SECTION 4. The re-enactment of Part III of the Act clarifies that it is not necessary to search title for more than a forty-year period except in the cases provided for in Part III of the Act.

The re-enacted Part III also clarifies that a claim will only affect land for forty years.



- (d) "owner" means a person, other than a lessee or a mortgagee, entitled to a freehold or other estate or interest in land at law or in equity, in possession, in futurity or in expectancy;
- (e) "title search period" means the period of forty years described in subsection 1 of section 111.

(2) A claim referred to in clause *a* or *b* of subsection 5 of section 112 is not confined to a claim under a registered instrument. Claims under unregistered instruments

111.—(1) A person dealing with land shall not be required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title during a period greater than the forty years immediately preceding the day of such dealing, except in respect of a claim referred to in subsection 5 of section 112. Title search period

(2) Where there has been no conveyance, other than a mortgage, of the freehold estate registered within the title search period, the chain of title commences with the conveyance of the freehold estate, other than a mortgage, most recently registered before the commencement of the title search period. Deemed commencement of chain of title

(3) A chain of title does not depend upon and is not affected by any instrument registered before the commencement of the title search period except, Instruments registered prior to title search period not effective

- (a) an instrument that, under subsection 2, commences the chain of title;
- (b) an instrument in respect of a claim for which a valid and subsisting notice of claim was registered during the title search period; and
- (c) an instrument in relation to any claim referred to in subsection 5 of section 112.

112.—(1) A claim that is still in existence on the last day of the notice period expires at the end of that day unless a notice of claim has been registered. Expiry of claims

(2) A person having a claim that is not barred by this Part, or a person on his behalf, may register a notice of claim in the prescribed form, Notice of claim

- (a) at any time within the notice period; or
- (b) at any time after the expiration of the notice period but before the registration of any conflicting claim.

- Renewal (3) A notice of claim may be renewed from time to time by the registration of a notice of claim in accordance with subsection 2.
- Effect of notice of claim (4) Subject to subsection 7, when a notice of claim has been registered, the claim affects the land for the notice period of the notice of claim.
- Exceptions (5) This Part does not apply to,
- (a) a claim,
 - (i) of the Crown reserved by letters patent,
 - (ii) of the Crown in unpatented land or in land for which letters patent have been issued, but which has reverted to the Crown by forfeiture or cancellation of letters patent, or in land that has otherwise reverted to the Crown,
 - (iii) of the Crown or a municipality in a public highway or lane,
 - (iv) of a person to an unregistered right of way or other easement or right that the person is openly enjoying and using;
 - (b) a claim arising under any Act; or
 - (c) a claim of a corporation authorized to construct or operate a railway, including a street railway or incline railway, in respect of lands acquired by the corporation after the 1st day of July, 1930, and,
 - (i) owned or used for the purposes of a right-of-way for railway lines, or
 - (ii) abutting such right-of-way.
- Freehold estates (6) Subsection 1 does not apply to a claim to a freehold estate in land or an equity of redemption in land by a person continuously shown by the abstract index for the land as being so entitled for more than forty years as long as the person is so shown.
- Claims not validated (7) The registration of a notice of claim does not validate or extend a claim that is invalid or that has expired.
- Dower (8) For the purposes of subsection 1, an instrument by which a husband conveyed land before the 31st day of March, 1978 shall be deemed to be a notice of claim with respect to his wife's dower right.



SECTION 5. This section enacts new provisions related to the payment of compensation where a person is deprived of land because of the deletion of entries from the abstract index or because of errors or omissions in the recording of instruments. "Land" is defined in section 1 of the Act and includes any estate or interest in land.

(9) Subsection 8 is repealed on the 31st day of March, 1988. Repeal

113. Where there is a conflict between any provision of this Part and any provision of Part I or Part II of this Act or of any provision of any other Act or any rule of law, the provision of this Part prevails. Conflict

5. The said Act is amended by adding thereto the following Part: Part IV
(ss. 114-116),
enacted

PART IV

COMPENSATION

114.—(1) A person wrongfully deprived of land registered under this Act by reason of, Entitle-
ment to
compen-
sation

(a) the deletion of an entry under section 54 or 65; or

(b) any error or omission in recording a registered instrument,

is entitled to compensation out of The Land Titles Assurance Fund formed under section 61 of *The Land Titles Act*.

R.S.O. 1970,
c. 234

(2) A person is not entitled to any compensation out of The Land Titles Assurance Fund in respect of land registered under this Act unless, Qualifi-
cations

(a) the person has been wrongfully deprived of land for a reason set out in subsection 1;

(b) the person is unable to recover what is just by way of compensation or damages from any person whose act caused the loss or who was privy to any such act; and

(c) the claim for compensation is made within six years from the time the person discovered or ought reasonably to have discovered the deletion, error or omission.

(3) Notwithstanding clause *c* of subsection 2, a person under the disability of infancy, mental incompetency or unsoundness of mind may make a claim for compensation under this Part at any time within six years from the day on which the disability ceased but not more than twenty years after the deletion, error or omission occurred. Persons
under
disabilities

(4) Section 29, subsections 4 to 11 of section 64, section 65 and subsection 5 of section 181 of *The Land Titles Act* apply, with necessary modifications, to claims for compensation under this Part. Application of
R.S.O. 1970,
c. 234, ss. 29,
64 (4-11), 65,
181 (5)

Interests
of innocent
persons

115. If, while a deletion or omission of any entry relating to any mortgage or other instrument securing the payment of money is subsisting, an innocent person has acquired an estate, right or interest in the land mentioned in the mortgage or other instrument, and the estate, right or interest of the innocent person is set forth in, is based upon or arises out of an instrument registered before the deletion or omission is corrected,

- (a) the estate, right or interest of the innocent person in the land is not affected by any claim under the mortgage or other instrument; and
- (b) the person whose interest under the mortgage or other instrument is extinguished under clause *a* is entitled to compensation under this Part.

Protection
from
personal
liability

116.—(1) No action or other proceeding for damages shall be instituted against any officer or employee of the Ministry of Consumer and Commercial Relations or anyone acting under his authority for any act done in good faith in the execution or intended execution of his duty under this Act, or for any alleged neglect or default in the execution in good faith of his duty under this Act.

Crown
liability
R.S.O. 1970,
c. 365

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection 1 to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

Application

6. Part III of *The Registry Act*, as re-enacted by section 4 of this Act, applies to every claim and notice of claim whether registered before or after the coming into force of the said section 4.

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 Registry Amendment Act, 1981*.

SECTION 6. Self-explanatory.





An Act to amend The Registry Act

1st Reading

June 2nd, 1981

2nd Reading

3rd Reading

THE HON. G. W. WALKER
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 92

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Registry Act

**THE HON. G. W. WALKER
Minister of Consumer and Commercial Relations**

An Act to amend The Registry 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 4 of section 54 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 22 and amended by 1979, chapter 94, section 47, is further amended by inserting after “shall” in the fourth line “within a reasonable time”. s. 54 (4), amended

(2) The said section 54 is amended by adding thereto the following subsections: s. 54, amended

(6) Where the land registrar is satisfied that a registered instrument purporting to discharge a mortgage validly discharges the land described in the mortgage, or that part of the land described in the discharging instrument, from any claim arising under the mortgage or under any other instrument relating exclusively thereto, the land registrar shall delete from the abstract index the entry of the mortgage and any other instrument relating exclusively thereto. Deletion of entries from abstract index

(7) Notwithstanding subsection 6, the land registrar shall not delete the entry of an instrument in the abstract index for a lot or part of a lot unless he is satisfied that all the lot or part is free from claims under the instrument. Exception

(8) Where the land registrar has deleted from the abstract index the entry of a mortgage under subsection 6, the land described in the mortgage, or that part of the land described in the discharging instrument, as the case may be, is not affected by any claim under the mortgage or under any other instrument relating exclusively thereto. Effect of deletion

(9) Where it appears from the abstract index that an instrument purporting to be a valid discharge of a mortgage has been Discharge of mortgage registered for ten years

registered for ten or more years, and the entry of the mortgage or any other instrument relating exclusively thereto has not been deleted from the abstract index, the land described in the mortgage or instrument, or that part of the land described in the discharging instrument, as the case may be, is not affected by any claim under the mortgage or instrument or under any instrument relating exclusively thereto.

Application of
subss. 6-9
to instruments
under s. 26

(10) Subsections 6 to 9 apply with necessary modifications to every instrument purporting to discharge an instrument under section 26 and to an instrument under that section.

s. 65 (1),
repealed

2. Subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 26 and amended by 1979, chapter 94, section 24, is repealed.

s. 76 (2),
amended

3. Subsection 2 of section 76 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 29 and amended by 1979, chapter 94, section 27, is further amended by inserting after "recording" in the second line "or deleting".

Part III,
re-enacted

4. Part III of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 40 and 1979, chapter 94, sections 45 and 46, is repealed and the following substituted therefor:

PART III

INVESTIGATION OF TITLES

Interpre-
tation

110.—(1) In this Part,

(a) "claim" means a right, title, interest, claim, or demand of any kind or nature whatsoever affecting land set forth in, based upon or arising out of a registered instrument, and, without limiting the generality of the foregoing, includes a mortgage, lien, easement, agreement, contract, option, charge, annuity, lease, dower right, and restriction as to the use of land or other encumbrance affecting land;

(b) "notice of claim" means a notice of claim registered under subsection 2 of section 112 and includes a notice registered under a predecessor of this Part or under *The Investigation of Titles Act*, being chapter 193 of the Revised Statutes of Ontario, 1960, or a predecessor thereof;

(c) "notice period" means the period ending on the day forty years after the day of the registration of an instrument or a notice of claim, as the case may be;

- (d) "owner" means a person, other than a lessee or a mortgagee, entitled to a freehold or other estate or interest in land at law or in equity, in possession, in futurity or in expectancy;
- (e) "title search period" means the period of forty years described in subsection 1 of section 111.

(2) A claim referred to in clause *a* or *b* of subsection 5 of section 112 is not confined to a claim under a registered instrument. Claims under unregistered instruments

111.—(1) A person dealing with land shall not be required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title during a period greater than the forty years immediately preceding the day of such dealing, except in respect of a claim referred to in subsection 5 of section 112. Title search period

(2) Where there has been no conveyance, other than a mortgage, of the freehold estate registered within the title search period, the chain of title commences with the conveyance of the freehold estate, other than a mortgage, most recently registered before the commencement of the title search period. Deemed commencement of chain of title

(3) A chain of title does not depend upon and is not affected by any instrument registered before the commencement of the title search period except, Instruments registered prior to title search period not effective

- (a) an instrument that, under subsection 2, commences the chain of title;
- (b) an instrument in respect of a claim for which a valid and subsisting notice of claim was registered during the title search period; and
- (c) an instrument in relation to any claim referred to in subsection 5 of section 112.

112.—(1) A claim that is still in existence on the last day of the notice period expires at the end of that day unless a notice of claim has been registered. Expiry of claims

(2) A person having a claim that is not barred by this Part, or a person on his behalf, may register a notice of claim in the prescribed form, Notice of claim

- (a) at any time within the notice period; or
- (b) at any time after the expiration of the notice period but before the registration of any conflicting claim.

Renewal

(3) A notice of claim may be renewed from time to time by the registration of a notice of claim in accordance with subsection 2.

Effect of notice of claim

(4) Subject to subsection 7, when a notice of claim has been registered, the claim affects the land for the notice period of the notice of claim.

Exceptions

(5) This Part does not apply to,

(a) a claim,

(i) of the Crown reserved by letters patent,

(ii) of the Crown in unpatented land or in land for which letters patent have been issued, but which has reverted to the Crown by forfeiture or cancellation of letters patent, or in land that has otherwise reverted to the Crown,

(iii) of the Crown or a municipality in a public highway or lane,

(iv) of a person to an unregistered right of way or other easement or right that the person is openly enjoying and using;

(b) a claim arising under any Act; or

(c) a claim of a corporation authorized to construct or operate a railway, including a street railway or incline railway, in respect of lands acquired by the corporation after the 1st day of July, 1930, and,

(i) owned or used for the purposes of a right-of-way for railway lines, or

(ii) abutting such right-of-way.

Freehold estates

(6) Subsection 1 does not apply to a claim to a freehold estate in land or an equity of redemption in land by a person continuously shown by the abstract index for the land as being so entitled for more than forty years as long as the person is so shown.

Claims not validated

(7) The registration of a notice of claim does not validate or extend a claim that is invalid or that has expired.

Dower

(8) For the purposes of subsection 1, an instrument by which a husband conveyed land before the 31st day of March, 1978 shall be deemed to be a notice of claim with respect to his wife's dower right.

(9) Subsection 8 is repealed on the 31st day of March, 1988. Repeal

113. Where there is a conflict between any provision of this Part and any provision of Part I or Part II of this Act or of any provision of any other Act or any rule of law, the provision of this Part prevails. Conflict

5. The said Act is amended by adding thereto the following Part: Part IV
(ss. 114-116),
enacted

PART IV

COMPENSATION

114.—(1) A person wrongfully deprived of land registered under this Act by reason of, Entitle-
ment to
compen-
sation

(a) the deletion of an entry under section 54 or 65; or

(b) any error or omission in recording a registered instru-
ment,

is entitled to compensation out of The Land Titles Assurance Fund formed under section 61 of *The Land Titles Act*.

R.S.O. 1970,
c. 234

(2) A person is not entitled to any compensation out of The Land Titles Assurance Fund in respect of land registered under this Act unless, Quali-
fications

(a) the person has been wrongfully deprived of land for a reason set out in subsection 1;

(b) the person is unable to recover what is just by way of compensation or damages from any person whose act caused the loss or who was privy to any such act; and

(c) the claim for compensation is made within six years from the time the person discovered or ought reasonably to have discovered the deletion, error or omission.

(3) Notwithstanding clause *c* of subsection 2, a person under the disability of infancy, mental incompetency or unsoundness of mind may make a claim for compensation under this Part at any time within six years from the day on which the disability ceased but not more than twenty years after the deletion, error or omission occurred. Persons
under
disabilities

(4) Section 29, subsections 4 to 11 of section 64, section 65 and subsection 5 of section 181 of *The Land Titles Act* apply, with necessary modifications, to claims for compensation under this Part. Application of
R.S.O. 1970,
c. 234, ss. 29,
64 (4-11), 65,
181 (5)

Interests
of innocent
persons

115. If, while a deletion or omission of any entry relating to any mortgage or other instrument securing the payment of money is subsisting, an innocent person has acquired an estate, right or interest in the land mentioned in the mortgage or other instrument, and the estate, right or interest of the innocent person is set forth in, is based upon or arises out of an instrument registered before the deletion or omission is corrected,

- (a) the estate, right or interest of the innocent person in the land is not affected by any claim under the mortgage or other instrument; and
- (b) the person whose interest under the mortgage or other instrument is extinguished under clause *a* is entitled to compensation under this Part.

Protection
from
personal
liability

116.—(1) No action or other proceeding for damages shall be instituted against any officer or employee of the Ministry of Consumer and Commercial Relations or anyone acting under his authority for any act done in good faith in the execution or intended execution of his duty under this Act, or for any alleged neglect or default in the execution in good faith of his duty under this Act.

Crown
liability
R.S.O. 1970,
c. 365

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection 1 to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

Application

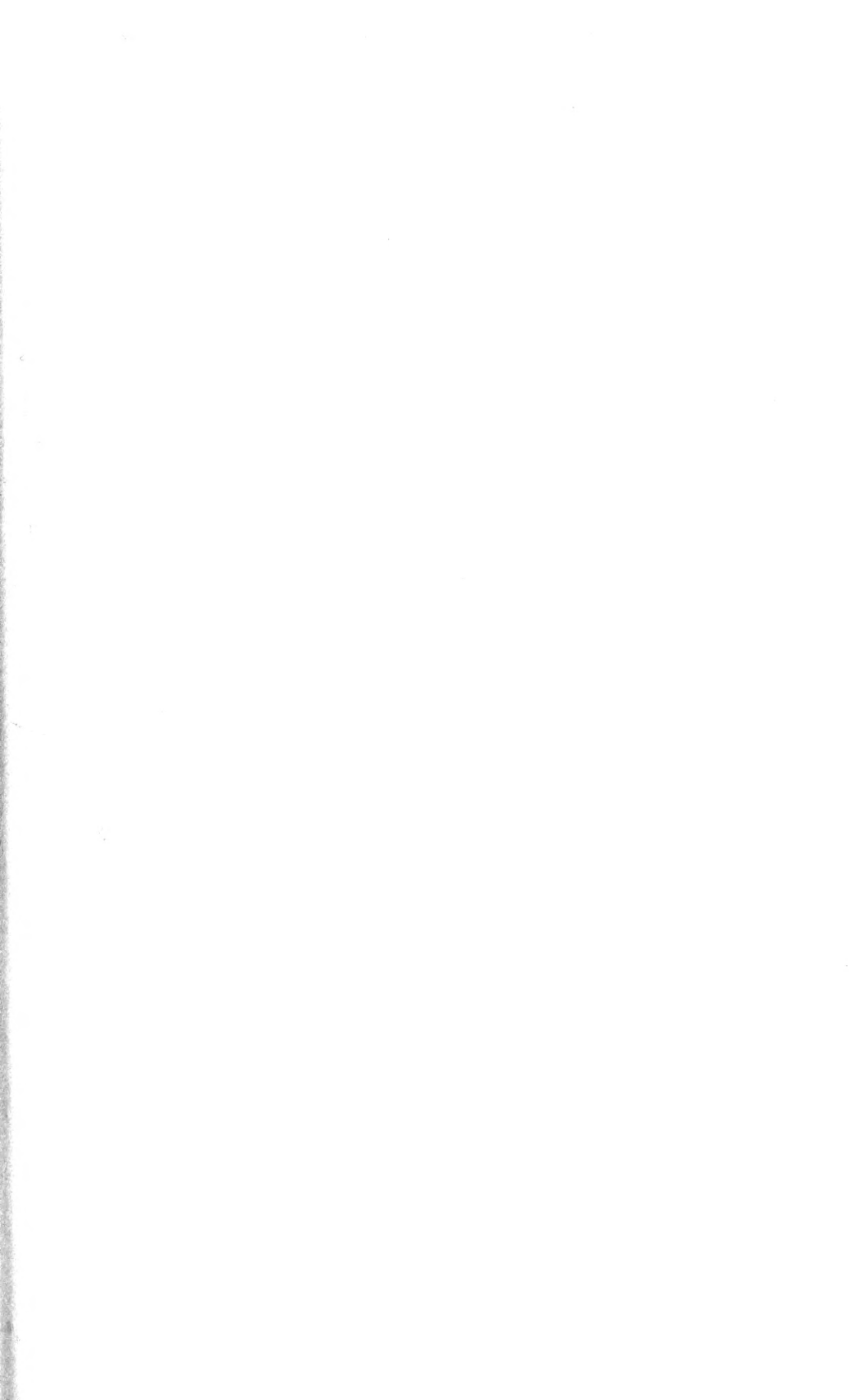
6. Part III of *The Registry Act*, as re-enacted by section 4 of this Act, applies to every claim and notice of claim whether registered before or after the coming into force of the said section 4.

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 Registry Amendment Act, 1981*.







An Act to amend The Registry Act

1st Reading

June 2nd, 1981

2nd Reading

June 26th, 1981

3rd Reading

June 26th, 1981

THE HON. G. W. WALKER
Minister of Consumer and
Commercial Relations

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

The Dangerous Goods Transportation Act, 1981

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTE

The purpose of the Bill is to regulate the transportation of dangerous goods in vehicles on Ontario highways. The Bill is complementary to a Federal Act passed in 1980 dealing with the transportation of dangerous goods in general. It is expected that other provinces will pass legislation similar to this Bill in an attempt to achieve uniformity of legislation in this field.

The main features of the Bill are as follows:

1. The transportation of dangerous goods in a vehicle on a highway is prohibited except in accordance with prescribed safety requirements (section 3).
2. Certain exemptions are provided (section 2).
3. Dangerous goods are set out in the Schedule.
4. Provision is made for regulations to prescribe safety requirements for containers, packaging and vehicles.
5. The Act binds the Crown (section 2 (5)).
6. Provision is made for designation of inspectors (section 9).
7. The powers of inspectors are set out (section 10).
8. Provision is made to enter into agreements with the Government of Canada with respect to the administration and enforcement of the Act and the Federal Act (section 12).

BILL 93

1981

The Dangerous Goods Transportation Act, 1981

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) "analyst" means any person designated as an analyst under the *Transportation of Dangerous Goods Act* (Canada); 1980, c. 36 (Can.)
- (b) "container" means transport equipment, including equipment that,
- (i) is carried on a chassis,
 - (ii) is strong enough to be suitable for repeated use, and
 - (iii) is designed to facilitate the transportation of goods without intermediate reloading,
- but does not include a vehicle;
- (c) "dangerous goods" means any product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (d) "highway" means a highway as defined in *The Highway Traffic Act*; R.S.O. 1970, c. 202
- (e) "inspector" means any person designated as an inspector by the Minister under this Act;
- (f) "Minister" means the Minister of Transportation and Communications;
- (g) "packaging" means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a means of transport;
- (h) "prescribed" means prescribed by the regulations;

- (i) "regulations" means the regulations made under this Act unless the context indicates otherwise;
- (j) "safety mark" includes any design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging or containers or vehicles used in the transporting of dangerous goods;
- (k) "safety requirements" means requirements for the transportation of dangerous goods, the reporting of the transportation, the training of persons engaged in the transportation and the inspection of the transportation;
- (l) "safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transporting of dangerous goods;
- (m) "shipping document" means any document that accompanies dangerous goods being transported and that describes or contains information relating to the goods and, in particular, but without restricting the generality of the foregoing, includes a bill of lading, cargo manifest, shipping order or way-bill;
- (n) "trailer" means a trailer as defined in *The Highway Traffic Act*;
- (o) "*Transportation of Dangerous Goods Act (Canada)*" means the *Transportation of Dangerous Goods Act (Canada)*, as amended from time to time and includes the regulations made under that Act from time to time unless the context indicates otherwise;
- (p) "vehicle" means a vehicle as defined in *The Highway Traffic Act*.

R.S.O. 1970,
c. 202

1980, c. 36
(Can.)

Where Act
does not
apply

2.—(1) This Act does not apply to dangerous goods transported in a vehicle,

- (a) while under the sole direction or control of the Minister of National Defence for Canada; or
- (b) for which a permit is issued under subsection 2 while there is compliance with the permit.

Permit

(2) The Minister or a person designated by him may issue a permit exempting, from the application of this Act, the transportation of dangerous goods in a vehicle.

(3) A permit issued under subsection 2 is subject to such terms and conditions as the issuer considers appropriate and are contained in the permit. Idem

(4) The Minister may designate in writing any person as a person authorized to issue a permit referred to in subsection 2. Person designated

(5) This Act binds the Crown. Application to Crown

3. No person shall transport any dangerous goods in a vehicle on a highway unless, Offences

(a) all applicable prescribed safety requirements are complied with; and

(b) the vehicle and all containers and packaging in it comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

4.—(1) Every person who contravenes section 3 is guilty of an offence and is liable on the first conviction to a fine of not more than \$50,000, and on each subsequent conviction to a fine of not more than \$100,000. Penalty

(2) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on conviction to a fine of not more than \$10,000. Idem

(3) No proceedings under this section may be instituted after two years from the day the offence was committed. Time limit

5. It is a defence to a charge under this Act for the accused to establish that he took all reasonable measures to comply with this Act. Defence

6. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his knowledge and that he took all reasonable measures to prevent its commission. Offences by employee or agent

7. Any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., of corporation

Certificate
or report of
inspector
or analyst

8.—(1) Subject to subsections 3 and 4, a certificate or report appearing to have been signed by an inspector or analyst stating that he has made an inspection or analyzed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate or report.

Copies or
extracts

(2) Subject to subsections 3 and 4, a copy or an extract made by an inspector under clause *b* of subsection 2 of section 10 and appearing to have been certified under his signature as a true copy or extract is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of any evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

Attendance
of inspector
or analyst

(3) The party against whom a certificate or report is produced under subsection 1 or against whom a copy or an extract is produced under subsection 2 may require the attendance of the inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

Notice

(4) No certificate, report, copy or extract referred to in subsection 1 or 2 shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced a notice of such intention together with a duplicate of the certificate, report, copy or extract.

Designation
of inspectors

9.—(1) The Minister may designate any person as an inspector for the purposes of this Act.

Inspector
to show
certificate

(2) An inspector shall be furnished with a certificate of his designation and, on inspecting any container, packaging or vehicle he shall, if so required, produce the certificate to the person in charge of the thing being inspected.

Certificate

(3) Where an inspector inspects or takes a sample of anything under this Act he shall, if the thing is sealed or closed up, provide the person in charge of it with a certificate in prescribed form evidencing the inspection or taking of the sample.

Effect of
certificate

(4) A certificate provided under subsection 3 relieves the person to or for whose benefit it is provided of liability with respect to the inspection or taking of a sample evidenced by the certificate, but

does not otherwise exempt that person from compliance with this Act and the regulations.

10.—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, at any time, stop and inspect a vehicle and its load where he believes that dangerous goods are being transported, and request the opening and inspection of or open and inspect any container, packaging or vehicle on a highway wherein or whereby he believes that the dangerous goods are being transported. Powers of inspectors

(2) On inspecting any container, packaging or vehicle under subsection 1, an inspector may, Inspection

(a) for the purpose of analysis, take samples of anything found therein that he believes on reasonable and probable grounds to be dangerous goods; and

(b) examine and make copies and extracts of any books, records, shipping documents or other documents or papers that he believes on reasonable and probable grounds contain any information relevant to the administration or enforcement of this Act and the regulations.

(3) The owner or person who has the charge, management or control of any container, packaging or vehicle inspected under subsection 1 shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions under this Act. Assistance to inspectors

(4) No person shall, while an inspector is exercising his powers or carrying out his duties and functions under this Act, Obstruction of inspectors

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make any false or misleading statement either verbally or in writing to the inspector;

(c) except with the authority of the inspector, remove, alter or interfere in any way with anything removed by the inspector; or

(d) otherwise obstruct or hinder the inspector.

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

(a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;

- (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
- (c) specifying, for each product, substance and organism prescribed under clause *a*, the class listed in the Schedule and the division, subdivision or group into which it falls;
- (d) determining or providing the manner of determining the class listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed under clause *a* falls;
- (e) exempting from the application of this Act and the regulations or any provision thereof the transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under clause *e*;
- (g) prescribing the manner in which a permit under clause *b* of subsection 1 of section 2 shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transporting of dangerous goods in a vehicle on a highway, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing forms for the purposes of this Act and the regulations;
- (k) amending the Schedule;
- (l) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway;
- (m) prohibiting the transporting of dangerous goods under such circumstances as are prescribed;
- (n) prohibiting the transporting of such dangerous goods as are prescribed.

(2) Any regulation made under subsection 1 may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary any code or standard, or any regulation made by the Government of Canada, and may require compliance with any code, standard or regulation that is so adopted.

Code, etc., may be adopted by reference

12.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada with respect to the administration and enforcement of,

Agreements respecting enforcement

(a) this Act and the regulations or any provision thereof; and

(b) the *Transportation of Dangerous Goods Act* (Canada), or any provision thereof.

1980, c. 36 (Can.)

(2) An agreement entered into under subsection 1 may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising therefrom.

Costs, expenses, revenues and related matters

13.—(1) Where a provision in,

(a) *The Boilers and Pressure Vessels Act*;

(b) *The Gasoline Handling Act*;

(c) *The Highway Traffic Act*;

(d) *The Energy Act, 1971*; or

(e) *The Pesticides Act, 1973*,

Act has primacy over R.S.O. 1970, cc. 47, 189, 202, 1971, c. 44 1973, c. 25

purports to require or authorize anything that is a contravention of this Act, this Act applies and prevails unless it is specifically provided that the provision is to apply notwithstanding this Act.

(2) For the purposes of subsection 1, a reference to an Act mentioned in subsection 1 includes all regulations, rules or orders made under the Act.

Interpretation

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

Commencement

15. The short title of this Act is *The Dangerous Goods Transportation Act, 1981*.

Short title

SCHEDULE

- Class 1 — Explosives, including explosives within the meaning of the *Explosives Act* (Canada)
- Class 2 — Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 — Flammable and combustible liquids
- Class 4 — Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases
- Class 5 — Oxidizing substances; organic peroxides
- Class 6 — Poisonous (toxic) and infectious substances
- Class 7 —
- Class 8 — Corrosives
- Class 9 — Miscellaneous products, substances or organisms considered by the Lieutenant Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.



The Dangerous Goods Transportation
Act, 1981

1st Reading

June 2nd, 1981

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

Dangerous Goods Transportation Act, 1981

THE HON. J. W. SNOW
Minister of Transportation and Communications

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTE

The purpose of the Bill is to regulate the transportation of dangerous goods in vehicles on Ontario highways. The Bill is complementary to a Federal Act passed in 1980 dealing with the transportation of dangerous goods in general. It is expected that other provinces will pass legislation similar to this Bill in an attempt to achieve uniformity of legislation in this field.

The main features of the Bill are as follows:

1. The transportation of dangerous goods in a vehicle on a highway is prohibited except in accordance with prescribed safety requirements (section 3).
2. Certain exemptions are provided (section 2).
3. Dangerous goods are set out in the Schedule.
4. Provision is made for regulations to prescribe safety requirements for containers, packaging and vehicles.
5. The Act binds the Crown (subsection 2 (5)).
6. Provision is made for designation of inspectors (section 9).
7. The powers of inspectors are set out (section 10).
8. Provision is made to enter into agreements with the Government of Canada with respect to the administration and enforcement of the Act and the Federal Act (section 12).

BILL 93

1981

Dangerous Goods Transportation Act, 1981

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) "analyst" means any person designated as an analyst under the *Transportation of Dangerous Goods Act* (Canada); ^{1980, c. 36 (Can.)}
- (b) "container" means transport equipment, including equipment that,
- (i) is carried on a chassis,
 - (ii) is strong enough to be suitable for repeated use, and
 - (iii) is designed to facilitate the transportation of goods without intermediate reloading,
- but does not include a vehicle;
- (c) "dangerous goods" means any product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (d) "highway" means a highway as defined in the *Highway Traffic Act*; ^{R.S.O. 1980, c. 198}
- (e) "inspector" means any person designated as an inspector by the Minister under this Act;
- (f) "Minister" means the Minister of Transportation and Communications;
- (g) "packaging" means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a means of transport;
- (h) "prescribed" means prescribed by the regulations;

- (i) "regulations" means the regulations made under this Act unless the context indicates otherwise;
- (j) "safety mark" includes any design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging or containers or vehicles used in the transporting of dangerous goods;
- (k) "safety requirements" means requirements for the transportation of dangerous goods, the reporting of the transportation, the training of persons engaged in the transportation and the inspection of the transportation;
- (l) "safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transporting of dangerous goods;
- (m) "shipping document" means any document that accompanies dangerous goods being transported and that describes or contains information relating to the goods and, in particular, but without restricting the generality of the foregoing, includes a bill of lading, cargo manifest, shipping order or way-bill;
- (n) "trailer" means a trailer as defined in the *Highway Traffic Act*;
- (o) "*Transportation of Dangerous Goods Act (Canada)*" means the *Transportation of Dangerous Goods Act (Canada)*, as amended from time to time and includes the regulations made under that Act from time to time unless the context indicates otherwise;
- (p) "vehicle" means a vehicle as defined in the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

1980, c. 36
(Can.)

Where Act
does not
apply

2.—(1) This Act does not apply to dangerous goods transported in a vehicle,

- (a) while under the sole direction or control of the Minister of National Defence for Canada; or
- (b) for which a permit is issued under subsection (2) while there is compliance with the permit.

Permit

(2) The Minister or a person designated by him may issue a permit exempting, from the application of this Act, the transportation of dangerous goods in a vehicle.

(3) A permit issued under subsection (2) is subject to such terms and conditions as the issuer considers appropriate and are contained in the permit. Idem

(4) The Minister may designate in writing any person as a person authorized to issue a permit referred to in subsection (2). Person designated

(5) This Act binds the Crown. Application to Crown

3. No person shall transport any dangerous goods in a vehicle on a highway unless, Offences

(a) all applicable prescribed safety requirements are complied with; and

(b) the vehicle and all containers and packaging in it comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

4.—(1) Every person who contravenes section 3 is guilty of an offence and is liable on the first conviction to a fine of not more than \$50,000, and on each subsequent conviction to a fine of not more than \$100,000. Penalty

(2) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on conviction to a fine of not more than \$10,000. Idem

(3) No proceedings under this section may be instituted after two years from the day the offence was committed. Time limit

5. It is a defence to a charge under this Act for the accused to establish that he took all reasonable measures to comply with this Act. Defence

6. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his knowledge and that he took all reasonable measures to prevent its commission. Offences by employee or agent

7. Any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., of corporation

Certificate
or report of
inspector
or analyst

8.—(1) Subject to subsections (3) and (4), a certificate or report appearing to have been signed by an inspector or analyst stating that he has made an inspection or analyzed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate or report.

Copies or
extracts

(2) Subject to subsections (3) and (4), a copy or an extract made by an inspector under clause 10 (2) (b) and appearing to have been certified under his signature as a true copy or extract is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of any evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

Attendance
of inspector
or analyst

(3) The party against whom a certificate or report is produced under subsection (1) or against whom a copy or an extract is produced under subsection (2) may require the attendance of the inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

Notice

(4) No certificate, report, copy or extract referred to in subsection (1) or (2) shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced a notice of such intention together with a duplicate of the certificate, report, copy or extract.

Designation
of inspectors

9.—(1) The Minister may designate any person as an inspector for the purposes of this Act.

Inspector
to show
certificate

(2) An inspector shall be furnished with a certificate of his designation and, on inspecting any container, packaging or vehicle he shall, if so required, produce the certificate to the person in charge of the thing being inspected.

Certificate

(3) Where an inspector inspects or takes a sample of anything under this Act he shall, if the thing is sealed or closed up, provide the person in charge of it with a certificate in prescribed form evidencing the inspection or taking of the sample.

Effect of
certificate

(4) A certificate provided under subsection (3) relieves the person to or for whose benefit it is provided of liability with respect to the inspection or taking of a sample evidenced by the certifi-

cate, but does not otherwise exempt that person from compliance with this Act and the regulations.

10.—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, at any time, stop and inspect a vehicle and its load where he believes that dangerous goods are being transported, and request the opening and inspection of or open and inspect any container, packaging or vehicle on a highway wherein or whereby he believes that the dangerous goods are being transported. Powers of inspectors

(2) On inspecting any container, packaging or vehicle under subsection (1), an inspector may, Inspection

(a) for the purpose of analysis, take samples of anything found therein that he believes on reasonable and probable grounds to be dangerous goods; and

(b) examine and make copies and extracts of any books, records, shipping documents or other documents or papers that he believes on reasonable and probable grounds contain any information relevant to the administration or enforcement of this Act and the regulations.

(3) The owner or person who has the charge, management or control of any container, packaging or vehicle inspected under subsection (1) shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions under this Act. Assistance to inspectors

(4) No person shall, while an inspector is exercising his powers or carrying out his duties and functions under this Act, Obstruction of inspectors

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make any false or misleading statement either verbally or in writing to the inspector;

(c) except with the authority of the inspector, remove, alter or interfere in any way with anything removed by the inspector; or

(d) otherwise obstruct or hinder the inspector.

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

(a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;

- (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
- (c) specifying, for each product, substance and organism prescribed under clause (a), the class listed in the Schedule and the division, subdivision or group into which it falls;
- (d) determining or providing the manner of determining the class listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed under clause (a) falls;
- (e) exempting from the application of this Act and the regulations or any provision thereof the transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under clause e;
- (g) prescribing the manner in which a permit under clause 2 (1) (b) shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transporting of dangerous goods in a vehicle on a highway, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing forms for the purposes of this Act and the regulations;
- (k) amending the Schedule;
- (l) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway;
- (m) prohibiting the transporting of dangerous goods under such circumstances as are prescribed;
- (n) prohibiting the transporting of such dangerous goods as are prescribed.

(2) Any regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary any code or standard, or any regulation made by the Government of Canada, and may require compliance with any code, standard or regulation that is so adopted.

Code, etc.,
may be
adopted by
reference

12.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada with respect to the administration and enforcement of,

Agreements
respecting
enforcement

(a) this Act and the regulations or any provision thereof;
and

(b) the *Transportation of Dangerous Goods Act* (Canada),
or any provision thereof.

1980, c. 36
(Can.)

(2) An agreement entered into under subsection (1) may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising therefrom.

Costs,
expenses,
revenues
and related
matters

13.—(1) Where a provision in,

(a) the *Boilers and Pressure Vessels Act*;

(b) the *Gasoline Handling Act*;

(c) the *Highway Traffic Act*;

(d) the *Energy Act*; or

(e) the *Pesticides Act*,

Act has
primacy over
R.S.O. 1980,
c. 46, 185,
198, 139, 376

purports to require or authorize anything that is a contravention of this Act, this Act applies and prevails unless it is specifically provided that the provision is to apply notwithstanding this Act.

(2) For the purposes of subsection (1), a reference to an Act mentioned in subsection (1) includes all regulations, rules or orders made under the Act.

Interpre-
tation

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

Commence-
ment

15. The short title of this Act is the *Dangerous Goods Transportation Act, 1981*.

Short title

SCHEDULE

- Class 1 — Explosives, including explosives within the meaning of the *Explosives Act* (Canada)
- Class 2 — Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 — Flammable and combustible liquids
- Class 4 — Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases
- Class 5 — Oxidizing substances; organic peroxides
- Class 6 — Poisonous (toxic) and infectious substances
- Class 7 —
- Class 8 — Corrosives
- Class 9 — Miscellaneous products, substances or organisms considered by the Lieutenant Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.



Dangerous Goods Transportation Act, 1981

1st Reading

June 2nd, 1981

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

Dangerous Goods Transportation Act, 1981

THE HON. J. W. SNOW
Minister of Transportation and Communications

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

EXPLANATORY NOTE

The purpose of the Bill is to regulate the transportation of dangerous goods in vehicles on Ontario highways. The Bill is complementary to a Federal Act passed in 1980 dealing with the transportation of dangerous goods in general. It is expected that other provinces will pass legislation similar to this Bill in an attempt to achieve uniformity of legislation in this field.

The main features of the Bill are as follows:

1. The transportation of dangerous goods in a vehicle on a highway is prohibited except in accordance with prescribed safety requirements (section 3).
2. Certain exemptions are provided (section 2).
3. Dangerous goods are set out in the Schedule.
4. Provision is made for regulations to prescribe safety requirements for containers, packaging and vehicles.
5. The Act binds the Crown (subsection 2 (5)).
6. Provision is made for designation of inspectors (section 9).
7. The powers of inspectors are set out (section 10).
8. Provision is made to enter into agreements with the Government of Canada with respect to the administration and enforcement of the Act and the Federal Act (section 12).

BILL 93

1981

Dangerous Goods Transportation Act, 1981

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) "analyst" means any person designated as an analyst under the *Transportation of Dangerous Goods Act* (Canada); 1980, c. 36 (Can.)
- (b) "container" means transport equipment, including equipment that,
- (i) is carried on a chassis,
 - (ii) is strong enough to be suitable for repeated use, and
 - (iii) is designed to facilitate the transportation of goods without intermediate reloading,
- but does not include a vehicle;
- (c) "dangerous goods" means any product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (d) "highway" means a highway as defined in the *Highway Traffic Act*; R.S.O. 1980, c. 198
- (e) "inspector" means any person designated as an inspector by the Minister under this Act;
- (f) "Minister" means the Minister of Transportation and Communications;
- (g) "packaging" means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a means of transport;
- (h) "prescribed" means prescribed by the regulations;

- (i) "regulations" means the regulations made under this Act unless the context indicates otherwise;
- (j) "safety mark" includes any design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging or containers or vehicles used in the transporting of dangerous goods;
- (k) "safety requirements" means requirements for the transportation of dangerous goods, the reporting of the transportation, the training of persons engaged in the transportation and the inspection of the transportation;
- (l) "safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transporting of dangerous goods;
- (m) "shipping document" means any document that accompanies dangerous goods being transported and that describes or contains information relating to the goods and, in particular, but without restricting the generality of the foregoing, includes a bill of lading, cargo manifest, shipping order or way-bill;
- (n) "trailer" means a trailer as defined in the *Highway Traffic Act*;
- (o) "*Transportation of Dangerous Goods Act (Canada)*" means the *Transportation of Dangerous Goods Act (Canada)*, as amended from time to time and includes the regulations made under that Act from time to time unless the context indicates otherwise;
- (p) "vehicle" means a vehicle as defined in the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

1980, c. 36
(Can.)

Where Act
does not
apply

2.—(1) This Act does not apply to dangerous goods transported in a vehicle,

- (a) while under the sole direction or control of the Minister of National Defence for Canada; or
- (b) for which a permit is issued under subsection (2) while there is compliance with the permit.

Permit

(2) The Minister or a person designated by him may issue a permit exempting, from the application of this Act, the transportation of dangerous goods in a vehicle.

(3) A permit issued under subsection (2) is subject to such terms and conditions as the issuer considers appropriate and are contained in the permit. Idem

(4) The Minister may designate in writing any person as a person authorized to issue a permit referred to in subsection (2). Person designated

(5) This Act binds the Crown. Application to Crown

3. No person shall transport any dangerous goods in a vehicle on a highway unless, Offences

(a) all applicable prescribed safety requirements are complied with; and

(b) the vehicle and all containers and packaging in it comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

4.—(1) Every person who contravenes section 3 is guilty of an offence and is liable, Penalty

(a) on the first conviction to a fine of not more than \$50,000; and

(b) on each subsequent conviction to a fine of not more than \$100,000,

or to imprisonment for a term of less than two years.

(2) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on conviction to a fine of not more than \$10,000 or to imprisonment for a term not exceeding one year. Idem

(3) No proceedings under this section may be instituted after two years from the day the offence was committed. Time limit

5. It is a defence to a charge under this Act for the accused to establish that he took all reasonable measures to comply with this Act. Defence

6. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his knowledge and that he took all reasonable measures to prevent its commission. Offences by employee or agent

Officers,
etc., of
corporation

7. Any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

Certificate
or report of
inspector
or analyst

8.—(1) Subject to subsections (3) and (4), a certificate or report appearing to have been signed by an inspector or analyst stating that he has made an inspection or analyzed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate or report.

Copies or
extracts

(2) Subject to subsections (3) and (4), a copy or an extract made by an inspector under clause 10 (2) (b) and appearing to have been certified under his signature as a true copy or extract is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of any evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

Attendance
of inspector
or analyst

(3) The party against whom a certificate or report is produced under subsection (1) or against whom a copy or an extract is produced under subsection (2) may require the attendance of the inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

Notice

(4) No certificate, report, copy or extract referred to in subsection (1) or (2) shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced a notice of such intention together with a duplicate of the certificate, report, copy or extract.

Designation
of inspectors

9.—(1) The Minister may designate any person as an inspector for the purposes of this Act.

Inspector
to show
certificate

(2) An inspector shall be furnished with a certificate of his designation and, on inspecting any container, packaging or vehicle he shall, if so required, produce the certificate to the person in charge of the thing being inspected.

Certificate

(3) Where an inspector inspects or takes a sample of anything under this Act he shall, if the thing is sealed or closed up, provide

the person in charge of it with a certificate in prescribed form evidencing the inspection or taking of the sample.

(4) A certificate provided under subsection (3) relieves the person to or for whose benefit it is provided of liability with respect to the inspection or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act and the regulations. Effect of certificate

10.—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, at any time, stop and inspect a vehicle and its load where he believes that dangerous goods are being transported, and request the opening and inspection of or open and inspect any container, packaging or vehicle on a highway wherein or whereby he believes that the dangerous goods are being transported. Powers of inspectors

(2) On inspecting any container, packaging or vehicle under subsection (1), an inspector may, Inspection

(a) for the purpose of analysis, take samples of anything found therein that he believes on reasonable and probable grounds to be dangerous goods; and

(b) examine and make copies and extracts of any books, records, shipping documents or other documents or papers that he believes on reasonable and probable grounds contain any information relevant to the administration or enforcement of this Act and the regulations.

(3) The owner or person who has the charge, management or control of any container, packaging or vehicle inspected under subsection (1) shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions under this Act. Assistance to inspectors

(4) No person shall, while an inspector is exercising his powers or carrying out his duties and functions under this Act, Obstruction of inspectors

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make any false or misleading statement either verbally or in writing to the inspector;

(c) except with the authority of the inspector, remove, alter or interfere in any way with anything removed by the inspector; or

(d) otherwise obstruct or hinder the inspector.

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

- (a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;
- (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
- (c) specifying, for each product, substance and organism prescribed under clause (a), the class listed in the Schedule and the division, subdivision or group into which it falls;
- (d) determining or providing the manner of determining the class listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed under clause (a) falls;
- (e) exempting from the application of this Act and the regulations or any provision thereof the transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under clause e;
- (g) prescribing the manner in which a permit under clause 2 (1) (b) shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transporting of dangerous goods in a vehicle on a highway, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing forms for the purposes of this Act and the regulations;
- (k) amending the Schedule;
- (l) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway;

(m) prohibiting the transporting of dangerous goods under such circumstances as are prescribed;

(n) prohibiting the transporting of such dangerous goods as are prescribed;

(o) requiring persons having charge, management or control of dangerous goods escaping a container, packaging or vehicle on a highway to report the occurrence to a designated person, designating the person to whom the report is to be made and prescribing the information to be included in the report and the manner of reporting.

(2) Any regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary any code or standard, or any regulation made by the Government of Canada, and may require compliance with any code, standard or regulation that is so adopted.

Code, etc., may be adopted by reference

12.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada with respect to the administration and enforcement of,

Agreements respecting enforcement

(a) this Act and the regulations or any provision thereof; and

(b) the *Transportation of Dangerous Goods Act* (Canada), or any provision thereof.

1980, c. 36 (Can.)

(2) An agreement entered into under subsection (1) may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising therefrom.

Costs, expenses, revenues and related matters

(3) The Minister shall, as soon as possible, after the end of each year, prepare and cause to be laid before the Legislature, a report on the administration and enforcement of this Act for that year.

Annual report

13.—(1) Where a provision in,

(a) the *Boilers and Pressure Vessels Act*;

(b) the *Gasoline Handling Act*;

(c) the *Highway Traffic Act*;

Act has primacy over R.S.O. 1980, cc. 46, 185, 198, 139, 376

(d) the *Energy Act*; or

(e) the *Pesticides Act*,

purports to require or authorize anything that is a contravention of this Act, this Act applies and prevails unless it is specifically provided that the provision is to apply notwithstanding this Act.

Interpre-
tation

(2) For the purposes of subsection (1), a reference to an Act mentioned in subsection (1) includes all regulations, rules or orders made under the Act.

Commence-
ment

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

Short title

15. The short title of this Act is the *Dangerous Goods Transportation Act, 1981*.

SCHEDULE

- Class 1 — Explosives, including explosives within the meaning of the *Explosives Act* (Canada)
- Class 2 — Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 — Flammable and combustible liquids
- Class 4 — Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases
- Class 5 — Oxidizing substances; organic peroxides
- Class 6 — Poisonous (toxic) and infectious substances
- Class 7 —
- Class 8 — Corrosives
- Class 9 — Miscellaneous products, substances or organisms considered by the Lieutenant Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.



Dangerous Goods Transportation Act, 1981

1st Reading

June 2nd, 1981

2nd Reading

November 10th, 1981

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

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

BILL 93

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

Dangerous Goods Transportation Act, 1981

THE HON. J. W. SNOW
Minister of Transportation and Communications

BILL 93

1981

Dangerous Goods Transportation Act, 1981

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) “analyst” means any person designated as an analyst under the *Transportation of Dangerous Goods Act* (Canada); ^{1980, c. 36 (Can.)}
- (b) “container” means transport equipment, including equipment that,
- (i) is carried on a chassis,
 - (ii) is strong enough to be suitable for repeated use, and
 - (iii) is designed to facilitate the transportation of goods without intermediate reloading,
- but does not include a vehicle;
- (c) “dangerous goods” means any product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (d) “highway” means a highway as defined in the *Highway Traffic Act*; ^{R.S.O. 1980, c. 198}
- (e) “inspector” means any person designated as an inspector by the Minister under this Act;
- (f) “Minister” means the Minister of Transportation and Communications;
- (g) “packaging” means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a means of transport;
- (h) “prescribed” means prescribed by the regulations;

- (i) "regulations" means the regulations made under this Act unless the context indicates otherwise;
- (j) "safety mark" includes any design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging or containers or vehicles used in the transporting of dangerous goods;
- (k) "safety requirements" means requirements for the transportation of dangerous goods, the reporting of the transportation, the training of persons engaged in the transportation and the inspection of the transportation;
- (l) "safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transporting of dangerous goods;
- (m) "shipping document" means any document that accompanies dangerous goods being transported and that describes or contains information relating to the goods and, in particular, but without restricting the generality of the foregoing, includes a bill of lading, cargo manifest, shipping order or way-bill;
- (n) "trailer" means a trailer as defined in the *Highway Traffic Act*;
- (o) "*Transportation of Dangerous Goods Act (Canada)*" means the *Transportation of Dangerous Goods Act (Canada)*, as amended from time to time and includes the regulations made under that Act from time to time unless the context indicates otherwise;
- (p) "vehicle" means a vehicle as defined in the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

1980, c. 36
(Can.)

Where Act
does not
apply

2.—(1) This Act does not apply to dangerous goods transported in a vehicle,

- (a) while under the sole direction or control of the Minister of National Defence for Canada; or
- (b) for which a permit is issued under subsection (2) while there is compliance with the permit.

Permit

(2) The Minister or a person designated by him may issue a permit exempting, from the application of this Act, the transportation of dangerous goods in a vehicle.

(3) A permit issued under subsection (2) is subject to such terms and conditions as the issuer considers appropriate and are contained in the permit. Idem

(4) The Minister may designate in writing any person as a person authorized to issue a permit referred to in subsection (2). Person designated

(5) This Act binds the Crown. Application to Crown

3. No person shall transport any dangerous goods in a vehicle on a highway unless, Offences

(a) all applicable prescribed safety requirements are complied with; and

(b) the vehicle and all containers and packaging in it comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

4.—(1) Every person who contravenes section 3 is guilty of an offence and is liable, Penalty

(a) on the first conviction to a fine of not more than \$50,000; and

(b) on each subsequent conviction to a fine of not more than \$100,000,

or to imprisonment for a term of less than two years.

(2) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on conviction to a fine of not more than \$10,000 or to imprisonment for a term not exceeding one year. Idem

(3) No proceedings under this section may be instituted after two years from the day the offence was committed. Time limit

5. It is a defence to a charge under this Act for the accused to establish that he took all reasonable measures to comply with this Act. Defence

6. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his knowledge and that he took all reasonable measures to prevent its commission. Offences by employee or agent

Officers,
etc., of
corporation

7. Any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

Certificate
or report of
inspector
or analyst

8.—(1) Subject to subsections (3) and (4), a certificate or report appearing to have been signed by an inspector or analyst stating that he has made an inspection or analyzed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate or report.

Copies or
extracts

(2) Subject to subsections (3) and (4), a copy or an extract made by an inspector under clause 10 (2) (b) and appearing to have been certified under his signature as a true copy or extract is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of any evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

Attendance
of inspector
or analyst

(3) The party against whom a certificate or report is produced under subsection (1) or against whom a copy or an extract is produced under subsection (2) may require the attendance of the inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

Notice

(4) No certificate, report, copy or extract referred to in subsection (1) or (2) shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced a notice of such intention together with a duplicate of the certificate, report, copy or extract.

Designation
of inspectors

9.—(1) The Minister may designate any person as an inspector for the purposes of this Act.

Inspector
to show
certificate

(2) An inspector shall be furnished with a certificate of his designation and, on inspecting any container, packaging or vehicle he shall, if so required, produce the certificate to the person in charge of the thing being inspected.

Certificate

(3) Where an inspector inspects or takes a sample of anything under this Act he shall, if the thing is sealed or closed up, provide

the person in charge of it with a certificate in prescribed form evidencing the inspection or taking of the sample.

(4) A certificate provided under subsection (3) relieves the person to or for whose benefit it is provided of liability with respect to the inspection or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act and the regulations. Effect of certificate

10.—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, at any time, stop and inspect a vehicle and its load where he believes that dangerous goods are being transported, and request the opening and inspection of or open and inspect any container, packaging or vehicle on a highway wherein or whereby he believes that the dangerous goods are being transported. Powers of inspectors

(2) On inspecting any container, packaging or vehicle under subsection (1), an inspector may, Inspection

(a) for the purpose of analysis, take samples of anything found therein that he believes on reasonable and probable grounds to be dangerous goods; and

(b) examine and make copies and extracts of any books, records, shipping documents or other documents or papers that he believes on reasonable and probable grounds contain any information relevant to the administration or enforcement of this Act and the regulations.

(3) The owner or person who has the charge, management or control of any container, packaging or vehicle inspected under subsection (1) shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions under this Act. Assistance to inspectors

(4) No person shall, while an inspector is exercising his powers or carrying out his duties and functions under this Act, Obstruction of inspectors

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make any false or misleading statement either verbally or in writing to the inspector;

(c) except with the authority of the inspector, remove, alter or interfere in any way with anything removed by the inspector; or

(d) otherwise obstruct or hinder the inspector.

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

- (a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;
- (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
- (c) specifying, for each product, substance and organism prescribed under clause (a), the class listed in the Schedule and the division, subdivision or group into which it falls;
- (d) determining or providing the manner of determining the class listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed under clause (a) falls;
- (e) exempting from the application of this Act and the regulations or any provision thereof the transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under clause e;
- (g) prescribing the manner in which a permit under clause 2 (1) (b) shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transporting of dangerous goods in a vehicle on a highway, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing forms for the purposes of this Act and the regulations;
- (k) amending the Schedule;
- (l) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway;

- (m) prohibiting the transporting of dangerous goods under such circumstances as are prescribed;
- (n) prohibiting the transporting of such dangerous goods as are prescribed;
- (o) requiring persons having charge, management or control of dangerous goods escaping a container, packaging or vehicle on a highway to report the occurrence to a designated person, designating the person to whom the report is to be made and prescribing the information to be included in the report and the manner of reporting.

(2) Any regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary any code or standard, or any regulation made by the Government of Canada, and may require compliance with any code, standard or regulation that is so adopted.

Code, etc.,
may be
adopted by
reference

12.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada with respect to the administration and enforcement of,

Agreements
respecting
enforcement

(a) this Act and the regulations or any provision thereof;
and

(b) the *Transportation of Dangerous Goods Act* (Canada),
or any provision thereof.

1980, c. 36
(Can.)

(2) An agreement entered into under subsection (1) may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising therefrom.

Costs,
expenses,
revenues
and related
matters

(3) The Minister shall, as soon as possible, after the end of each year, prepare and cause to be laid before the Legislature, a report on the administration and enforcement of this Act for that year.

Annual
report

13.—(1) Where a provision in,

Act has
primacy over
R.S.O. 1980,
cc. 46, 185,
198, 139, 376

(a) the *Boilers and Pressure Vessels Act*;

(b) the *Gasoline Handling Act*;

(c) the *Highway Traffic Act*;

(d) the *Energy Act*; or

(e) the *Pesticides Act*,

purports to require or authorize anything that is a contravention of this Act, this Act applies and prevails unless it is specifically provided that the provision is to apply notwithstanding this Act.

Interpre-
tation

(2) For the purposes of subsection (1), a reference to an Act mentioned in subsection (1) includes all regulations, rules or orders made under the Act.

Commence-
ment

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

Short title

15. The short title of this Act is the *Dangerous Goods Transportation Act, 1981*.

SCHEDULE

- Class 1 — Explosives, including explosives within the meaning of the *Explosives Act* (Canada)
- Class 2 — Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 — Flammable and combustible liquids
- Class 4 — Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases
- Class 5 — Oxidizing substances; organic peroxides
- Class 6 — Poisonous (toxic) and infectious substances
- Class 7 —
- Class 8 — Corrosives
- Class 9 — Miscellaneous products, substances or organisms considered by the Lieutenant Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.

1st Reading

June 2nd, 1981

2nd Reading

November 10th, 1981

3rd Reading

December 18th, 1981

THE HON. J. W. SNOW
Minister of Transportation and
Communications

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Ontario Guaranteed Annual Income Act, 1974**

**THE HON. G. L. ASHE
Minister of Revenue**

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The purpose of the amendment is to ensure that a person entitled to a monthly benefit cannot, by subsequent continuous residence in Canada, increase his entitlement under the Act when no corresponding increase under the *Old Age Security Act* (Canada) would be payable and, hence, that Ontario will not compensate for the portion of the Old Age Security pension not paid by Canada.

SECTION 2. The amendment substitutes a new appeal procedure for those who disagree with a decision of the Minister refusing a payment or seeking to recover a payment from a person allegedly not entitled to it. These appeals will be reviewed by the Minister of Revenue as is the case in most other statutes administered by the Ministry.

BILL 94

1981

**An Act to amend
The Ontario Guaranteed Annual Income Act, 1974**

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

1. Section 1a of *The Ontario Guaranteed Annual Income Act, 1974*, being chapter 58, as enacted by the Statutes of Ontario, 1977, chapter 50, section 2, is amended by adding thereto the following subsection: s. 1a,
amended

(2a) A person whose application for a monthly benefit under this section has been approved shall not become entitled to receive a payment in an amount greater than the monthly benefit under this section on the basis of periods of residence in Canada subsequent to the approval of his application under this section. Additional
residence
irrelevant

2. Subsections 3 to 7, subsections 8 and 9, as amended by the Statutes of Ontario, 1976, chapter 33, section 4, subsection 10 and subsection 11, as re-enacted by 1976, chapter 33, section 4, of section 8 of the said Act are repealed and the following substituted therefor: s. 8 (3-7),
re-enacted;
s. 8 (8-11),
repealed

- (3) Where an applicant is dissatisfied with, Objection by
applicant
- (a) a determination of the Minister under subsection 1;
- (b) the decision of the Minister under section 2 to suspend payment of an increment;
- (c) a direction of the Minister under section 6; or
- (d) the Minister's determination that an applicant has received an increment to which he is not entitled or a payment in excess of the increment to which he is entitled,

he may object to that determination, decision or direction by serving on the Minister a notice of objection in the prescribed

form setting out the reasons for the objection and all relevant facts within ninety days from the date of notice of such determination, decision or direction by the Minister.

Service

(4) A notice of objection under this section shall be served personally or by registered mail addressed to the Minister, but the Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required.

Minister to reconsider

(5) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the determination, decision or direction objected to and confirm, vary or reverse such determination, decision or direction, and he shall, by registered mail, thereupon notify the person making the objection of his action.

Minister's decision final

(6) A decision of the Minister under subsection 5 is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Appeal on question of law

(7) In any dispute over a determination, decision or direction of the Minister under subsection 5, the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

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 Ontario Guaranteed Annual Income Amendment Act, 1981*.



An Act to amend
The Ontario Guaranteed Annual
Income Act, 1974

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
the Ontario Guaranteed Annual Income Act**

THE HON. G. L. ASHE
Minister of Revenue

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1. The purpose of the amendment is to ensure that a person entitled to a monthly benefit cannot, by subsequent continuous residence in Canada, increase his entitlement under the Act when no corresponding increase under the *Old Age Security Act* (Canada) would be payable and, hence, that Ontario will not compensate for the portion of the Old Age Security pension not paid by Canada.

SECTION 2. The amendment substitutes a new appeal procedure for those who disagree with a decision of the Minister refusing a payment or seeking to recover a payment from a person allegedly not entitled to it. These appeals will be reviewed by the Minister of Revenue as is the case in most other statutes administered by the Ministry.

BILL 94

1981

**An Act to amend
the Ontario Guaranteed Annual Income Act**

HER 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 *Ontario Guaranteed Annual Income Act*, being chapter 336 of the Revised Statutes of Ontario, 1980, is amended ^{s. 2, amended} by adding thereto the following subsection:

(2a) A person whose application for a monthly benefit under this section has been approved shall not become entitled to receive a payment in an amount greater than the monthly benefit under this section on the basis of periods of residence in Canada subsequent to the approval of his application under this section. ^{Additional residence irrelevant}

2. Subsections 9 (3) to (11) of the said Act are repealed and the following substituted therefor: ^{s. 9 (3-7), re-enacted; s. 9 (8-11), repealed}

(3) Where an applicant is dissatisfied with, ^{Objection by applicant}

- (a) a determination of the Minister under subsection (1);
- (b) the decision of the Minister under section 3 to suspend payment of an increment;
- (c) a direction of the Minister under section 7; or
- (d) the Minister's determination that an applicant has received an increment to which he is not entitled or a payment in excess of the increment to which he is entitled,

he may object to that determination, decision or direction by serving on the Minister a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts within ninety days from the date of notice of such determination, decision or direction by the Minister.

Service

(4) A notice of objection under this section shall be served personally or by registered mail addressed to the Minister, but the Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required.

Minister to reconsider

(5) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the determination, decision or direction objected to and confirm, vary or reverse such determination, decision or direction, and he shall, by registered mail, thereupon notify the person making the objection of his action.

Minister's decision final

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Appeal on question of law

(7) In any dispute over a determination, decision or direction of the Minister under subsection (5), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

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 *Ontario Guaranteed Annual Income Amendment Act, 1981*.

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An Act to amend
the Ontario Guaranteed Annual
Income Act

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 94

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Ontario Guaranteed Annual Income Act

THE HON. G. L. ASHE
Minister of Revenue

BILL 94

1981

An Act to amend the Ontario Guaranteed Annual Income Act

HER 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 *Ontario Guaranteed Annual Income Act*, being chapter 336 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 2,
amended

(2a) A person whose application for a monthly benefit under this section has been approved shall not become entitled to receive a payment in an amount greater than the monthly benefit under this section on the basis of periods of residence in Canada subsequent to the approval of his application under this section. Additional
residence
irrelevant

2. Subsections 9 (3) to (11) of the said Act are repealed and the following substituted therefor: s. 9 (3-7),
re-enacted;
s. 9 (8-11),
repealed

(3) Where an applicant is dissatisfied with, Objection by
applicant

- (a) a determination of the Minister under subsection (1);
- (b) the decision of the Minister under section 3 to suspend payment of an increment;
- (c) a direction of the Minister under section 7; or
- (d) the Minister's determination that an applicant has received an increment to which he is not entitled or a payment in excess of the increment to which he is entitled,

he may object to that determination, decision or direction by serving on the Minister a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts within ninety days from the date of notice of such determination, decision or direction by the Minister.

Service

(4) A notice of objection under this section shall be served personally or by registered mail addressed to the Minister, but the Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required.

Minister to reconsider

(5) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the determination, decision or direction objected to and confirm, vary or reverse such determination, decision or direction, and he shall, by registered mail, thereupon notify the person making the objection of his action.

Minister's decision final

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Appeal on question of law

(7) In any dispute over a determination, decision or direction of the Minister under subsection (5), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Commencement

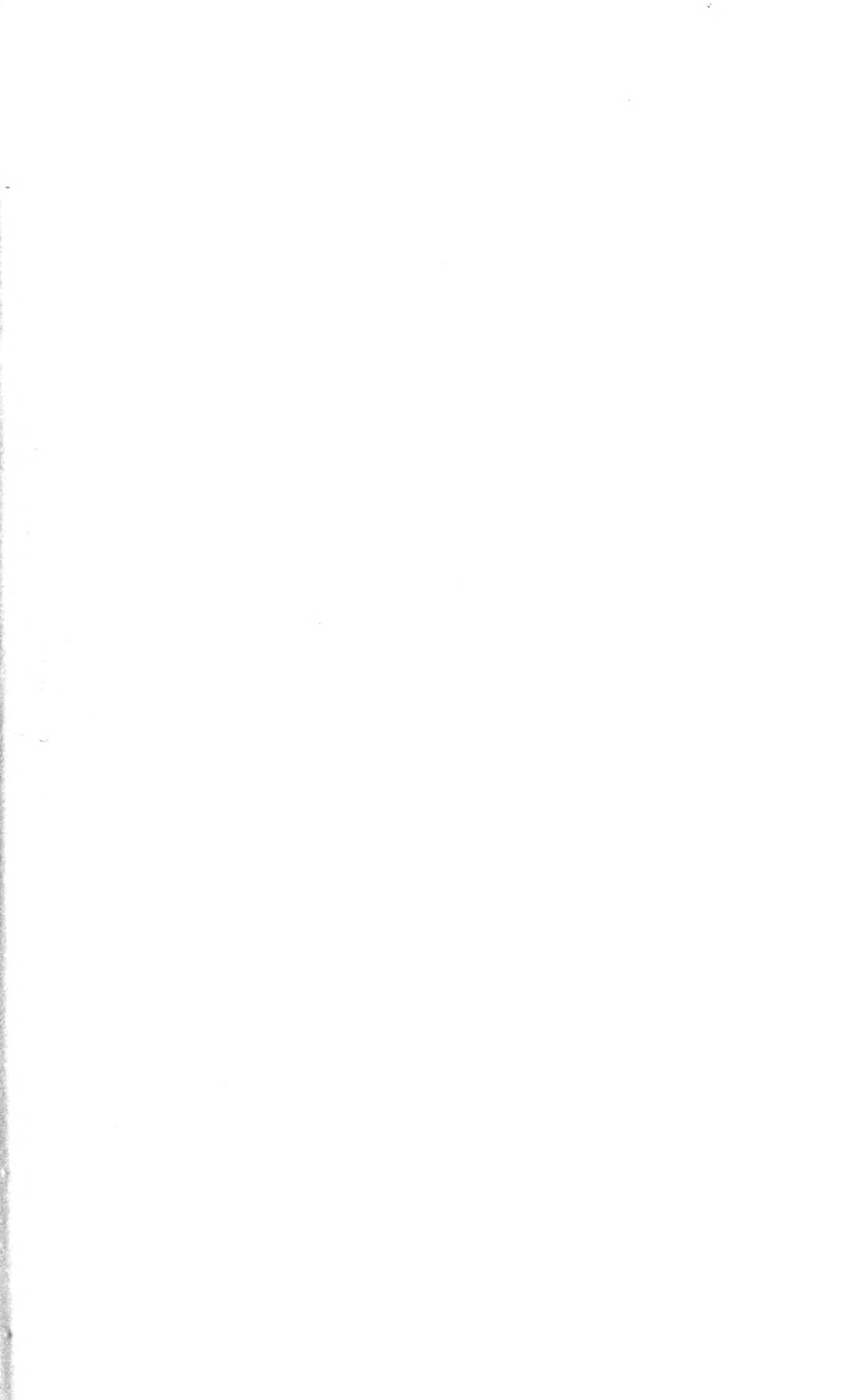
3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Ontario Guaranteed Annual Income Amendment Act, 1981*.







An Act to amend
the Ontario Guaranteed Annual
Income Act

1st Reading

June 4th, 1981

2nd Reading

November 9th, 1981

3rd Reading

November 16th, 1981

THE HON. G. L. ASHE
Minister of Revenue

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Employment Standards Act, 1974**

**THE HON. R. G. ELGIE
Minister of Labour**

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

Section 1 of this Bill is to the same effect as section 1 of Bill 191 which was given first reading on November 14th, 1980. Sections 2 and 3 are new provisions.

SECTION 1.—Subsection 1. The re-enacted subsection 5 of section 40 will give the Minister specific authority to require employers to participate in actions and measures and the establishment of committees to facilitate the re-establishment in employment of employees whose employment is being terminated and to require employers to participate in the funding of any such committee.

Subsection 2. The re-enacted clause *b* of subsection 6 of section 40 clarifies that contributions to benefit plans must be maintained during the notice period.

BILL 95

1981

**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.—(1) Subsection 5 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 40 (5),
re-enacted

(5) An employer who has terminated or who proposes to terminate the employment of employees shall, when required by the Minister for the purpose of facilitating the re-establishment of the employees in employment, Duty of
employer

(a) participate in such actions or measures as the Minister may direct;

(b) participate in the establishment and work of a committee upon such terms as the Minister considers necessary; and

(c) contribute to the reasonable cost or expense of any committee referred to in clause *b* in such amount or proportion as the Minister directs.

(2) Clause *b* of subsection 6 of the said section 40 is repealed and the following substituted therefor: s. 40 (6) (b),
re-enacted

(b) an employer shall pay during the period of notice,

(i) the wages the employee is entitled to receive, which in no case shall be less than his regular wages for a regular non-overtime work week, and

(ii) those contributions to be made with respect to a fund, plan or arrangement to which Part X

applies in order to maintain the benefits to which the employee is entitled; and

.

s. 40 (7), re-enacted

(3) Subsection 7 of the said section 40 is repealed and the following substituted therefor:

Payments where employment terminated without notice

(7) Where the employment of an employee is terminated contrary to this section,

(a) the employer shall pay termination pay in an amount equal to the wages that the employee would have been entitled to receive at his regular rate for a regular non-overtime work week for the period of notice prescribed by subsection 1 or 2, and any wages to which he is entitled;

(b) the employer shall pay during the period of notice prescribed by subsection 1 or 2 those contributions to be made with respect to a fund, plan or arrangement to which Part X applies in order to maintain the benefits to which the employee is entitled during the period of notice; and

(c) the employee shall be deemed during the period of notice prescribed by subsection 1 or 2 to be actively employed on the same terms and conditions in existence during his employment for the purpose of entitlement to benefits under a plan, fund or arrangement to which Part X applies.

s. 40, amended

(4) The said section 40 is amended by adding thereto the following subsection:

Employer's contributions deemed wages

(9) Notwithstanding subclause iv of clause p of section 1, the contributions to be made under subsection 6 or 7 with respect to a fund, plan or arrangement to which Part X applies shall, for the purposes of Part XIII, be deemed to be wages to which an employee is entitled.

s. 40a, enacted

2.—(1) Part XII of the said Act is amended by adding thereto the following section:

Severance pay

40a.—(1) Where,

(a) fifty or more employees have their employment terminated by an employer in a period of six months or less; and

Subsection 3. The re-enacted subsection 7 provides that employers who terminate the employment of employees without notice must continue to pay contributions to benefit plans during the period for which notice should have been given. The re-enacted provision also provides that employees are deemed to have worked during the period for which notice should have been given in order that they will be entitled to benefits during that period.

Subsection 4. The proposed subsection 9 deems the contributions to benefit plans to be wages for the purposes of the administration provisions of the Act.

SECTION 2. The proposed section 40a provides for the payment of severance pay where an employer terminates the employment of fifty or more employees in any period of six months or less because of the permanent discontinuance of all or part of his business at an establishment.



- (b) the terminations are caused by the permanent discontinuance of all or part of the business of the employer at an establishment,

the employer shall pay severance pay to each employee whose employment has been terminated and who has been employed by the employer for five or more years in an amount equal to the amount the employee would have received at his regular rate for a regular non-overtime work week multiplied by the number of years of employment with the employer to a maximum of twenty-six years.

(2) Subsection 1 applies to,

Application

- (a) a regular full-time employee and a regular part-time employee;

- (b) an employee whose employment is terminated as a result of a strike or lock-out except where the employer establishes that the permanent discontinuance of all or part of the business at an establishment is caused by the economic consequences of the strike;

- (c) an employee who is temporarily absent due to illness or injury;

- (d) an employee who received or was entitled to receive notice of termination but who died before his employment was terminated or would have been terminated if notice of termination had been given;

- (e) a permanent discontinuance of all or part of a business at an establishment however caused, whether fortuitous, unforeseen or by act of God;

- (f) an employee who loses his employment by the exercise by another employee of a seniority right; and

- (g) an employee who, upon having his employment terminated, retires and is entitled to receive a reduced pension benefit.

(3) Subsection 1 does not apply to,

Exceptions

- (a) an employee who refuses an offer by his employer of reasonable alternative employment with his employer;

- (b) an employee who refuses to exercise his seniority rights to obtain reasonable alternative employment;

- (c) an employee who refuses to waive any right to be recalled for employment;
- (d) an employee who, upon having his employment terminated, retires and receives an actuarially unreduced pension benefit;
- (e) an employee whose employer is engaged in the construction, alteration, maintenance or demolition of buildings, structures, roads, sewers, pipelines, mains, tunnels or other works where the employee works at the site thereof; or
- (f) an employee who is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

Severance pay in addition to other payment

(4) Severance pay under this section is payable to the employee in addition to any other payment under this Act or contract of employment without set-off or deduction, except for,

- (a) supplementary unemployment benefits payable to and received by the employee; or
- (b) payments made to the employee under a contractual severance pay scheme under which payments for loss of employment based upon length of service are provided.

Prior employment included

(5) Employment before the coming into force of this section shall be taken into account in calculating the years of employment of an employee to whom this section applies.

Employment not included

(6) A year of employment for which an employee has been paid severance pay shall be excluded in any subsequent calculation of severance pay for that employee.

Transitional

(2) Notwithstanding subsection 1 of section 40a of *The Employment Standards Act, 1974*, as enacted by subsection 1, the period of six months shall be deemed to be a period of four weeks in respect of termination of employment within the period of time from and including the 1st day of January, 1981, to and including the day immediately before the day this Act receives Royal Assent.

Idem

(3) Section 40a of the said Act does not apply to an employer who became a bankrupt or an insolvent person within the meaning of the *Bankruptcy Act (Canada)* and whose assets have been distributed among his creditors or to an employer whose proposal within the meaning of the *Bankruptcy Act (Canada)* has been accepted by his creditors in the period from and



SECTION 3. The proposed amendment to clause *c* of subsection 1 of section 47 increases payments which the Director may require an employer to pay in trust to the Director on behalf of an employee for wages by adding thereto the amount of the employee's severance pay.

including the 1st day of January, 1981, to and including the day immediately before the day this Act receives Royal Assent.

3. Clause *c* of subsection 1 of section 47 of the said Act is repealed and the following substituted therefor: s. 47 (1) (c),
re-enacted

(c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and such order shall provide in addition for payment by the employer to the Director of a penalty of 10 per cent of the wages or the sum of \$25, whichever is the greater, but the wages ordered to be paid in respect of each employee shall not exceed,

- (i) the sum of \$4,000 with respect to any wages other than the employee's severance pay, plus
- (ii) the amount of the employee's severance pay, if any.

- 4.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 2 shall be deemed to have come into force on the 1st day of January, 1981. Idem

5. The short title of this Act is *The Employment Standards Amendment Act, 1981*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Labour

(Government Bill)

BILL 95

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
The Employment Standards Act, 1974**

THE HON. R. G. ELGIE
Minister of Labour



BILL 95

1981

**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.—(1) Subsection 5 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 40 (5),
re-enacted

(5) An employer who has terminated or who proposes to terminate the employment of employees shall, when required by the Minister for the purpose of facilitating the re-establishment of the employees in employment, Duty of
employer

(a) participate in such actions or measures as the Minister may direct;

(b) participate in the establishment and work of a committee upon such terms as the Minister considers necessary; and

(c) contribute to the reasonable cost or expense of any committee referred to in clause *b* in such amount or proportion as the Minister directs.

(2) Clause *b* of subsection 6 of the said section 40 is repealed and the following substituted therefor: s. 40 (6) (b),
re-enacted

(b) an employer shall pay during the period of notice,

(i) the wages the employee is entitled to receive, which in no case shall be less than his regular wages for a regular non-overtime work week, and

(ii) those contributions to be made with respect to a fund, plan or arrangement to which Part X

applies in order to maintain the benefits to which the employee is entitled; and

s. 40 (7),
re-enacted

(3) Subsection 7 of the said section 40 is repealed and the following substituted therefor:

Payments
where
employment
terminated
without
notice

(7) Where the employment of an employee is terminated contrary to this section,

(a) the employer shall pay termination pay in an amount equal to the wages that the employee would have been entitled to receive at his regular rate for a regular non-overtime work week for the period of notice prescribed by subsection 1 or 2, and any wages to which he is entitled;

(b) the employer shall pay during the period of notice prescribed by subsection 1 or 2 those contributions to be made with respect to a fund, plan or arrangement to which Part X applies in order to maintain the benefits to which the employee is entitled during the period of notice; and

(c) the employee shall be deemed during the period of notice prescribed by subsection 1 or 2 to be actively employed on the same terms and conditions in existence during his employment for the purpose of entitlement to benefits under a plan, fund or arrangement to which Part X applies.

s. 40,
amended

(4) The said section 40 is amended by adding thereto the following subsection:

Employer's
contributions
deemed wages

(9) Notwithstanding subclause iv of clause p of section 1, the contributions to be made under subsection 6 or 7 with respect to a fund, plan or arrangement to which Part X applies shall, for the purposes of Part XIII, be deemed to be wages to which an employee is entitled.

s. 40a,
enacted

2.—(1) Part XII of the said Act is amended by adding thereto the following section:

Severance
pay

40a.—(1) Where,

(a) fifty or more employees have their employment terminated by an employer in a period of six months or less; and

- (b) the terminations are caused by the permanent discontinuance of all or part of the business of the employer at an establishment,

the employer shall pay severance pay to each employee whose employment has been terminated and who has been employed by the employer for five or more years in an amount equal to the amount the employee would have received at his regular rate for a regular non-overtime work week multiplied by the number of years of employment with the employer to a maximum of twenty-six years.

(2) Subsection 1 applies to,

Application

- (a) a regular full-time employee and a regular part-time employee;
- (b) an employee whose employment is terminated as a result of a strike or lock-out except where the employer establishes that the permanent discontinuance of all or part of the business at an establishment is caused by the economic consequences of the strike;
- (c) an employee who is temporarily absent due to illness or injury;
- (d) an employee who received or was entitled to receive notice of termination but who died before his employment was terminated or would have been terminated if notice of termination had been given;
- (e) a permanent discontinuance of all or part of a business at an establishment however caused, whether fortuitous, unforeseen or by act of God;
- (f) an employee who loses his employment by the exercise by another employee of a seniority right; and
- (g) an employee who, upon having his employment terminated, retires and is entitled to receive a reduced pension benefit.

(3) Subsection 1 does not apply to,

Exceptions

- (a) an employee who refuses an offer by his employer of reasonable alternative employment with his employer;
- (b) an employee who refuses to exercise his seniority rights to obtain reasonable alternative employment;

- (c) an employee who refuses to waive any right to be recalled for employment;
- (d) an employee who, upon having his employment terminated, retires and receives an actuarially unreduced pension benefit;
- (e) an employee whose employer is engaged in the construction, alteration, maintenance or demolition of buildings, structures, roads, sewers, pipelines, mains, tunnels or other works where the employee works at the site thereof; or
- (f) an employee who is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

Severance pay in addition to other payment

(4) Severance pay under this section is payable to the employee in addition to any other payment under this Act or contract of employment without set-off or deduction, except for,

- (a) supplementary unemployment benefits payable to and received by the employee; or
- (b) payments made to the employee under a contractual severance pay scheme under which payments for loss of employment based upon length of service are provided.

Prior employment included

(5) Employment before the coming into force of this section shall be taken into account in calculating the years of employment of an employee to whom this section applies.

Employment not included

(6) A year of employment for which an employee has been paid severance pay shall be excluded in any subsequent calculation of severance pay for that employee.

Transitional

(2) Notwithstanding subsection 1 of section 40a of *The Employment Standards Act, 1974*, as enacted by subsection 1, the period of six months shall be deemed to be a period of four weeks in respect of termination of employment within the period of time from and including the 1st day of January, 1981, to and including the day immediately before the day this Act receives Royal Assent.

Idem

(3) Section 40a of the said Act does not apply to an employer who became a bankrupt or an insolvent person within the meaning of the *Bankruptcy Act* (Canada) and whose assets have been distributed among his creditors or to an employer whose proposal within the meaning of the *Bankruptcy Act* (Canada) has been accepted by his creditors in the period from and

including the 1st day of January, 1981, to and including the day immediately before the day this Act receives Royal Assent.

3. Clause *c* of subsection 1 of section 47 of the said Act is repealed and the following substituted therefor: s. 47 (1) (c),
re-enacted

(c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and such order shall provide in addition for payment by the employer to the Director of a penalty of 10 per cent of the wages or the sum of \$25, whichever is the greater, but the wages ordered to be paid in respect of each employee shall not exceed,

- (i) the sum of \$4,000 with respect to any wages other than the employee's severance pay, plus
- (ii) the amount of the employee's severance pay, if any.

- 4.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 2 shall be deemed to have come into force on the 1st day of January, 1981. Idem

5. The short title of this Act is *The Employment Standards Amendment Act, 1981*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 4th, 1981

2nd Reading

June 17th, 1981

3rd Reading

July 2nd, 1981

THE HON. R. G. ELGIE
Minister of Labour

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Workmen's Compensation Act

MR. HAGGERTY

EXPLANATORY NOTE

The purpose of the Bill is to broaden the criteria used by the Workmen's Compensation Board in assessing the impairment of earning capacity resulting from an injury that causes permanent disability. The Act currently states that the impairment of earning capacity shall be estimated from the nature and degree of the injury. The Board is authorized under the Act to compile a rating schedule of percentages of impairment of earning capacity for specified injuries that may be used as a guide in determining the compensation payable in permanent disability cases. The Bill repeals the provision that authorizes the Board to compile a rating schedule and directs the Board to estimate the impairment of earning capacity in light of all the circumstances of each individual case.

BILL 96

1981

An Act to amend The Workmen's Compensation Act

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

- 1.—(1) Subsection 1 of section 42 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 47, section 6, is repealed and the following substituted therefor: s. 42 (1),
re-enacted

(1) Where the permanent disability results from the injury, the impairment of earning capacity of the employee shall be estimated in light of all the circumstances of the particular case, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed. Permanent
disability

(1a) In considering the circumstances of the case, the Board shall have particular regard to, Considerations

- (a) the extent of the physical disability;
- (b) the age of the employee;
- (c) the level of skills and education achieved by the employee;
- (d) the language spoken by the employee;
- (e) any emotional problems suffered by the employee as a result of the injury;

- (f) the state of the employment market, both generally and in the local community in which the employee resides;
- (g) the potential for the employee to rehabilitate himself through vocational rehabilitation;
- (h) any other factor that is relevant to determining the employee's ability to earn income after the accident in comparison with the employee's ability to earn income before the accident.

s. 42 (3),
repealed

(2) Subsection 3 of the said section 42 is repealed.

s. 42 (5),
repealed

(3) Subsection 5 of the said section 42, as re-enacted by the Statutes of Ontario, 1975, chapter 47, section 6, is repealed.

Commence-
ment

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

Short title

3. The short title of this Act is *The Workmen's Compensation Amendment Act, 1981*.







An Act to amend
The Workmen's Compensation Act

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Funeral Services Act, 1976

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to require that a funeral director must provide an itemized price list to a purchaser of funeral services and supplies before the purchaser enters into an agreement for the provision of any funeral services and supplies.

An Act to amend The Funeral Services Act, 1976

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

1. *The Funeral Services Act, 1976*, being chapter 83, is amended by adding thereto the following section: s. 36a,
enacted

36a.—(1) No person who is a licensee under this Act shall enter into an agreement to provide funeral services or funeral supplies to a purchaser unless that person has delivered to the purchaser before entering into the agreement an itemized price list setting out the full price for each service and supply proposed to be provided to the purchaser. Itemized
price list

(2) An agreement for the purchase and sale of funeral services and funeral supplies is not binding on the purchaser unless the purchaser has received the itemized price list as required by subsection 1. Where
agreement
not binding
on purchaser

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Funeral Services Amendment Act, 1981*. Short title

An Act to amend
The Funeral Services Act, 1976

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Funeral Services Act, 1976

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to prohibit a funeral director from embalming a dead human body unless he has been specifically instructed to do so by the purchaser of funeral services or unless the body is to be transported out of Ontario.

BILL 98

1981

An Act to amend The Funeral Services Act, 1976

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

1. Section 37 of *The Funeral Services Act, 1976*, being chapter 83, is repealed and the following substituted therefor: s. 37,
re-enacted

37.—(1) No person who is a licensee under this Act shall ^{Embalming} embalm a human body unless,

 - (a) the embalming has been specifically directed by the purchaser of funeral services and provided for in an agreement for the purchase and sale of funeral services; or
 - (b) the human body is to be transported out of Ontario.

(2) No person shall transport a dead human body out of Ontario <sup>Transportation
of body out
of Ontario</sup> unless it has been embalmed and prepared for transport by a funeral director.
2. Subsection 1 of section 38 of the said Act is repealed and the following substituted therefor: s. 38 (1),
re-enacted

(1) Every person who is in contravention of subsection 1 or 2 of section 5, subsection 1 of section 24 or subsection 1 of section 37 is ^{Penalties} guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months.
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Funeral Services Amendment Act, 1981*. Short title

An Act to amend
The Funeral Services Act, 1976

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

MR. FOLDS

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Funeral Services Act, 1976

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to permit persons who are not funeral directors to provide funeral supplies.

BILL 99

1981

**An Act to amend
The Funeral Services Act, 1976**

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

1. Clause *d* of section 1 of *The Funeral Services Act, 1976*, being chapter 83, is repealed and the following substituted therefor:
 - (*d*) "funeral services" means the services usually provided by a funeral director but does not include the providing of funeral supplies.
- 2.—(1) Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:
 - (1) No person shall engage in or hold himself out as engaging in providing funeral services unless he is licensed as a funeral director under this Act.
- (2) Subsection 3 of the said section 5 is repealed and the following substituted therefor:
 - (3) For the purposes of subsection 1, proof of the performance of one act in providing funeral services on one occasion is sufficient to establish engaging in providing funeral services to the public.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is *The Funeral Services Amendment Act, 1981*.

s. 1 (*d*),
re-enacted

s. 5 (1),
re-enacted

Funeral
director's
licence

s. 5 (3),
re-enacted

Proof of
performance

Commence-
ment

Short title

An Act to amend
The Funeral Services Act, 1976

1st Reading

June 4th, 1981

2nd Reading

3rd Reading

MR. FOUDDS

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Live Stock Community Sales Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTION 1. Clause *d* of section 2 of the Act exempts from the Act a co-operative corporation that satisfies the conditions set out in the subclauses.

The number of sales that a co-operative corporation may hold in any calendar year and still be exempt from the Act is increased from four to six.

SECTION 2. Section 9 of the Act now reads as follows:

9. Every operator shall, at least twelve hours before any live stock is received on his premises for the purpose of a community sale, clean and disinfect the premises in such manner as the regulations prescribe.

The twelve-hour period is no longer practical having regard to present methods of cleaning and disinfecting premises. There is authority under section 14 of the Act to prescribe by regulation such time limit as is considered reasonable.

BILL 100

1981

**An Act to amend
The Live Stock Community Sales Act**

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

1. Subclause iii of clause *d* of section 2 of *The Live Stock Community Sales Act*, being chapter 253 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1976, chapter 46, section 2, is repealed and the following substituted therefor:
 - (iii) the corporation operates not more than six sales in any calendar year; or
2. Section 9 of the said Act is repealed.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is *The Live Stock Community Sales Amendment Act, 1981*.

s. 2 (d) (iii),
re-enacted

s. 9,
repealed

Commence-
ment

Short title

An Act to amend
The Live Stock Community Sales Act

1st Reading

June 5th, 1981

2nd Reading

3rd Reading

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Live Stock Community Sales Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1. Clause 2 (d) of the Act exempts from the Act a co-operative corporation that satisfies the conditions set out in the subclauses.

The number of sales that a co-operative corporation may hold in any calendar year and still be exempt from the Act is increased from four to six.

SECTION 2. Section 15 of the Act now reads as follows:

15. Every operator shall, at least twelve hours before any live stock is received on his premises for the purpose of a community sale, clean and disinfect the premises in such manner as the regulations prescribe.

The twelve-hour period is no longer practical having regard to present methods of cleaning and disinfecting premises. There is authority under section 20 of the Act to prescribe by regulation such time limit as is considered reasonable.

BILL 100

1981

**An Act to amend
the Live Stock Community Sales Act**

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

1. Subclause 2 (d) (iii) of the *Live Stock Community Sales Act*, being chapter 247 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 - (iii) the corporation operates not more than six sales in any calendar year; or

.
2. Section 15 of the said Act is repealed.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is the *Live Stock Community Sales Amendment Act, 1981*.

s. 2 (d) (iii),
re-enacted

s. 15,
repealed

Commence-
ment

Short title

An Act to amend the
Live Stock Community Sales Act

1st Reading

June 5th, 1981

2nd Reading

3rd Reading

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

BILL 100

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Live Stock Community Sales Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

11A

BILL 100

1981

**An Act to amend
the Live Stock Community Sales Act**

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

1. Subclause 2 (d) (iii) of the *Live Stock Community Sales Act*, being chapter 247 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 - (iii) the corporation operates not more than six sales in any calendar year; or
 -
2. Section 15 of the said Act is repealed.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is the *Live Stock Community Sales Amendment Act, 1981*.

s. 2 (d) (iii),
re-enacted

s. 15,
repealed

Commence-
ment

Short title

An Act to amend the
Live Stock Community Sales Act

1st Reading

June 5th, 1981

2nd Reading

October 16th, 1981

3rd Reading

October 16th, 1981

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Education Act, 1974

MR. GRANDE

EXPLANATORY NOTE

The purpose of the Bill is to ban corporal punishment in the schools. The Bill provides that notwithstanding the duty of teachers and principals to maintain discipline in the schools, teachers and principals must not administer corporal punishment to pupils.

BILL 101

1981

An Act to amend The Education 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 Education Act, 1974*, being chapter 109, is amended by ^{s. 230a,} adding thereto the following section: enacted

230a. Notwithstanding clause *e* of section 229 and clause *a* of ^{Prohibition} section 230, a teacher or principal shall not hit or strike a pupil ^{of corporal} or ^{punishment} administer any form of corporal punishment to a pupil.

2. This Act comes into force on the day it receives Royal Assent. ^{Commence-}ment
3. The short title of this Act is *The Education Amendment Act, 1981*. ^{Short title}

An Act to amend
The Education Act, 1974

1st Reading

June 5th, 1981

2nd Reading

3rd Reading

MR. GRANDE

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Education Act

MR. GRANDE

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTE

The purpose of the Bill is to ban corporal punishment in the schools. The Bill provides that notwithstanding the duty of teachers and principals to maintain discipline in the schools, teachers and principals must not administer corporal punishment to pupils.

BILL 101

1981

An Act to amend the Education Act

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

1. The *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 236a,
enacted

236a. Notwithstanding clause 235 (1) (e) and clause 236 (a), a teacher or principal shall not hit or strike a pupil or administer any form of corporal punishment to a pupil. Prohibition of corporal punishment
2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is the *Education Amendment Act, 1981*. Short title

An Act to amend the Education Act

1st Reading

June 5th, 1981

2nd Reading

3rd Reading

MR. GRANDE

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Crown Timber Act

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to confer upon the Minister of Natural Resources a duty to ensure that the Crown timber resources of Ontario are managed on a sustained yield basis.

BILL 102

1981

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. Section 1 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1979, chapter 92, section 1, is further amended by adding thereto the following clause:
 - (oa) "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.
2. The said Act is amended by adding thereto the following section:
 - 1a. It is the duty of the Minister to ensure that the Crown timber resources of Ontario are managed on a sustained yield basis.
3. Subsection 2 of section 5a of the said Act, as enacted by the Statutes of Ontario, 1979, chapter 92, section 5, is repealed.
4. This Act comes into force on the day it receives Royal Assent.
5. The short title of this Act is *The Crown Timber Amendment Act, 1981*.

s. 1,
amendeds. 1a,
enactedMinister's
dutys. 5a (2),
repealedCommence-
ment

Short title

An Act to amend
The Crown Timber Act

1st Reading

June 5th, 1981

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Toronto Islands Act, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTE

The purpose of the Bill is to extend the operation of the stay of execution of the writs of possession related to the residential premises on the Toronto Islands from the 1st day of July, 1981, to the 31st day of December, 1981.

BILL 103

1981

**An Act to amend
The Toronto Islands Act, 1980**

HER 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 1 of *The Toronto Islands Act, 1980*, being chapter 60, is amended by striking out "1st day of July" in the seventh line and inserting in lieu thereof "31st day of December". s. 1 (1),
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Toronto Islands Amendment Act, 1981*. Short title

An Act to amend
The Toronto Islands Act, 1980

1st Reading

June 9th, 1981

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 103

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Toronto Islands Act, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

BILL 103

1981

**An Act to amend
The Toronto Islands Act, 1980**

HER 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 1 of *The Toronto Islands Act, 1980*, being chapter 60, is amended by striking out "1st day of July" in the seventh line and inserting in lieu thereof "31st day of December". s. 1 (1),
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Toronto Islands Amendment Act, 1981*. Short title

The Toronto Islands Act, 1980

1st Reading

June 9th, 1981

2nd Reading

June 16th, 1981

3rd Reading

June 17th, 1981

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Highway Traffic Act

**THE HON. R. MCMURTRY
Attorney General**

EXPLANATORY NOTE

At present, where a court wants to substitute a driver improvement course for all or part of a fine, a second appearance in court is required to have the fine reduced. By using the language of section 71 of *The Provincial Offences Act, 1979*, compliance with the direction to take a course satisfies the condition and no second appearance is necessary.

BILL 104

1981

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 2 of section 152a of *The Highway Traffic Act*, being s. 152a (2), re-enacted chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 66, section 8, is repealed and the following substituted therefor:
 - (2) Where in a designated municipality a justice convicts a Driver improvement program person of a prescribed offence and the person, on the recommendation of the justice, agrees to attend a driver improvement program conducted by the Ministry, the justice may order the fine to be suspended in whole or in part on the condition that the person successfully complete the driver improvement program.
2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is *The Highway Traffic Amendment Act, 1981*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Highway Traffic Act

THE HON. R. McMURTRY
Attorney General

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTE

At present, where a court wants to substitute a driver improvement course for all or part of a fine, a second appearance in court is required to have the fine reduced. By using the language of section 71 of the *Provincial Offences Act*, compliance with the direction to take a course satisfies the condition and no second appearance is necessary.

BILL 104

1981

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 189 (2) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 189 (2),
re-enacted

(2) Where in a designated municipality a justice convicts a person of a prescribed offence and the person, on the recommendation of the justice, agrees to attend a driver improvement program conducted by the Ministry, the justice may order the fine to be suspended in whole or in part on the condition that the person successfully complete the driver improvement program. Driver
improve-
ment
program

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Highway Traffic Amendment Act, 1981*. Short title

An Act to amend
the Highway Traffic Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 104

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Highway Traffic Act

THE HON. R. McMURTRY
Attorney General



BILL 104

1981

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 189 (2) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 189 (2),
re-enacted

 - (2) Where in a designated municipality a justice convicts a person of a prescribed offence and the person, on the recommendation of the justice, agrees to attend a driver improvement program conducted by the Ministry, the justice may order the fine to be suspended in whole or in part on the condition that the person successfully complete the driver improvement program.

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

Commence-
ment
3. The short title of this Act is the *Highway Traffic Amendment Act, 1981*.

Short title

An Act to amend
the Highway Traffic Act

1st Reading

June 11th, 1981

2nd Reading

December 7th, 1981

3rd Reading

December 10th, 1981

THE HON. R. McMURRY
Attorney General

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Judicature Act

**THE HON. R. MCMURTRY
Attorney General**

EXPLANATORY NOTES

SECTION 1. The amendment increases the number of justices of appeal from thirteen to fourteen in addition to the Chief Justice and Associate Chief Justice.

SECTION 2. At present, the number of High Court judges is fixed by the Act. The amendment would authorize this number to be fixed by regulation.

BILL 105

1981

An Act to amend The Judicature Act

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

1. Subsection 1 of section 4 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1974, chapter 81, section 1 and 1977, chapter 45, section 1, is further amended by striking out "thirteen" in the amendment of 1974 and inserting in lieu thereof "fourteen". s. 4 (1),
amended

- 2.—(1) Subsection 1 of section 5 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 45, section 2, is further amended by striking out "forty other judges" in the amendment of 1977 and inserting in lieu thereof "such number of other judges as is fixed by the regulations". s. 5 (1),
amended

- (2) The said section 5 is amended by adding thereto the following subsection: s. 5,
amended
 - (1a) The Lieutenant Governor in Council may by regulation fix the number of judges of the High Court who are in addition to the Chief Justice and Associate Chief Justice, but where the number is reduced by regulation, the reduction shall not be applied to affect appointments existing at the time of the reduction. Number of
additional
judges

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 Judicature Amendment Act, 1981*. Short title

An Act to amend
The Judicature Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

BILL 105

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Judicature Act

THE HON. R. MCMURTRY
Attorney General

BILL 105

1981

An Act to amend The Judicature Act

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

1. Subsection 1 of section 4 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1974, chapter 81, section 1 and 1977, chapter 45, section 1, is further amended by striking out "thirteen" in the amendment of 1974 and inserting in lieu thereof "fourteen". s. 4 (1), amended
- 2.—(1) Subsection 1 of section 5 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 45, section 2, is further amended by striking out "forty other judges" in the amendment of 1977 and inserting in lieu thereof "such number of other judges as is fixed by the regulations". s. 5 (1), amended
- (2) The said section 5 is amended by adding thereto the following subsection: s. 5, amended
 - (1a) The Lieutenant Governor in Council may by regulation fix the number of judges of the High Court who are in addition to the Chief Justice and Associate Chief Justice, but where the number is reduced by regulation, the reduction shall not be applied to affect appointments existing at the time of the reduction. Number of additional judges
3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement
4. The short title of this Act is *The Judicature Amendment Act, 1981*. Short title

An Act to amend
The Judicature Act

1st Reading

June 11th, 1981

2nd Reading

July 2nd, 1981

3rd Reading

July 3rd, 1981

THE HON. R. MCMURTRY
Attorney General

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The County Courts Act

**THE HON. R. MCMURTRY
Attorney General**

EXPLANATORY NOTE

The amendments increase the monetary jurisdiction of the county courts from a maximum sum claimed of \$7,500 to a maximum of \$15,000 and in actions in partnerships or estate matters the maximum value of \$50,000 is increased to a maximum of \$100,000 in the case of partnerships and \$200,000 in the case of estates.

BILL 106

1981

An Act to amend The County Courts Act

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

- 1.—(1) Clause *a* of subsection 1 of section 14 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is amended by striking out “\$7,500” in the second line and inserting in lieu thereof “\$15,000”. s. 14 (1) (a), amended
- (2) Clause *b* of subsection 1 of the said section 14 is amended by striking out “\$7,500” in the third line and inserting in lieu thereof “\$15,000”. s. 14 (1) (b), amended
- (3) Clause *c* of subsection 1 of the said section 14 is amended by striking out “\$7,500” in the second line and in the fourth line and inserting in lieu thereof in each instance “\$15,000”. s. 14 (1) (c), amended
- (4) Clause *d* of subsection 1 of the said section 14 is amended by striking out “\$7,500” in the third line and inserting in lieu thereof “\$15,000”. s. 14 (1) (d), amended
- (5) Clause *e* of subsection 1 of the said section 14 is amended by striking out “\$7,500” in the third line and inserting in lieu thereof “\$15,000”. s. 14 (1) (e), amended
- (6) Clause *f* of subsection 1 of the said section 14 is amended by striking out “\$7,500” in the fifth line and inserting in lieu thereof “\$15,000”. s. 14 (1) (f), amended
- (7) Clause *g* of subsection 1 of the said section 14 is amended by striking out “\$50,000” in the third line and inserting in lieu thereof “\$100,000”. s. 14 (1) (g), amended
- (8) Clause *h* of subsection 1 of the said section 14 is amended by striking out “\$7,500” in the fourth line and inserting in lieu thereof “\$15,000” and by striking out “\$50,000” in the fifth line and inserting in lieu thereof “\$200,000”. s. 14 (1) (h), amended

s. 14 (1) (i),
amended

(9) Clause *i* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the third line and inserting in lieu thereof "\$15,000".

s. 14 (1) (j),
amended

(10) Clause *j* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the fourth line and inserting in lieu thereof "\$15,000".

s. 14 (2),
amended

(11) Subsection 2 of the said section 14 is amended by striking out "\$50,000" in the eighth line and inserting in lieu thereof "\$100,000" and by striking out "\$50,000" in the ninth line and inserting in lieu thereof "\$200,000".

Application
of section

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

Commence-
ment

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

Short title

3. The short title of this Act is *The County Courts Amendment Act, 1981*.





An Act to amend
The County Courts Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 106

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The County Courts Act

THE HON. R. MCMURTRY
Attorney General

1875

An Act to amend The County Courts Act

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

- (1) Clause *a* of subsection 1 of section 14 of *The County Courts Act*, being chapter 94 of the Revised Statutes of Ontario, 1970, is amended by striking out "\$7,500" in the second line and inserting in lieu thereof "\$15,000". s. 14 (1) (a),
amended
- (2) Clause *b* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the third line and inserting in lieu thereof "\$15,000". s. 14 (1) (b),
amended
- (3) Clause *c* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the second line and in the fourth line and inserting in lieu thereof in each instance "\$15,000". s. 14 (1) (c),
amended
- (4) Clause *d* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the third line and inserting in lieu thereof "\$15,000". s. 14 (1) (d),
amended
- (5) Clause *e* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the third line and inserting in lieu thereof "\$15,000". s. 14 (1) (e),
amended
- (6) Clause *f* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the fifth line and inserting in lieu thereof "\$15,000". s. 14 (1) (f),
amended
- (7) Clause *g* of subsection 1 of the said section 14 is amended by striking out "\$50,000" in the third line and inserting in lieu thereof "\$100,000". s. 14 (1) (g),
amended
- (8) Clause *h* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the fourth line and inserting in lieu thereof "\$15,000" and by striking out "\$50,000" in the fifth line and inserting in lieu thereof "\$200,000". s. 14 (1) (h),
amended

s. 14 (1) (i),
amended

(9) Clause *i* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the third line and inserting in lieu thereof "\$15,000".

s. 14 (1) (j),
amended

(10) Clause *j* of subsection 1 of the said section 14 is amended by striking out "\$7,500" in the fourth line and inserting in lieu thereof "\$15,000".

s. 14 (2),
amended

(11) Subsection 2 of the said section 14 is amended by striking out "\$50,000" in the eighth line and inserting in lieu thereof "\$100,000" and by striking out "\$50,000" in the ninth line and inserting in lieu thereof "\$200,000".

Application
of section

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

Commence-
ment

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

Short title

3. The short title of this Act is *The County Courts Amendment Act, 1981*.







An Act to amend
The County Courts Act

1st Reading

June 11th, 1981

2nd Reading

July 2nd, 1981

3rd Reading

July 3rd, 1981

THE HON. R. MCMURTRY
Attorney General

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Police Act

THE HON. R. MCMURTRY
Solicitor General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 1 of section 40 of the Act now reads as follows:

- (1) *There shall be an Ontario Police Commission composed of three persons, who shall be appointed by the Lieutenant Governor in Council.*

The said subsection 1 as re-enacted will permit the Lieutenant Governor in Council to appoint more than three persons to the Ontario Police Commission.

Subsection 2. Subsection 4 of section 40 of the Act now reads as follows:

- (4) *Two members of the Commission constitute a quorum whether or not a vacancy exists in the membership of the Commission.*

The re-enactment of the said subsection 4 is complementary to subsection 1 of section 1 of the Bill.

BILL 107

1981

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 1 of section 40 of *The Police Act*, being chapter 351 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 40 (1),
re-enacted
- (1) The commission known as the Ontario Police Commission is continued and shall consist of not fewer than three members who shall be appointed by the Lieutenant Governor in Council. Ontario
Police
Commission
- (2) Subsection 4 of the said section 40 is repealed and the following substituted therefor: s. 40 (4),
re-enacted
- (4) Two members of the Commission constitute a quorum. Quorum
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Police Amendment Act, 1981*. Short title

An Act to amend The Police Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Solicitor General

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Police Act

THE HON. R. MCMURTRY
Solicitor General

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 41 (1) of the Act now reads as follows:

- (1) *The commission known as the Ontario Police Commission is continued and shall be composed of three persons who shall be appointed by the Lieutenant Governor in Council.*

The said subsection (1) as re-enacted will permit the Lieutenant Governor in Council to appoint more than three persons to the Ontario Police Commission.

Subsection 2. Subsection 41 (4) of the Act now reads as follows:

- (4) *Two members of the Commission constitute a quorum whether or not a vacancy exists in the membership of the Commission.*

The re-enactment of the said subsection (4) is complementary to subsection 1 (1) of the Bill.

BILL 107

1981

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 41 (1) of the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) The commission known as the Ontario Police Commission is continued and shall consist of not fewer than three members who shall be appointed by the Lieutenant Governor in Council.	s. 41 (1), re-enacted
(2) Subsection 41 (4) is repealed and the following substituted therefor:	
(4) Two members of the Commission constitute a quorum.	s. 41 (4), re-enacted
2. This Act comes into force on the day it receives Royal Assent.

Commence- ment

3. The short title of this Act is the *Police Amendment Act, 1981*.

Short title

An Act to amend the Police Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Solicitor General

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Police Act

THE HON. R. MCMURTRY
Solicitor General

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

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 41 (1) of the Act now reads as follows:

- (1) *The commission known as the Ontario Police Commission is continued and shall be composed of three persons who shall be appointed by the Lieutenant Governor in Council.*

The said subsection (1) as re-enacted will permit the Lieutenant Governor in Council to appoint not fewer than three and not more than nine members to the Ontario Police Commission.

Subsection 2. Subsection 41 (4) of the Act now reads as follows:

- (4) *Two members of the Commission constitute a quorum whether or not a vacancy exists in the membership of the Commission.*

The re-enactment of the said subsection (4) is complementary to subsection 1 (1) of the Bill.

BILL 107

1981

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 41 (1) of the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 41 (1),
re-enacted
- (1) The commission known as the Ontario Police Commission is continued and shall consist of not fewer than three and not more than nine members who shall be appointed by the Lieutenant Governor in Council. Ontario
Police
Commission
- (2) Subsection 41 (4) is repealed and the following substituted therefor: s. 41 (4),
re-enacted
- (4) Two members of the Commission constitute a quorum. Quorum
- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is the *Police Amendment Act, 1981*. Short title

An Act to amend the Police Act

1st Reading

June 11th, 1981

2nd Reading

December 7th, 1981

3rd Reading

THE HON. R. MCMURTRY
Solicitor General

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

BILL 107

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Police Act

THE HON. R. MCMURTRY
Solicitor General

BILL 107

1981

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 41 (1) of the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 41 (1),
re-enacted
- (1) The commission known as the Ontario Police Commission is continued and shall consist of not fewer than three and not more than nine members who shall be appointed by the Lieutenant Governor in Council. Ontario
Police
Commission
- (2) Subsection 41 (4) is repealed and the following substituted therefor: s. 41 (4),
re-enacted
- (4) Two members of the Commission constitute a quorum. Quorum
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Police Amendment Act, 1981*. Short title

An Act to amend the Police Act

1st Reading

June 11th, 1981

2nd Reading

December 7th, 1981

3rd Reading

December 10th, 1981

THE HON. R. MCMURTRY
Solicitor General

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to provide
Parking Facilities for Physically Handicapped Persons**

MR. KENNEDY

EXPLANATORY NOTE

The purpose of this Bill is to ensure that parking facilities are made available to physically handicapped persons.

The Bill provides that at least 1 per cent of all parking spaces in parking lots containing more than twenty-five parking spaces to which the public has access will be designated for the sole use of vehicles operated by physically handicapped persons and vehicles conveying physically handicapped persons.

Parking lots owned or operated by public authorities located within 200 metres of a public building must provide at least 2 per cent of all parking spaces as designated parking spaces.

Municipalities will be able to specify that a higher percentage of designated parking spaces be provided.

The bill will also allow physically handicapped persons to apply to the council of a municipality to pass by-laws exempting physically handicapped persons from the municipality's on-street parking by-laws. If the council refuses or neglects to pass the by-law, the applicant may appeal to the Ontario Municipal Board.

The Bill prescribes a procedure for obtaining permits for the use of designated parking spaces. The permits will be available from municipal clerks and will be valid throughout Ontario. The permits will also allow physically handicapped persons to take advantage of exemptions from on-street parking by-laws.

A minimum \$25 fine is prescribed for improper use of any designated parking space, whether the parking space has been provided voluntarily by the parking lot owner or pursuant to the mandatory provisions of the Act.

BILL 108

1981

An Act to provide Parking Facilities for Physically Handicapped Persons

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) "conveying" includes picking up and discharging;
- (b) "designated parking space" means a parking space marked by a sign, as described in the Schedule, as a parking space for,
 - (i) a vehicle operated by a physically handicapped person, and
 - (ii) a vehicle conveying a physically handicapped person,

and includes a parking space designated pursuant to a by-law passed under paragraph 131a of subsection 1 of section 354 of *The Municipal Act*;

R.S.O. 1970,
c. 284

- (c) "physically handicapped person" means a person who is permanently or temporarily,
 - (i) confined to a wheelchair,
 - (ii) required to use crutches, braces or other devices that seriously restrict the mobility of the person, or
 - (iii) for medical reasons, not referred to in subclause i or ii, seriously restricted in his or her mobility;
- (d) "public authority" means,

- (i) the Crown and every board and agency thereof,
- (ii) conservation authorities,
- (iii) a municipality and every local board thereof,
- (iv) Ontario Hydro;

(e) "public building" means a building owned by or leased to a public authority and that is used by a public authority in carrying on its business or undertaking.

Administration of Act

2. The Minister of Intergovernmental Affairs is responsible for the administration of this Act.

Application to Crown

3. This Act binds the Crown.

Designated parking spaces

4.—(1) Any owner of or operator of a parking lot or other parking facility may provide designated parking spaces.

Mandatory designation

(2) Every owner and every operator of a parking lot or other parking facility to which the public has access, whether on payment of a fee or otherwise, and which contains more than twenty-five parking spaces shall provide at least one designated parking space for each one hundred parking spaces or part thereof in the lot or facility.

Parking lots adjacent to public buildings

(3) Notwithstanding subsection 2, where a parking lot or other parking facility owned or operated by a public authority is located within two hundred metres of a public building, the public authority shall provide at least two designated parking spaces for each one hundred parking spaces or part thereof in the lot or facility.

Application of municipal by-laws
R.S.O. 1970,
c. 284

(4) Where, under paragraph 131*a* of subsection 1 of section 354 of *The Municipal Act*, a municipality has passed a by-law requiring more than the number of designated parking spaces required under subsection 2, the number of designated parking spaces required by the by-law shall be provided.

Signs

(5) Every designated parking space shall be conspicuously marked by a sign, as described in the Schedule.

Dimension

(6) A designated parking space required under subsection 2 or 3 or under a by-law passed under paragraph 131*a* of subsection 1 of section 354 of *The Municipal Act* shall have a minimum length of six metres and a minimum width of four metres.

By-laws

5.—(1) Where, upon the application of a physically handicapped person, a municipality refuses or neglects to pass a by-law

under paragraph 107*b* of subsection 1 of section 354 of *The Municipal Act* within ninety days of the receipt of the application by the clerk of the municipality, the applicant may appeal to the Ontario Municipal Board and the Board shall hear the appeal and dismiss the same or direct that the by-law be passed, with or without amendments, in accordance with its order. R.S.O. 1970,
c. 284

(2) The Ontario Municipal Board, in considering an appeal under this section, shall consider as relevant factors, Relevant
factors

- (a) the needs of the physically handicapped person;
- (b) the availability of off-street parking;
- (c) the safety of other users of the highways; and
- (d) such other matters as the Board considers relevant.

6. Every by-law passed under paragraphs 107*b* and 131*a* of subsection 1 of section 354 of *The Municipal Act* shall be deemed to apply to both vehicles operated by physically handicapped persons and to vehicles conveying physically handicapped persons. Interpre-
tation of
by-laws

7.—(1) Upon the application in Form 1 of a physically handicapped person and upon compliance with subsection 2, the clerk of a municipality shall issue a permit in Form 2 to the physically handicapped person. Permits

(2) An application under subsection 1 shall be accompanied by the certificate in Form 3 of a qualified medical practitioner certifying that the applicant is a physically handicapped person as defined in clause *c* of section 1. Medical
certificate

(3) The information contained in Form 3 is confidential and, except for the purpose of a prosecution under this Act, no person shall publish, disclose or communicate the information contained in Form 3. Confidential
information

(4) A permit issued to a person who is a permanently physically handicapped person is valid in perpetuity and a permit issued to a temporarily physically handicapped person is valid for three months from the date of issue. Period of
validity

(5) A permit issued under this section is valid throughout Ontario for the purposes of this Act and every by-law passed under paragraphs 107*b* and 131*a* of subsection 1 of section 354 of *The Municipal Act*. Province-
wide validity

- Fee (6) The council of a municipality may, by by-law, prescribe a fee not exceeding \$2 for the issue of a permit under this section.
- Use of permit (7) A permit issued under this section may be used by the physically handicapped person in any vehicle whether the person is operating the vehicle or being conveyed in the vehicle.
- Display of permit
R.S.O. 1970,
c. 284 **8.** For the purpose of an exemption provided under a by-law passed under paragraph 107*b* of subsection 1 of section 354 of *The Municipal Act* and for the purpose of using a designated parking space, a permit issued under section 7 shall be displayed on the dashboard of the vehicle or otherwise displayed in the windshield of the vehicle.
- Prohibition **9.**—(1) No person shall park a vehicle in a designated parking space unless a valid permit is displayed in accordance with section 8.
- Idem (2) No person, other than a physically handicapped person, shall acquire or use a permit issued under section 7.
- Offences **10.**—(1) Every person who contravenes subsection 3 of section 7 or section 9 is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$200.
- Idem (2) Every owner and every operator of a parking lot who contravenes subsection 2 or 3 of section 4 or a regulation made under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$10,000.
- Enforcement (3) Sections 4 and 9 and the regulations made under this Act may be enforced by the council of a municipality in the same manner and with the same remedies as if they were by-laws passed by the council under *The Municipal Act*.
- Owner liable (4) For the purposes of subsection 1, the owner of the vehicle, whether or not he was the driver at the time the offence was committed, may be charged with and convicted of the offence unless at the time of the offence the vehicle was in the possession of some other person without the owner's consent.
- Removal and storage of vehicle
R.S.O. 1970,
c. 202 (5) Subsection 13 of section 116 of *The Highway Traffic Act* applies with necessary modifications to a vehicle parked in contravention of subsection 1 of section 9.
- Identifying markers **11.** The Minister of Transportation and Communications may authorize the use of, and issue, identifying markers for vehicles owned by physically handicapped persons or used for conveying physically handicapped persons, and any such marker shall be deemed to be a permit issued under this Act.

12.—(1) For the purposes of designated parking spaces required under subsections 2 and 3 of section 4, the Lieutenant Governor in Council may, by regulation, Regulations

- (a) prescribe the location of designated parking spaces;
- (b) require the construction of ramps and related facilities to permit physically handicapped persons to move safely and freely from designated parking spaces to the pedestrian access points of parking lots and parking facilities.

(2) A regulation made under subsection 1 may be general or particular in its application. Idem

13. A sign prescribed pursuant to a by-law passed under paragraph 131a of subsection 1 of section 354 of *The Municipal Act* may continue to be used by the owner or operator of a parking lot or other parking facility until the 1st day of January, 1985, and every such sign shall be deemed to comply with this Act until that date. Transition
R.S.O. 1970,
c. 284

14.—(1) Clause *a* of paragraph 107b of subsection 1 of section 354 of *The Municipal Act*, as enacted by the Statutes of Ontario, 1978, chapter 101, section 4, is repealed and the following substituted therefor: R.S.O. 1970,
c. 284, s. 354
(1), par.
107b (a),
re-enacted

- (a) A by-law passed under this paragraph may regulate or prohibit the parking, standing or stopping of motor vehicles in respect of which a permit has been issued under *The Parking Facilities for the Handicapped Act, 1981* and the provisions authorized by this clause may be different from and in conflict with the provisions of any other by-law of the municipality for prohibiting or regulating the parking, standing or stopping of motor vehicles on a highway or part thereof under the jurisdiction of the council. 1981, c. . . .

(2) Paragraph 131a of subsection 1 of section 354 of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 101, section 4, is amended by striking out "a by-law passed by the council under paragraph 107b and for prohibiting the use of such spaces by other vehicles" in the sixth, seventh and eighth lines and inserting in lieu thereof "*The Parking Facilities for the Handicapped Act, 1981*". s. 354 (1),
par. 131a,
amended

15.—(1) This Act, except subsections 2 and 3 of section 4 and subsection 2 of section 10, comes into force on the day it receives Royal Assent. Commence-
ment

Idem (2) Subsections 2 and 3 of section 4 and subsection 2 of section 10 come into force on the 1st day of March, 1982.

Short title **16.** The short title of this Act is *The Parking Facilities for the Handicapped Act, 1981*.

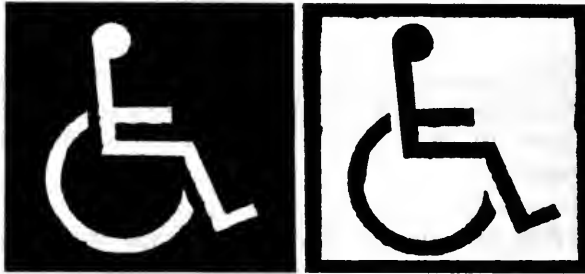
SCHEDULE

DESIGNATED PARKING SPACE SIGN

1. Description

The sign is composed of two elements—the wheelchair figure and either a square background or square border. The correct colour for the sign is a dark blue or black. This blue or black should be the background colour for a white wheelchair figure when used without a border, or as the colour for the border and wheelchair figure on a white background. It is recommended that the sign be at least forty centimetres square.

2. Illustration



Form 1

APPLICATION FOR PERMIT

Application to the clerk of The Corporation of the
City, Town, etc.

of

Name of Municipality

Name of Physically Handicapped Person

Address

Street and Number or Lot, Concession and Township

Post office.....Postal Code

City, Town, Village, etc. R.R. No.

Nature of Handicap Permanent Temporary (circle one)

I hereby apply for a permit under subsection 1 of section 7 of *The Parking Facilities for the Handicapped Act, 1981* for the physically handicapped person named above.

Date of application

Signature of Applicant

(Note, where the named applicant is unable to sign this application it may be signed by another person on his or her behalf.)

Form 2

PERMIT



Permit issued under *The Parking Facilities for the Handicapped Act, 1981*.

Permit issued to:
(name of physically handicapped person)

Name of issuing municipality

Date of issue

Nature of handicap

(Enter *permanent* or *temporary* in this space)

This permit must be displayed on the dashboard or in the windshield of the vehicle when using a designated parking space.

Form 3

MEDICAL CERTIFICATE

Name of Qualified Medical Practitioner

Office Address

Name of Physically Handicapped Person

I have examined the above-named person and I am of the opinion that the person is a permanently/temporarily (circle appropriate word) physically handicapped person within the meaning of *The Parking Facilities for the Handicapped Act, 1981* for the following reason(s):

(Briefly set out the nature of the physical handicap)

Date of Certificate

Signature of Qualified Medical Practitioner

(Note: The Parking Facilities for the Handicapped Act, 1981 defines a physically handicapped person as follows:

1. In this Act,

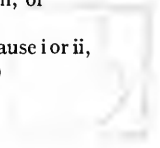
.

(c) "physically handicapped person" means a person who is permanently or temporarily,

(i) confined to a wheelchair,

(ii) required to use crutches, braces or other devices that seriously restrict the mobility of the person, or

(iii) for medical reasons, not referred to in subclause i or ii, seriously restricted in his or her mobility.)





An Act to provide
Parking Facilities for Physically
Handicapped Persons

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

MR. KENNEDY

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Assessment Act

MR. KOLYN

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides an exemption from municipal taxation for additions and improvements to residential property that are designed to aid persons who are physically disabled.

BILL 109

1981

An Act to amend The Assessment Act

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

1. Section 3 of *The Assessment Act*, being chapter 32 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 26, section 1 and 1974, chapter 41, section 2, is further amended by adding thereto the following paragraph:
 21. All equipment, devices, installations and structures, located in or on lands and buildings used for residential purposes, that are designed for use by persons who are physically disabled and are affixed, installed or built for the purpose of enhancing the use and enjoyment of the land and buildings by such persons.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Assessment Amendment Act, 1981*.

s.3.
amendedEquipment,
etc. for
physically
disabledCommence-
ment

Short title

An Act to amend
The Assessment Act

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

MR. KOLYN

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to register
Condominium Property Management Firms**

MR. KOLYN

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill provides for the registration, bonding and inspection of condominium property management firms.

BILL 110

1981

An Act to register Condominium Property Management Firms

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 Consumer and Commercial Relations;
- (b) "registrant" means a condominium property management firm registered under this Act;
- (c) "Registrar" means the Registrar appointed under section 2;
- (d) "Tribunal" means The Commercial Registration Appeal Tribunal under *The Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1970,
c. 73

2.—(1) There shall be a Registrar of Condominium Property Management Firms who shall be appointed by the Lieutenant Governor in Council for the purposes of this Act.

Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act.

Duties

3. No condominium property management firm shall manage a condominium property unless it is registered by the Registrar under this Act.

Acting as
condominium
property
management
firm

4.—(1) An applicant is entitled to registration or renewal of registration as a condominium property management firm by the Registrar except where,

Registration
of
firms

- (a) the past conduct of the applicant affords reasonable grounds for the belief that it will not carry on business in accordance with law and with integrity and honesty; or
- (b) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Notice of proposal to refuse or revoke

5.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection 1 shall inform the applicant or registrant that it is entitled to a hearing by the Tribunal if it mails or delivers, within fifteen days after the notice under subsection 1 is served on it, notice in writing requiring a hearing to the Registrar and the Tribunal, and it may so require such a hearing.

Powers of Registrar where no hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of Tribunal

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

(7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering its registration. Voluntary
cancellation

6. Where the Registrar proposes to suspend or revoke a registration, the Registrar may, where the Registrar considers it to be necessary in the public interest, by order temporarily suspend the registration and the order shall take effect immediately and where a hearing is required, the order expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Tribunal holding the hearing may extend the time of expiration until the hearing is concluded. Interim
suspension

7. Notwithstanding that a registrant appeals from an order of the Tribunal, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. Order
effective,
stay

8. Where, within the time prescribed therefor or, if no time is prescribed, before expiry of its registration, a registrant has applied for renewal of its registration, its registration shall be deemed to continue, Continuance
pending
renewal

(a) until the renewal is granted; or

(b) where it is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

9. A registration is not transferable. Registration
not
transferable

10. Every registrant shall file with the Registrar, Bond

(a) a personal bond accompanied by collateral security;

(b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970,
c. 196

(c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, for terms, and \$5,000 or such other amount as the Registrar determines.

11. Where the Registrar believes on reasonable and probable grounds that a condominium property management firm is making false, misleading or deceptive state- False
advertising

ments in any advertisement, or that the advertisement is in contravention of the regulations, the Registrar may order the immediate cessation of the use of such advertising, but the Tribunal may grant a stay until the Registrar's order becomes final.

Use of
unregistered
condominium
property
management
firm

12. No person shall knowingly engage or use the services of a condominium property management firm that is not registered under this Act.

Inspection

13.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a registrant to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a condominium property management firm without being registered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such firm's business premises to make an inspection for the purpose of determining whether or not the firm is in contravention of section 3.

Powers
on
inspection

(3) Upon an inspection under this section, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the firm being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of 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 firm 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.

Admissi-
bility of
copies

(4) Any copy made as provided in subsection 3 and purporting to be certified by an inspector is admissible

in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

14.—(1) Where the Registrar receives a written complaint in respect of a registrant and so directs in writing, the registrant shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. Investigation of complaints

(2) The direction under subsection 1 shall indicate the nature of the complaint involved. Idem

(3) For the purposes of subsection 1, the Registrar or any person designated in writing by him may on notice at any reasonable time enter upon the business premises of the registrant to make an inspection in relation to the complaint. Idem

15. 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 it 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. Investigation on order of Minister
1971, c. 49

16.—(1) Where, upon a statement made under oath, the Registrar believes on reasonable and probable grounds that any firm or person has, Investigation by Registrar

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act, R.S.C. 1970, c. C-34

the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Registrar.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the Powers of investigator

affairs of the firm or person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such firm or person and examine books, papers, documents, consumer files 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 firm or person and into property, assets or things owned, acquired or alienated in whole or in part by it or him or any person acting on its or 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

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Entry and
search

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the firm or 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.

Removal of
books, etc.

(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 subsection 4 relating to the firm or 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 firm or person whose affairs are being investigated.

(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. Certified
copies

(7) The Minister or Registrar may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment
of
expert

17.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 13, 14, 15 or 16 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, Matters
confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the firm or person to whom the information relates.

(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 or the regulations. Testimony
in civil
suit

18.—(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 registered mail addressed to the firm or person to whom delivery or service is required to be made at its or his last-known address. Service

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the third day after the day of mailing unless the firm or person on whom service is being made establishes that it or he did not, acting in good faith, through absence, accident, illness or other cause beyond its or his control receive the notice or order until a later date.

Restraining
order

19.—(1) Where it appears to the Registrar that any firm or person does not comply with any provision of this Act, 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 it or he may have, the Registrar may apply to a judge of the High Court for an order directing such firm or 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 Supreme Court from an order made under subsection 1.

Offences

20.—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order made under this Act; 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.

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.

Limitation

(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 Registrar.

(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

21.—(1) A statement as to,

Certificate
as
evidence

- (a) the registration or non-registration of any firm;
- (b) the filing or non-filing of any document or material required or permitted to be filed with 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 registration, non-registration, filing or non-filing,

purporting to be certified by the Registrar is, without proof of the office or signature of the Registrar, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

(2) Any document under this Act purporting to be signed by the Minister, 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 Minister without proof of the office or signature of the Minister. Proof of
Minister's
signature

22. The Lieutenant Governor in Council may make regulations, Regulations

- (a) exempting any class of condominium property management firm from this Act or the regulations or any provision thereof;
- (b) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (c) providing for the expiration and renewal of registrations;
- (d) requiring condominium property management firms or any class thereof to be bonded in such form and terms and with such collateral security as are

prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

- (e) governing the form and content of advertising by condominium property management firms;
- (f) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by condominium property management firms;
- (g) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (h) prescribing forms for the purposes of this Act and providing for their use; and
- (i) requiring any information required to be furnished or contained in any form or return to be verified by affidavit.

Commence-
ment

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

Short title

24. The short title of this Act is *The Condominium Property Management Firms Act, 1981*.





An Act to register
Condominium Property
Management Firms

1st Reading

June 11th, 1981

2nd Reading

3rd Reading

MR. KOLYIN

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Election Act

MR. SWART

EXPLANATORY NOTE

The purpose of this Bill is to provide that the time references in the Act are references to the current time system and the polls will be open from 9.00 a.m. to 8.00 p.m. whether on standard or daylight saving time.

A second part of the Bill broadens the use of the proxy vote. After the writs have been issued, any person who is entitled to be on the list of voters and expects to be absent from his polling subdivision during the election period, including the advance polls and polling day, is entitled to a proxy vote.

BILL 111

1981

An Act to amend The Election Act

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

1. Section 1 of *The Election Act*, being chapter 142 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 100, section 1, is further amended by adding thereto the following subsection:

s. 1,
amended

(2) A time reference in this Act is a reference to the current time system.

Time
system

2.—(1) Subsection 1 of section 35 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 100, section 5, is repealed and the following substituted therefor:

s. 35 (1),
re-enacted

(1) Any qualified voter who is entitled to be on the list of voters for a polling subdivision and who is,

Who may
vote by
proxy

(a) a member of the regular forces of the Canadian Forces or a member of the reserve forces of the Canadian Forces when on active service as defined by the *National Defence Act*;

R.S.C. 1970,
c. N-4

(b) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day; or

(c) a person certified by a legally qualified medical practitioner, by certificate filed with the returning officer, to be physically incapable of attending a polling place,

may vote by proxy in that polling subdivision.

(1a) Every person who proposes to vote by proxy shall declare by way of affidavit before the returning officer the reason by which he claims entitlement to vote by proxy.

Declaration

s. 35,
amended

- (2) The said section 35, as amended by the Statutes of Ontario, 1971, chapter 100, section 5, is further amended by adding thereto the following subsection:

Entering
on list

(10) Where, after the issue of a writ for an election and before a list of voters is completed, a returning officer approves a voter as eligible to vote by proxy, the returning officer shall cause that voter's name to be entered on the list of voters.

s. 71,
re-enacted

3. Section 71 of the said Act is repealed and the following substituted therefor:

Hours of
polling
generally

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.

When C.E.O.
may provide
for earlier
opening

(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 open in such electoral district at such time earlier than 9 a.m., but not earlier than 6 a.m., as he considers expedient.

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 Election Amendment Act, 1981*.





An Act to amend The Election Act

1st Reading

June 12th, 1981

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Workmen's Compensation Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to protect the employment rights of an employee who is entitled to compensation under *The Workmen's Compensation Act*. The Bill prohibits an employer from terminating the employment of an employee who becomes entitled to compensation under the Act for a period of one year following the date on which the employee became entitled to compensation unless the termination is authorized under the terms of a collective agreement or the termination is approved by the Workmen's Compensation Board.

**An Act to amend
The Workmen's Compensation Act**

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

1. *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 42a,
enacted

42a.—(1) An employer shall not take any action to terminate the employment of an employee who becomes entitled to compensation under this Act for a period of one year after the date on which the employee became entitled to compensation unless, Termination
of employment
restricted

(a) such termination is authorized under the terms of a collective agreement; or

(b) the Board approves the termination of the employment.

(2) The Board, on application of the employer, may approve the termination of employment of an employee who is receiving compensation if, in all the circumstances of the case, the Board is of the opinion that there is just cause for the termination of employment. Application
to Board

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Workmen's Compensation Amendment Act, 1981*. Short title

Bill
The Workmen's Compensation Act

An Act to amend

1st Reading

June 12th, 1981

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Public Hospitals Act

**THE HON. D. R. TIMBRELL
Minister of Health**

EXPLANATORY NOTE

The Bill provides for the appointment of one or more persons to investigate and report on the quality of the management, administration and patient care in a hospital.

The Lieutenant Governor in Council is authorized to appoint a hospital supervisor for a hospital where, having regard to the report of the investigation, the Lieutenant Governor in Council is of the opinion that, in the best interest of the public, action should be taken to improve the quality of the management or administration or the care of patients in the hospital.

The hospital supervisor is required to provide advice and guidance to the board and the administrator of the hospital.

The hospital supervisor may request the board of the hospital or the members of the corporation that owns or operates the hospital to do any act that they have authority to do, and may do the act on their behalf if they fail to comply with his request.

Provision is made for reports by a hospital supervisor to the Minister.

The appointment of a hospital supervisor continues in force until terminated by order of the Lieutenant Governor in Council.

Investigators and hospital supervisors are protected against personal liability.

BILL 113

1981

An Act to amend The Public Hospitals Act

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

1. *The Public Hospitals Act*, being chapter 378 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 7a, 7b, enacted

7a.—(1) The Lieutenant Governor in Council may appoint Investigators one or more persons to investigate and report on the quality of the management and administration of a hospital and the quality of the care and treatment of patients in the hospital.

(2) An investigator has the powers of an inspector under this Powers Act and the regulations.

(3) No person shall obstruct an investigator or withhold or Obstruction destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

7b.—(1) The Lieutenant Governor in Council may appoint a Hospital supervisor hospital supervisor for a hospital where, having regard to the content of the report of an investigation under section 7a as to the quality of the management or administration of the hospital or the care and treatment of patients in the hospital, the Lieutenant Governor in Council is of the opinion that the appointment is in the best interest of the public.

(2) The appointment of a hospital supervisor is valid until Term of office terminated by order of the Lieutenant Governor in Council.

(3) A hospital supervisor appointed for a hospital shall give Duty of hospital supervisor advice and guidance to the board and the administrator of the hospital for the purpose of improving the quality of the management and administration of the hospital and the care and treatment of patients in the hospital.

Duty of board and administrator

(4) It is the duty of the board and the administrator of a hospital to receive and consider the advice and guidance of a hospital supervisor appointed for the hospital.

Action on behalf of board, etc.

(5) Where a hospital supervisor appointed for a hospital requests in writing that the board of the hospital or the members of the corporation that owns or operates the hospital do any act that they have authority to do and, in the opinion of the hospital supervisor, they fail to do so, the hospital supervisor may do the act on behalf of the board or the members of the corporation and the act is as effective as if done by the board or the members of the corporation, as the case may be.

Action by board

(6) During the term of office of a hospital supervisor appointed for a hospital, no act of the board of the hospital is valid unless approved in writing by the hospital supervisor.

Right of access

(7) A hospital supervisor appointed for a hospital has the same rights as the board and the administrator of the hospital in respect of the documents, records and information of the board and the hospital.

Reports

(8) A hospital supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require.

Protection from personal liability

7c.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a hospital supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or the regulations or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Crown not relieved of liability
R.S.O. 1970,
c. 365

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a hospital supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection 1 had not been enacted.

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 Public Hospitals Amendment Act, 1981*.





An Act to amend
The Public Hospitals Act

1st Reading

June 15th, 1981

2nd Reading

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Health

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Public Hospitals Act

THE HON. D. R. TIMBRELL
Minister of Health

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

EXPLANATORY NOTE

The Bill provides for the appointment of one or more persons to investigate and report on the quality of the management, administration and patient care in a hospital.

The Minister is required to cause a copy of the report to be delivered to the chairman of the board of the hospital.

The Lieutenant Governor in Council is authorized to appoint a hospital supervisor for a hospital where, having regard to the report of the investigation, the Lieutenant Governor in Council is of the opinion that, in the best interest of the public, action should be taken to improve the quality of the management or administration or the care of patients in the hospital.

The Bill provides that the Lieutenant Governor in Council shall not appoint a hospital supervisor sooner than thirty days after submission of the report of the investigation.

The hospital supervisor is required to provide advice and guidance to the board and the administrator of the hospital.

The hospital supervisor may request the board of the hospital or the members of the corporation that owns or operates the hospital to do any act that they have authority to do, and may do the act on their behalf if they fail to comply with his request.

Provision is made for reports by a hospital supervisor to the Minister.

The appointment of a hospital supervisor continues in force until terminated by order of the Lieutenant Governor in Council.

Investigators and hospital supervisors are protected against personal liability.

Section 2 of the Bill refers to a report with respect to Toronto East General and Orthopaedic Hospital and states that the report shall be deemed to be the report of an investigation under section 7a of *The Public Hospitals Act* and to have been submitted to the Lieutenant Governor in Council on the 15th day of June, 1981.

An Act to amend The Public Hospitals Act

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

1. *The Public Hospitals Act*, being chapter 378 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 7a, 7b, enacted

7a.—(1) The Lieutenant Governor in Council may appoint Investigators one or more persons to investigate and report on the quality of the management and administration of a hospital and the quality of the care and treatment of patients in the hospital.

(2) An investigator has the powers of an inspector under this Powers Act and the regulations.

(3) No person shall obstruct an investigator or withhold or Obstruction destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

(4) The Minister shall cause a copy of the report of an investigation to be delivered to the chairman of the board of the hospital. Delivery of report

7b.—(1) The Lieutenant Governor in Council may appoint a Hospital supervisor hospital supervisor for a hospital where, having regard to the content of the report of an investigation under section 7a as to the quality of the management or administration of the hospital or the care and treatment of patients in the hospital, the Lieutenant Governor in Council is of the opinion that the appointment is in the best interest of the public.

(2) The Lieutenant Governor in Council shall not make an Waiting period appointment under subsection 1 sooner than thirty days after submission of the report of the investigation to the Lieutenant Governor in Council.

Term of office

(3) The appointment of a hospital supervisor is valid until terminated by order of the Lieutenant Governor in Council.

Duty of hospital supervisor

(4) A hospital supervisor appointed for a hospital shall give advice and guidance to the board and the administrator of the hospital for the purpose of improving the quality of the management and administration of the hospital and the care and treatment of patients in the hospital.

Duty of board and administrator

(5) It is the duty of the board and the administrator of a hospital to receive and consider the advice and guidance of a hospital supervisor appointed for the hospital.

Action on behalf of board, etc.

(6) Where a hospital supervisor appointed for a hospital requests in writing that the board of the hospital or the members of the corporation that owns or operates the hospital do any act that they have authority to do and, in the opinion of the hospital supervisor, they fail to do so, the hospital supervisor may do the act on behalf of the board or the members of the corporation and the act is as effective as if done by the board or the members of the corporation, as the case may be.

Action by board

(7) During the term of office of a hospital supervisor appointed for a hospital, no act of the board of the hospital is valid unless approved in writing by the hospital supervisor.

Right of access

(8) A hospital supervisor appointed for a hospital has the same rights as the board and the administrator of the hospital in respect of the documents, records and information of the board and the hospital.

Reports

(9) A hospital supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require.

Protection from personal liability

7c.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a hospital supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or the regulations or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Crown not relieved of liability
R.S.O. 1970,
c. 365

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a hospital supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection 1 had not been enacted.

2. For the purposes of section 7b of *The Public Hospitals Act*, the report dated June, 1981 by C. J. Clark, L. D. Wadsworth and P. B. Blewett in respect of Toronto East General and Orthopaedic Hospital shall be deemed to be the report of an investigation under section 7a of *The Public Hospitals Act* and to have been submitted to the Lieutenant Governor in Council on the 15th day of June, 1981.
- Report
by Messrs.
Clark,
Wadsworth
and
Blewett
R.S.O. 1970,
c. 378
3. This Act comes into force on the day it receives Royal Assent.
- Commence-
ment
4. The short title of this Act is *The Public Hospitals Amendment Act*, 1981.
- Short title

An Act to amend
The Public Hospitals Act

1st Reading

June 15th, 1981

2nd Reading

June 25th, 1981

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Health

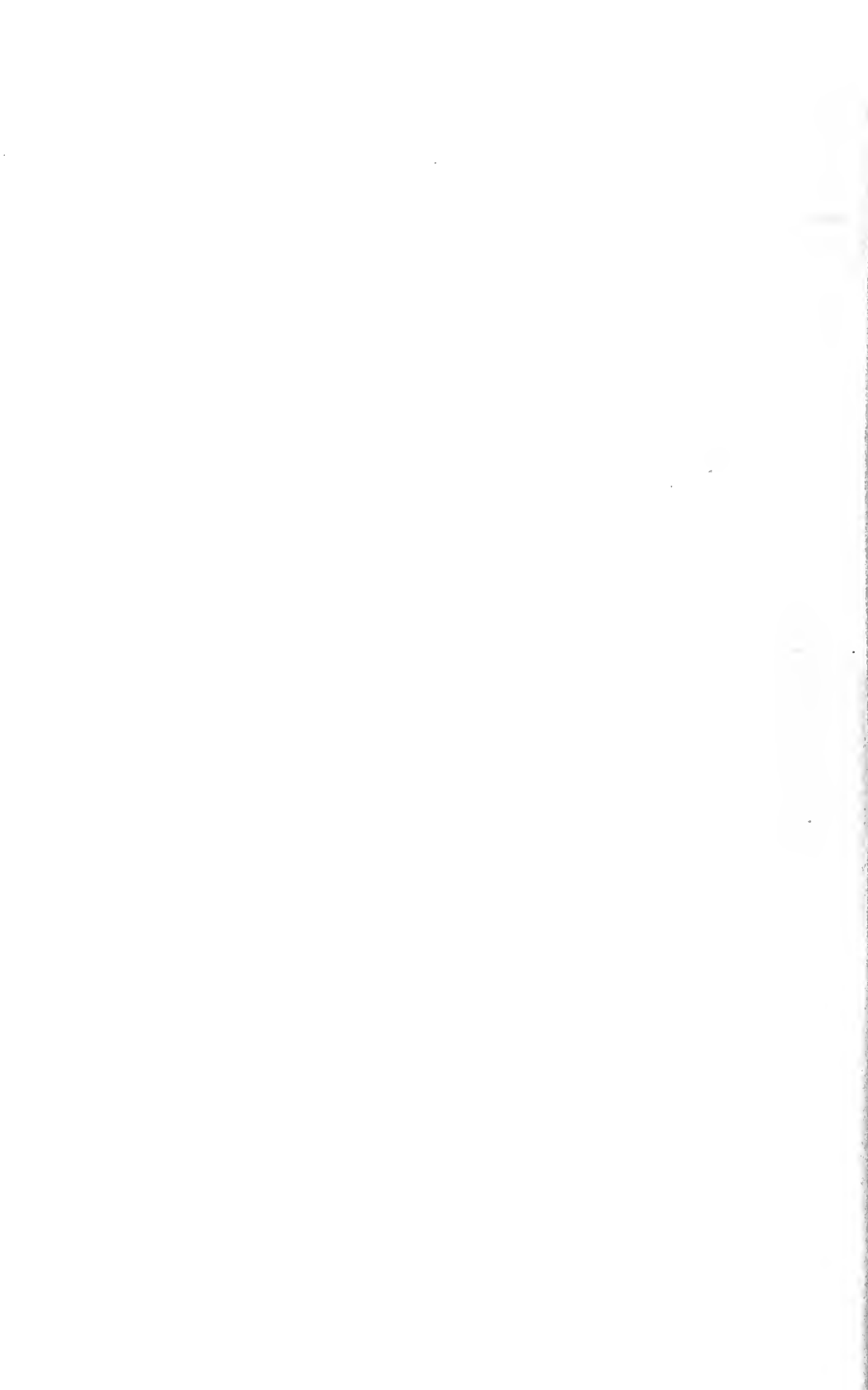
*(Reprinted as amended by the
Committee of the Whole House)*

BILL 113

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Public Hospitals Act

THE HON. D. R. TIMBRELL
Minister of Health



An Act to amend The Public Hospitals Act

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

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(2) An investigator has the powers of an inspector under this Powers Act and the regulations.

(3) No person shall obstruct an investigator or withhold or Obstruction destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

(4) The Minister shall cause a copy of the report of an investi- Delivery of report gation to be delivered to the chairman of the board of the hospital.

7b.—(1) The Lieutenant Governor in Council may appoint a Hospital supervisor hospital supervisor for a hospital where, having regard to the content of the report of an investigation under section 7a as to the quality of the management or administration of the hospital or the care and treatment of patients in the hospital, the Lieutenant Governor in Council is of the opinion that the appointment is in the best interest of the public.

(2) The Lieutenant Governor in Council shall not make an Waiting period appointment under subsection 1 sooner than thirty days after submission of the report of the investigation to the Lieutenant Governor in Council.

Term of office

(3) The appointment of a hospital supervisor is valid until terminated by order of the Lieutenant Governor in Council.

Duty of hospital supervisor

(4) A hospital supervisor appointed for a hospital shall give advice and guidance to the board and the administrator of the hospital for the purpose of improving the quality of the management and administration of the hospital and the care and treatment of patients in the hospital.

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Action on behalf of board, etc.

(6) Where a hospital supervisor appointed for a hospital requests in writing that the board of the hospital or the members of the corporation that owns or operates the hospital do any act that they have authority to do and, in the opinion of the hospital supervisor, they fail to do so, the hospital supervisor may do the act on behalf of the board or the members of the corporation and the act is as effective as if done by the board or the members of the corporation, as the case may be.

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Right of access

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Reports

(9) A hospital supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require.

Protection from personal liability

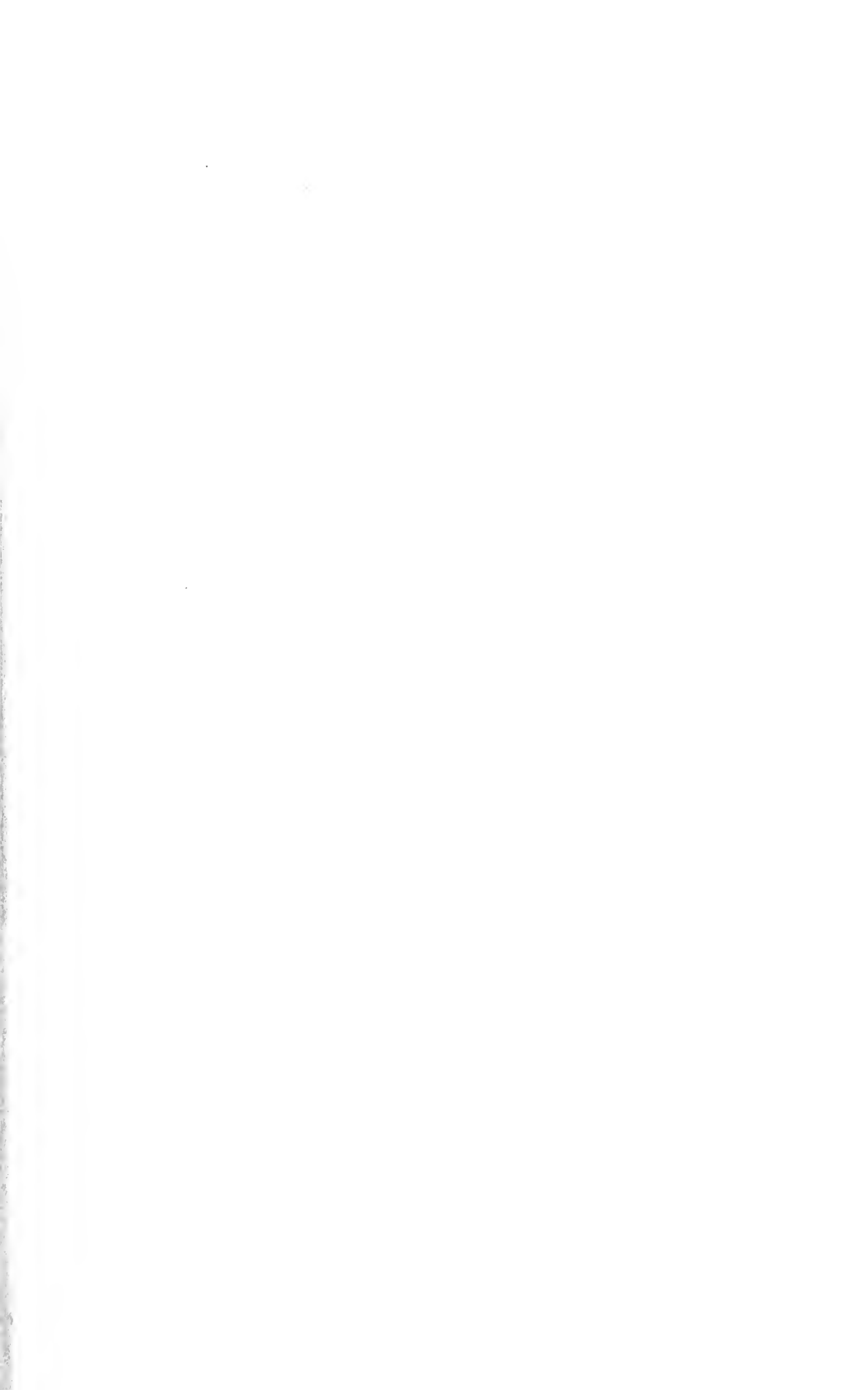
7c.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a hospital supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or the regulations or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Crown not relieved of liability
R.S.O. 1970,
c. 365

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a hospital supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection 1 had not been enacted.

2. For the purposes of section 7b of *The Public Hospitals Act*, the report dated June, 1981 by C. J. Clark, L. D. Wadsworth and P. B. Blewett in respect of Toronto East General and Orthopaedic Hospital shall be deemed to be the report of an investigation under section 7a of *The Public Hospitals Act* and to have been submitted to the Lieutenant Governor in Council on the 15th day of June, 1981. Report
by Messrs.
Clark,
Wadsworth
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Blewett
R.S.O. 1970,
c. 378
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Public Hospitals Amendment Act, 1981*. Short title





An Act to amend
The Public Hospitals Act

1st Reading

June 15th, 1981

2nd Reading

June 25th, 1981

3rd Reading

July 3rd, 1981

THE HON. D. R. TIMBRELL
Minister of Health

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act respecting French Language Services
in Ontario**

MR. ROY

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill places a duty on the Government of Ontario to provide, as of right, public services in the French language to the citizens of Ontario subject to certain conditions set out in the Bill. The Bill also establishes the office of the French Language Services Co-ordinator and the Language Services Board to aid in improving the availability of French language services in Ontario.

NOTE EXPLICATIVE

Ce projet de loi fait obligation au gouvernement de l'Ontario d'assurer, de droit, des services publics en français aux citoyens de l'Ontario, sous réserve de certaines conditions énoncées dans le texte. Ce projet de loi établit aussi le poste de Coordonnateur des services en langue française ainsi que le Conseil des services en langue française aux fins d'améliorer la disponibilité de services en langue française en Ontario.

BILL 114

1981

An Act respecting French Language Services in Ontario

WHEREAS the French language is an historic, honoured Preamble and constitutional language of Canada, and whereas there is need to give legal definition to the rights of citizens to have Ontario Government services provided in French;

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

1. In this Act,

Interpre-
tation

- (a) "Board" means the Language Services Board established under section 5;
- (b) "Co-ordinator" means the French Language Services Co-ordinator appointed under section 6;
- (c) "Government of Ontario" includes every board, commission, corporation and agency thereof.

2. Subject to section 7, the Government of Ontario shall ensure the provision of educational, judicial, health, social, municipal and other public services in Ontario in the French language in accordance with this Act and with recommendations contained in the report of the Language Services Board or a report of the Co-ordinator of French Language Services. Government to provide French language services

3. The English and French languages may be used by any person in any proceedings of the Legislative Assembly or a committee thereof, and the Order Papers, Votes and Proceedings, records and reports of the Assembly or any committee thereof may be printed in both the English and French languages, and any Bill or motion may be introduced in both the English and French languages, and any Act of the Legislative Assembly may be printed and published in both the English and French languages. Legislative Assembly

Statutes

4.—(1) Subject to sections 6 and 7, and upon the revision of the Statutes of Ontario in 1980, those Statutes so designated by the Co-ordinator of French Language Services shall be printed and published in English and French and thereafter the annual Statutes of Ontario shall be printed and published in English and French.

Statutes

(2) Any regulation, proclamation or notice issued in Ontario may be issued in both English and French and where a regulation, proclamation or notice is issued in both languages and is required to be printed in *The Ontario Gazette*, the regulation, proclamation or notice shall be published accordingly in both languages.

Language
Services
Board

5.—(1) The Language Services Board is hereby established and shall be composed of the Co-ordinator of French Language Services, the Chairman of the Civil Service Commission and three members appointed by the Lieutenant Governor in Council of whom at least two shall be persons who are not members of the public service at the time of appointment.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman who shall be a person capable of speaking and understanding the English and French languages.

Term of
Office

(3) The members of the Board shall be appointed to hold office for a term of one year commencing on the day of the appointment of the chairman and the Board is terminated on the day on which the terms of office expire.

Duties

(4) The Language Services Board shall,

- (a) review the availability of French language services in all parts of Ontario;
- (b) recommend and designate areas of the Province of Ontario in which government services shall be provided in both English and French;
- (c) recommend the extent to which French language services should be provided in those parts of the Province of Ontario not designated under clause *b*;
- (d) recommend a time schedule for implementing the recommendations in clauses *b* and *c*, and the Board shall report its findings and recommendations to the Premier before the day on which the Board is terminated and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

6.—(1) A Co-ordinator of French Language Services shall be appointed by the Lieutenant Governor in Council who shall have the rank of Deputy Minister and who shall be responsible for supervising and co-ordinating the provision of French Language Services in Ontario.

Co-ordinator of French Language Services

(2) A French Language Services Committee is hereby established to be composed of one representative from each Ministry of the Government to assist the French Language Services Co-ordinator in carrying out his duties under this Act.

French Language Services Committee

(3) The Co-ordinator after the close of each calendar year shall submit to the Premier an annual report containing an assessment of the availability of French language services in Ontario and any recommendations the Co-ordinator may feel are desirable in order to extend or improve the availability of French language services in Ontario and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Co-ordinator's report

7.—(1) The Government shall implement all recommendations contained in the report of the Language Services Board or a report of the Co-ordinator unless within six months of the day that the report of the Board or Co-ordinator is submitted to the Premier, the Government lays before the Assembly a statement of intention indicating the recommendations which the Government does not intend to implement.

Statement of intention

(2) The report of the Board, every report of the Co-ordinator and every statement of intention stands permanently referred to a Standing Committee of the Legislature for the purposes of examination and review and the Committee shall, at least once in every five year period, review and make recommendations concerning amendments to the Act or changes in administrative procedures designed to improve the availability of French language services in Ontario.

Standing Committee

8.—(1) Nothing in this Act shall be construed as authorising a reduction in the availability of French language services existing on the day this Act comes into force.

Saving

(2) Nothing in this Act shall be construed to prohibit the Government from providing French language services where the provision of such services has not been recommended or considered by the Language Services Board or the Co-ordinator.

Idem

Courts
1978, c. 26

(3) Court proceedings and hearings shall be conducted in the French language in accordance with *The Judicature Amendment Act, 1978* as amended from time to time.

Commence-
ment

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

Short title

10. The short title of this Act is *The Ontario French Language Services Act, 1981*.

PROJET DE LOI 114

1981

Loi concernant les services assurés en français en Ontario

ATTENDU le rôle privilégié que l'histoire et la constitution du Canada reconnaissent à la langue française et attendu que la loi doit sanctionner le droit des citoyens à ce que les services du gouvernement de l'Ontario soient assurés en français,

Préambule

Sa Majesté, sur l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit:

1 Dans la présente loi,

Définitions

“Conseil” désigne le Conseil des services en langue française établi par l'article 5;

“Coordonnateur” désigne le Coordonnateur des services en langue française nommé en vertu de l'article 6;

“Gouvernement de l'Ontario” comprend tout conseil, toute commission, société et tout organisme du gouvernement de l'Ontario.

2 Sous réserve de l'article 7, le gouvernement de l'Ontario assure les services éducatifs, judiciaires, de santé publique, sociaux, municipaux et les autres services publics en français dans la province conformément à la présente loi et aux recommandations du rapport du Conseil des services en langue française ou d'un rapport du Coordonnateur des services en langue française.

Prestation par le gouvernement de services en langue française

3 Quiconque peut employer l'anglais et le français dans toutes délibérations de l'Assemblée législative ou d'un de ses comités et les feuillets, procès-verbaux, comptes rendus et rapports de l'Assemblée ou d'un de ses comités peuvent être imprimés en anglais et en français, et tout projet de loi ou toute motion peuvent être présentés en anglais et en français et toute loi de l'Assemblée législative peut être imprimée et publiée en anglais et en français.

Assemblée législative

4 (1) Lors de la révision des Statuts de l'Ontario en 1981 et sous réserve des articles 6 et 7, les Statuts désignés par le Coordonnateur des services en langue française sont imprimés et publiés en anglais et en français et, par la suite, les Statuts annuels de l'Ontario sont imprimés et publiés en anglais et en français.

Statuts

Statuts

(2) Tout règlement, toute proclamation ou tout avis émis en Ontario peuvent l'être en anglais et en français et, si un règlement, une proclamation ou un avis sont émis dans les deux langues et doivent être publiés dans l'*Ontario Gazette*, le règlement, la proclamation ou l'avis sont publiés dans les deux langues.

Conseil des services en langue française

5 (1) Il est établi un Conseil des services en langue française composé du Coordonnateur des services en langue française, du président de la Commission de la fonction publique et de trois membres nommés par le lieutenant-gouverneur en conseil, dont deux au moins ne font pas partie de la fonction publique au moment de leur nomination.

Président

(2) Le lieutenant-gouverneur en conseil nomme à titre de président un des membres du Conseil qui parle et comprend l'anglais et le français.

Mandat

(3) Les membres du Conseil sont nommés pour un an à compter du jour de la nomination du président et le Conseil est dissous le jour où les mandats expirent.

Fonctions

(4) Le Conseil des services en langue française

- a) examine la disponibilité des services en langue française dans toutes les régions de la province;
- b) recommande et désigne des régions de la province où les services gouvernementaux doivent être assurés en anglais et en français;
- c) recommande la mesure dans laquelle des services en langue française devraient être assurés dans les régions de la province qui ne sont pas désignées aux termes de l'alinéa b);
- d) recommande un programme d'application des recommandations visées par les alinéas b) et c) et fait rapport de ses conclusions et recommandations au Premier ministre avant sa dissolution et le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Coordonnateur des services en langue française

6 (1) Le lieutenant-gouverneur en conseil nomme un Coordonnateur des services en langue française qui a le rang de sous-ministre et a pour fonction de surveiller et de coordonner la prestation de services en langue française en Ontario.

Comité des services en langue française

(2) Il est établi un Comité des services en langue française composé d'un représentant de chaque ministère et chargé d'ai-

der le Coordonnateur des services en langue française à s'acquitter des fonctions que lui attribue la loi.

(3) À la fin de chaque année civile, le Coordonnateur présente au Premier ministre un rapport annuel renfermant une évaluation de la disponibilité des services en langue française dans la province et les recommandations du Coordonnateur afin d'en accroître ou améliorer la disponibilité. Le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Rapport du Coordonnateur

7 (1) Le gouvernement applique toutes les recommandations formulées dans le rapport du Conseil des services en langue française ou dans un rapport du Coordonnateur, sauf si, dans les six mois à partir du jour où le rapport du Conseil ou du Coordonnateur est présenté au Premier ministre, le gouvernement dépose à l'Assemblée une déclaration d'intention indiquant les recommandations que le gouvernement n'entend pas appliquer.

Déclaration d'intention

(2) Le rapport du Conseil, chaque rapport du Coordonnateur et chaque déclaration d'intention relèvent en permanence d'un Comité permanent de la Législature qui les examine et les étudie et le Comité, au moins une fois tous les cinq ans, recommande les modifications à apporter à la loi ou aux procédures administratives afin d'améliorer la disponibilité des services en langue française en Ontario.

Comité permanent

8 (1) Rien dans la présente loi ne doit s'interpréter comme permettant de réduire la disponibilité de services en langue française existant le jour de son entrée en vigueur.

Restriction

(2) Rien dans la présente loi ne doit s'interpréter comme empêchant le gouvernement d'assurer des services en langue française là où le Conseil des services en langue française ou le Coordonnateur n'en ont pas recommandé ou examiné la prestation.

Idem

(3) Les poursuites et audiences devant les tribunaux ont lieu en français conformément à la *Loi de 1978 modifiant la Loi sur l'organisation judiciaire* modifiée de temps à autre.

Tribunaux
1978, chap. 26

9 La loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

10 Le titre abrégé de la loi est *Loi de 1981 sur les services en langue française en Ontario*.

Titre abrégé



An Act respecting
French Language Services
in Ontario

1st Reading

June 15th, 1981

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Regional Municipality of Hamilton-Wentworth Act, 1973**

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**

EXPLANATORY NOTE

The purpose of the Bill is to permit the Regional Council to exempt any class or classes of shops in any designated part or parts of the Regional Area from any provision of its store-closing by-law during a particular day or days of the year.

BILL 115

1981

An Act to amend The Regional Municipality of Hamilton-Wentworth Act, 1973

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

1. Section 115a of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, as enacted by the Statutes of Ontario, 1979, chapter 95, section 1, is amended by adding thereto the following subsection:

(4) The Regional Council may by by-law provide for the exemption of all or any class or classes of shops in any designated part or parts of the Regional Area from any provision or provisions of a by-law passed under section 355 of *The Municipal Act* on any day or days of the year as the by-law specifies.

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 Hamilton-Wentworth Amendment Act, 1981*.

An Act to amend
The Regional Municipality of
Hamilton-Wentworth Act, 1973

1st Reading

June 16th, 1981

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
the Regional Municipality of Hamilton-Wentworth Act**

THE HON. CLAUDE BENNETT
Minister of Municipal Affairs and Housing

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTE

The purpose of the Bill is to permit the Regional Council to exempt any class or classes of shops in any designated part or parts of the Regional Area from any provision of its store-closing by-law during a particular day or days of the year.

BILL 115

1981

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

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

1. Section 134 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:
 - (4) The Regional Council may by by-law provide for the exemption of all or any class or classes of shops in any designated part or parts of the Regional Area from any provision or provisions of a by-law passed under section 211 of the *Municipal Act* on any day or days of the year as the by-law specifies.
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 Hamilton-Wentworth Amendment Act, 1981*.

s. 134,
amended

Exemption

R.S.O. 1980,
c. 302Commence-
ment

Short title

An Act to amend
the Regional Municipality of
Hamilton-Wentworth Act

1st Reading

June 16th, 1981

2nd Reading

3rd Reading

THE HON. CLAUDE BENNETT
Minister of Municipal Affairs and
Housing

(Government Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Milk Act

**THE HON. L. C. HENDERSON
Minister of Agriculture and Food**

EXPLANATORY NOTES

SECTION 1. Section 2 of the Act now reads as follows:

2. The purpose and intent of this Act is to provide for the control and regulation in any or all respects of,

(a) the marketing within Ontario of milk, cream or cheese, or any combination thereof, including the prohibition of such marketing in whole or in part; and

(b) the quality of milk, milk products and fluid milk products within Ontario.

The section is re-enacted to provide that a purpose of the Act is to stimulate, increase and improve the producing of milk. The re-enactment is complementary to section 2 of the Bill.

SECTION 2. Subsection 1 of section 8 of the Act authorizes the Milk Commission of Ontario to make regulations in respect of the matters set out therein.

The amendment extends the Commission's authority to make regulations.

BILL 116

1981

An Act to amend The Milk Act

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

1. Section 2 of *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 2,
re-enacted

2. The purpose and intent of this Act is, Purpose
of Act

- (a) to stimulate, increase and improve the producing of milk within Ontario;
- (b) to provide for the control and regulation in any or all respects of the marketing within Ontario of milk, cream or cheese, or any combination thereof, including the prohibition of such marketing in whole or in part; and
- (c) to provide for the control and regulation in any or all respects of the quality of milk, milk products and fluid milk products within Ontario.

2. Subsection 1 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 155, section 1 and 1972, chapter 162, section 3, is further amended by adding thereto the following paragraph: s. 8,
amended

20a. authorizing a marketing board,

- (i) to impose and collect levies from producers and to pay such levies to the Ontario Dairy Herd Improvement Corporation for the purpose of stimulating, increasing and improving the producing of milk, and
- (ii) to fix the amount of such levies up to but not exceeding 3 cents per hectolitre of milk.

s. 18
amended

3. Section 18 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 162, section 7 and 1974, chapter 62, section 1, is further amended by adding thereto the following subsection:

Adoption
by
reference

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard or grade name established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard or grade name so adopted, including any such changes.

R.S.C. 1970,
c. A-8

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 Milk Amendment Act, 1981*.

SECTION 3. Section 18 of the Act authorizes the Milk Commission of Ontario to make regulations, subject to the approval of the Lieutenant Governor in Council.

The Commission is authorized to adopt by reference grades, standards and grade names established under the *Canada Agricultural Standards Act*. A similar provision now appears in *The Farm Products Grades and Sales Act* and *The Live Stock and Live Stock Products Act*.



An Act to amend The Milk Act

1st Reading

June 16th, 1981

2nd Reading

3rd Reading

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

BILL 116

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Milk Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

BILL 116

1981

An Act to amend The Milk Act

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

1. Section 2 of *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 2,
re-enacted

2. The purpose and intent of this Act is, Purpose
of Act

- (a) to stimulate, increase and improve the producing of milk within Ontario;
- (b) to provide for the control and regulation in any or all respects of the marketing within Ontario of milk, cream or cheese, or any combination thereof, including the prohibition of such marketing in whole or in part; and
- (c) to provide for the control and regulation in any or all respects of the quality of milk, milk products and fluid milk products within Ontario.

2. Subsection 1 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 155, section 1 and 1972, chapter 162, section 3, is further amended by adding thereto the following paragraph: s. 8,
amended

20a. authorizing a marketing board,

- (i) to impose and collect levies from producers and to pay such levies to the Ontario Dairy Herd Improvement Corporation for the purpose of stimulating, increasing and improving the producing of milk, and
- (ii) to fix the amount of such levies up to but not exceeding 3 cents per hectolitre of milk.

s. 18
amended

3. Section 18 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 162, section 7 and 1974, chapter 62, section 1, is further amended by adding thereto the following subsection:

Adoption
by
reference

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard or grade name established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard or grade name so adopted, including any such changes.

R.S.C. 1970,
c. A-8

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 Milk Amendment Act, 1981*.







An Act to amend The Milk Act

1st Reading

June 16th, 1981

2nd Reading

June 24th, 1981

3rd Reading

June 26th, 1981

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Legislative Assembly Act

MR. SWART

EXPLANATORY NOTES

The purpose of the proposed section 1 is to provide that the Legislature sit part of every month during the year instead of the current policy whereby it may sit continuously for a four-month period in the spring and two months in the fall and be recessed or adjourned for the rest of the year.

The proposed section 2 declares that the designations "Member of the Legislative Assembly" and "M.L.A." are the official designations of persons who are elected to the Legislative Assembly. It provides that only members of the Legislative Assembly are entitled to use either of the official designations in association with themselves while sitting as elected members of the Assembly and during the succeeding election period. The intent is to have the designation conform more closely to designations used in other provinces and to eliminate confusion between the designations M.P.P. and M.P.

BILL 117

1981

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. Section 4 of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 4, re-enacted

4.—(1) There shall be a session of the Legislature once at least in every year, and not more than one calendar month shall intervene between the last sitting of the Legislature in one session and its first sitting in the next. Yearly session

(2) During session, the Legislature shall sit at least once every month so that one calendar month does not intervene between one sitting and the next. Monthly sittings

2. The said Act is amended by adding thereto the following section: s. 15a, enacted

15a.—(1) The designations “Member of the Legislative Assembly” and “M.L.A.” shall be the official designations of a person who is elected to the Assembly and no person shall use either of the official designations in association with himself or otherwise purport to be a member of the Assembly unless that person is an elected member of the Assembly. Official designation of members

(2) Nothing in subsection 1 prohibits a person who is a member of the Assembly from using the official designation “Member of the Legislative Assembly” or “M.L.A.” during the election period immediately following the dissolution of the Legislature to which the person was elected but that person is not entitled to use either of the official designations after the polling day in the election unless the person has been elected to the succeeding Legislature. Idem

3. This Act comes into force on the day it receives Royal Assent. Commencement
4. The short title of this Act is *The Legislative Assembly Amendment Act, 1981*. Short title

An Act to amend
The Legislative Assembly Act

1st Reading

June 16th, 1981

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Election Act

MR. KOLYN



An Act to amend The Election Act

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

1. Section 1 of *The Election Act*, being chapter 142 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 100, section 1, is further amended by adding thereto the following subsection:
 - (2) A time reference in this Act is a reference to the current time system. s. 1,
amended

2. Clause *b* of subsection 1 of section 35 of the said Act is repealed and the following substituted therefor: s. 35 (1) (b),
re-enacted
 - (b) a person who expects to be absent from his polling subdivision during the election period including the advanced poll and polling day.

3. Section 51 of the said Act is amended by adding thereto the following subsection: s. 51,
amended
 - (3a) Where a candidate whose name is shown on a ballot is a member of a registered party, as defined in *The Election Finances Reform Act, 1975*, the party affiliation of the candidate shall be indicated on the ballot immediately after the candidate's name. Party
affiliation
1975, c. 12

4. Subsection 1 of section 71 of the said Act is repealed and the following substituted therefor: s. 71 (1),
re-enacted
 - (1) Subject to subsection 2, the polls at every election to the Assembly shall open at 8 a.m. and remain open until 8 p.m. of the same day. Hours of
polling
generally

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

6. The short title of this Act is *The Election Amendment Act, 1981*. Short title

An Act to amend The Election Act

1st Reading

June 16th, 1981

2nd Reading

3rd Reading

MR. KOLYN

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act respecting the Age of Mandatory Retirement

MR. KOLYN

BILL 119

1981

An Act respecting the Age of Mandatory Retirement

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

- 1.—(1) Section 34 of *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following subsection: 1974, c. 112, s. 34, amended

(2a) No employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that includes, as a term or condition thereof, a requirement that the employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. Mandatory retirement age

(2) Subsection 3 of the said section 34 is amended by adding at the end thereof "or 2a". s. 34 (3), amended

(3) Subsection 4 of the said section 34 is amended by inserting after "2" in the fourth line "or 2a". s. 34 (4), amended

2. Section 21 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 113, section 4, is further amended by adding thereto the following subsections: R.S.O. 1970, c. 342, s. 21 amended

(10a) A pension plan filed for registration in accordance with section 18 shall not require, as a term or condition thereof, that an employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. Mandatory retirement provision

(10b) Every pension plan filed for registration prior to the day this Act comes into force that requires, as a term or condition thereof, the retirement of an employee at an age less than seventy years shall be deemed to require retirement at seventy years of age. Plans amended

R.S.O. 1970,
c. 386, s. 17,
re-enacted

3. Section 17 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 96, section 5, is repealed and the following substituted therefor:

Age of
retirement

17. Every civil servant shall retire at the end of the month in which he attains the age of seventy years, but where, in the opinion of the Commission, special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for one or more periods not exceeding one year at a time thereafter.

Review by
employer

- 4.—(1) At any time after an employee attains the age of sixty-five, his employer, upon reviewing the employee's capability, taking into account his state of health, may determine that the employee is not able to adequately perform his duties.

Notice

- (2) Where an employer makes a determination under subsection 1, he shall give written notice of the determination to the employee and the employee shall retire at the end of the month in which he received the notice.

No penalty

- (3) Notwithstanding any provision in any Act or in any pension fund, plan or benefit, an employee who retires pursuant to a notice under subsection 2, shall not be liable to a penalty for early retirement.

Commence-
ment

5. This Act comes into force on the 1st day of January, 1982.

Short title

6. The short title of this Act is *The Age of Retirement Act, 1981*.





An Act respecting
the Age of Mandatory Retirement

1st Reading

June 16th, 1981

2nd Reading

3rd Reading

MR. KOLYNN

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act respecting Certain Potential Assets of Co-operative
Health Services of Ontario**

**THE HON. G. W. WALKER
Minister of Consumer and Commercial Relations**

EXPLANATORY NOTE

At the present time, The Clarkson Company Limited, as liquidator of the estate and effects of Co-operative Health Services of Ontario, is the plaintiff in an action against W. Ross Hitch and Peter R. Clarke, as defendants, to determine who is entitled to the funds described in section 1. The Clarkson Company Limited applied for an interlocutory injunction to preserve the funds until the trial of the action. The application and leave to appeal were denied. The Bill preserves the funds until all matters related to the distribution of the assets of Co-operative Health Services of Ontario have been determined.

BILL 120

1981

**An Act respecting
Certain Potential Assets of Co-operative
Health Services of 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, "trust property" means the funds in the possession of Montreal Trust Company of Canada on the 17th day of June, 1981, and any interest thereon, from the sale of the lands known municipally as 20 Finch Avenue West and 277 and 279 Duplex Avenue, all in the City of North York, in The Municipality of Metropolitan Toronto, sold by W. Ross Hitch, in Trust, to 462333 Ontario Limited. Interpre-
tation

2. Notwithstanding the decision of any court, the trust property shall be held by Montreal Trust Company of Canada, as trustee, or by such other trustee as may be named by the Lieutenant Governor in Council, until such time as The Clarkson Company Limited applies to the Supreme Court of Ontario for discharge as liquidator of the estate and effects of Co-operative Health Services of Ontario. Funds to
be held
in trust

3. The trustee shall not distribute or, except for the purposes of transferring the trust property to a trustee appointed under clause *a* of section 4, release the trust property until The Clarkson Company Limited makes the application referred to in section 2. Dealings
by trustee

- 4.** The Lieutenant Governor in Council may, by order, Powers of
Lieutenant
Governor
in Council
- (a) name a person to act as trustee of the trust property and, where a person is so named, the trustee, as of the day of the order, shall take all steps necessary to transfer the trust property to the new trustee; and
 - (b) prescribe one or more classes of investments that may be made by the trustee with respect to the trust prop-

erty and fix the compensation of the trustee, which compensation shall be paid out of the trust property.

Commence-
ment

5. This Act shall be deemed to have come into force on the 17th day of June, 1981.

Short title

6. The short title of this Act is *The Co-operative Health Services of Ontario Assets Protection Act, 1981*.



An Act respecting Certain Potential Assets
of Co-operative Health Services of Ontario

1st Reading

June 17th, 1981

2nd Reading

June 17th, 1981

3rd Reading

June 17th, 1981

THE HON. G. W. WALKER
Minister of Consumer and
Commercial Relations

(Government Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to provide Alternative Methods
of Fixing Penalty Charges, Interest Rates
and Discount Rates on Payments to Municipalities**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTES

At the present time, various Acts such as *The Municipal Act*, *The Municipality of Metropolitan Toronto Act*, the acts incorporating regional municipalities, *The District Municipality of Muskoka Act*, *The Assessment Act* and *The Education Act, 1974* provide for the imposition of penalties and the charging of interest on overdue payments owed to a municipality and provide for the allowance of discounts on advance payments.

Generally, the maximum penalty, interest rate, and discount rate is 15 per cent per annum or $1\frac{1}{4}$ per cent per month. Under the Bill, a municipality would have the alternative of imposing penalties, charging interest and allowing discounts either in accordance with the existing legislation or in accordance with the Bill.

Under the Bill, the maximum penalty, interest rate or discount rate is $1\frac{1}{2}$ per cent above the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed. For example, if the chartered bank in Canada, having the highest prime rate, has a prime rate of 18 per cent on the day the by-law is passed, the maximum penalty, interest rate or discount rate would be $19\frac{1}{2}$ per cent.

BILL 121

1981

**An Act to provide Alternative Methods of
Fixing Penalty Charges, Interest Rates and
Discount Rates on Payments to Municipalities**

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) "municipality" means a municipality as defined in *The Municipal Affairs Act* and a metropolitan, regional or district municipality or the County of Oxford and any local board thereof; R.S.O. 1970,
c. 118
- (b) "overdue payment" includes any payment to be made to a municipality in respect of,
- (i) overdue taxes owing to the municipality,
 - (ii) overdue amounts owing to the municipality pursuant to a levy or requisition made by that municipality upon another municipality,
 - (iii) overdue amounts owing to the municipality by another municipality to be applied towards outstanding indebtedness of the municipality, and
 - (iv) overdue amounts owing to the municipality by another municipality for the supply of water or some other service by the first-mentioned municipality to the other municipality;
- (c) "prime rate" means the lowest rate of interest quoted by a chartered bank, named in Schedule A to the *Bank Act* (Canada), to its most credit-worthy borrowers for prime business loans; 1980-81,
c. 40 (Can.)
- (d) "prime rate percentage" means the prime rate of the chartered bank that has the highest prime rate on the

relevant day expressed as a percentage only, without the addition of the words "per annum".

Application

2. Sections 3 and 4 apply only where, under any general or special Act, a municipality is authorized or required to charge interest on overdue payments or to allow a discount for payments made in advance of their due date and where a municipality is authorized or required,

- (a) to charge interest on overdue payments, the municipality may charge interest in accordance with section 3 in lieu of charging interest in accordance with such other Act; and
- (b) to allow a discount for payments made in advance of the due date, the municipality may allow a discount in accordance with section 4 in lieu of allowing a discount in accordance with such other Act,

notwithstanding that the interest charged or the discount allowed is at a rate that is higher or lower than the rate authorized or required to be charged under such other Act.

Alternate
interest
rate

3.—(1) A municipality may, by by-law, provide that the interest payable on overdue payments shall be at the rate specified in the by-law, which rate shall not exceed the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum.

Idem

(2) A by-law passed in any year under subsection 1 in respect of interest payable on overdue payments,

- (a) may be amended to reduce the interest rate charged but shall not be amended to increase the rate;
- (b) may provide for interest to be added to overdue payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of interest payable on overdue payments comes into force in the next following year, or
 - (ii) the 31st day of March in the next following year; and

(c) may be made applicable to overdue payments or any class or classes thereof, that are overdue on the day this Act comes into force or that thereafter become overdue.

(3) For the purposes of subsection 1, where a municipality is authorized by any general or special Act to fix a monthly interest rate to be added to overdue payments for each month or fraction of a month during which the payment remains unpaid, the interest rate specified in a by-law passed under subsection 1 shall not exceed one-twelfth of the prime rate percentage on the day the by-law is passed plus one-eighth of 1 per cent per month.

Monthly
interest
rate

(4) This section does not apply to any penalty for non-payment of taxes imposed under subsection 3 or 4 of section 527 of *The Municipal Act*.

Application

R.S.O. 1970,
c. 284

4.—(1) A municipality may, by by-law, provide that the discount rate on payments made to it in advance of their due date shall be at such rate as is specified in the by-law, which rate shall not exceed the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum.

Alternate
discount
rate

(2) A by-law passed in any year under subsection 1 in respect of discounts allowed on advance payments,

Idem

(a) may be amended to increase the discount rate allowed but shall not be amended to decrease the rate;

(b) may provide for discounts to be allowed on advance payments at the rate set out in the by-law only until the earlier of,

(i) the day a by-law in respect of discount rates comes into force in the next following year, or

(ii) the 31st day of March in the next following year; and

(c) may be made applicable to advance payments or any class or classes thereof, made in respect of payments that become due after the day this Act comes into force whether the advance payment was or is made before or after that day.

(3) This section does not apply to discounts or interest allowed for taxes paid in advance under subsection 3 of section 527 of *The Municipal Act*.

Application

R.S.O. 1970,
c. 284

5.—(1) In lieu of imposing a percentage charge as a penalty for non-payment of taxes under subsection 3 or 4 of section 527 of *The Municipal Act* or allowing a discount or interest for advance payment of taxes under subsection 5 of the said section 527, a municipality may impose penalties and allow discounts or interest in accordance with this section.

Application

Alternate
penalty for
non-payment
of taxes

(2) A municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding one-twelfth of the prime rate percentage on the day the by-law is passed plus one-eighth of 1 per cent and the by-law shall provide that the percentage charge shall be imposed on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied.

Idem

(3) As an alternative to a by-law passed under subsection 2, the municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or all or any class or instalment thereof not exceeding the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum from the date payment is due until it is made or until the 31st day of December of the year in which the taxes were levied, whichever is earlier.

Alternate
discount or
interest on
payment in
advance

(4) The municipality may, by by-law, authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

- (a) to allow a discount of any taxes so paid in advance at a rate not exceeding the prime rate of the chartered bank having the highest prime rate on the day the by-law is passed plus 1½ per cent per annum and may allow interest at a rate not exceeding the aforementioned maximum rate on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or
- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding the prime rate of the chartered bank having the highest prime rate on the day the by-law is passed plus 1½ per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment role on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made.

Application

(5) A by-law passed under this section,

- (a) may be made applicable to taxes payable in 1981, whether or not such taxes are overdue on the day this Act comes into force, and to taxes paid in 1981, if notice of the by-law is given in accordance with subsection 6 of section 527 of *The Municipal Act*, and such a by-law

applies notwithstanding that prior to the coming into force of this Act, the municipality has imposed a percentage charge or allowed a discount under subsection 3, 4 or 5 of section 527 of *The Municipal Act* or that notices have been sent out in 1981 under section 303, 521 or 521a of that Act;

R.S.O. 1970,
c. 284

(b) shall be passed prior to the day on which tax notices are first given or mailed under section 303, 521, or 521a of *The Municipal Act*, where the by-law is passed after 1981; and

(c) applies only to taxes levied in the year in which it was passed.

(6) Where a by-law to which clause *a* of subsection 5 applies has been passed, any percentage charge or discount or interest in force in the municipality under subsection 3, 4 or 5 of section 527 of *The Municipal Act* on the day the by-law is passed shall, notwithstanding *The Municipal Act*, cease to have effect as of the day on which the percentage charge, discount or interest imposed or allowed by the by-law takes effect.

Idem

(7) A by-law passed,

Amendments
to by-law

(a) under subsection 2 or 3, may be amended to reduce the percentage charge but may not be amended to increase the percentage charge;

(b) under clause *a* of subsection 4, may be amended to increase the discount rate but may not be amended to decrease the discount rate; and

(c) under clause *b* of subsection 4, to increase the interest rate but may not be amended to decrease the interest rate.

(8) Where in any Act there is a reference to subsection 3, 4 or 5 of section 527 of *The Municipal Act* and where a by-law has been passed under this section, the reference to the said subsection 3, 4 or 5 shall be deemed to be a reference to subsection 2, 3 or 4, respectively, of this section.

References
in other
Acts

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

Commence-
ment

7. The short title of this Act is *The Municipal Interest and Discount Rates Act, 1981*.

Short title

An Act to provide Alternative
Methods of Fixing Penalty Charges,
Interest Rates and Discount Rates
on Payments to Municipalities

1st Reading

June 17th, 1981

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 121

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to provide Alternative Methods of Fixing Penalty Charges, Interest Rates and Discount Rates on Payments to Municipalities

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

BILL 121

1981

**An Act to provide Alternative Methods of
Fixing Penalty Charges, Interest Rates and
Discount Rates on Payments to Municipalities**

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) "municipality" means a municipality as defined in *The Municipal Affairs Act* and a metropolitan, regional or district municipality or the County of Oxford and any local board thereof; R.S.O. 1970,
c. 118
- (b) "overdue payment" includes any payment to be made to a municipality in respect of,
- (i) overdue taxes owing to the municipality,
 - (ii) overdue amounts owing to the municipality pursuant to a levy or requisition made by that municipality upon another municipality,
 - (iii) overdue amounts owing to the municipality by another municipality to be applied towards outstanding indebtedness of the municipality, and
 - (iv) overdue amounts owing to the municipality by another municipality for the supply of water or some other service by the first-mentioned municipality to the other municipality;
- (c) "prime rate" means the lowest rate of interest quoted by a chartered bank, named in Schedule A to the *Bank Act* (Canada), to its most credit-worthy borrowers for prime business loans; 1980-81,
c. 40 (Can.)
- (d) "prime rate percentage" means the prime rate of the chartered bank that has the highest prime rate on the

relevant day expressed as a percentage only, without the addition of the words "per annum".

Application

2. Sections 3 and 4 apply only where, under any general or special Act, a municipality is authorized or required to charge interest on overdue payments or to allow a discount for payments made in advance of their due date and where a municipality is authorized or required,

- (a) to charge interest on overdue payments, the municipality may charge interest in accordance with section 3 in lieu of charging interest in accordance with such other Act; and
- (b) to allow a discount for payments made in advance of the due date, the municipality may allow a discount in accordance with section 4 in lieu of allowing a discount in accordance with such other Act,

notwithstanding that the interest charged or the discount allowed is at a rate that is higher or lower than the rate authorized or required to be charged under such other Act.

Alternate
interest
rate

3.—(1) A municipality may, by by-law, provide that the interest payable on overdue payments shall be at the rate specified in the by-law, which rate shall not exceed the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum.

Idem

(2) A by-law passed in any year under subsection 1 in respect of interest payable on overdue payments,

- (a) may be amended to reduce the interest rate charged but shall not be amended to increase the rate;
- (b) may provide for interest to be added to overdue payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of interest payable on overdue payments comes into force in the next following year, or
 - (ii) the 31st day of March in the next following year; and
- (c) may be made applicable to overdue payments or any class or classes thereof, that are overdue on the day this Act comes into force or that thereafter become overdue.

(3) For the purposes of subsection 1, where a municipality is authorized by any general or special Act to fix a monthly interest rate to be added to overdue payments for each month or fraction of a month during which the payment remains unpaid, the interest rate specified in a by-law passed under subsection 1 shall not exceed one-twelfth of the prime rate percentage on the day the by-law is passed plus one-eighth of 1 per cent per month.

Monthly
interest
rate

(4) This section does not apply to any penalty for non-payment of taxes imposed under subsection 3 or 4 of section 527 of *The Municipal Act*.

Application

R.S.O. 1970,
c. 284

4.—(1) A municipality may, by by-law, provide that the discount rate on payments made to it in advance of their due date shall be at such rate as is specified in the by-law, which rate shall not exceed the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum.

Alternate
discount
rate

(2) A by-law passed in any year under subsection 1 in respect of discounts allowed on advance payments,

Idem

(a) may be amended to increase the discount rate allowed but shall not be amended to decrease the rate;

(b) may provide for discounts to be allowed on advance payments at the rate set out in the by-law only until the earlier of,

(i) the day a by-law in respect of discount rates comes into force in the next following year, or

(ii) the 31st day of March in the next following year;
and

(c) may be made applicable to advance payments or any class or classes thereof, made in respect of payments that become due after the day this Act comes into force whether the advance payment was or is made before or after that day.

(3) This section does not apply to discounts or interest allowed for taxes paid in advance under subsection 5 of section 527 of *The Municipal Act*.

Application

R.S.O. 1970,
c. 284

5.—(1) In lieu of imposing a percentage charge as a penalty for non-payment of taxes under subsection 3 or 4 of section 527 of *The Municipal Act* or allowing a discount or interest for advance payment of taxes under subsection 5 of the said section 527, a municipality may impose penalties and allow discounts or interest in accordance with this section.

Application

Alternate
penalty for
non-payment
of taxes

(2) A municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding one-twelfth of the prime rate percentage on the day the by-law is passed plus one-eighth of 1 per cent and the by-law shall provide that the percentage charge shall be imposed on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied.

Idem

(3) As an alternative to a by-law passed under subsection 2, the municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or all or any class or instalment thereof not exceeding the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum from the date payment is due until it is made or until the 31st day of December of the year in which the taxes were levied, whichever is earlier.

Alternate
discount or
interest on
payment in
advance

(4) The municipality may, by by-law, authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

- (a) to allow a discount of any taxes so paid in advance at a rate not exceeding the prime rate of the chartered bank having the highest prime rate on the day the by-law is passed plus 1½ per cent per annum and may allow interest at a rate not exceeding the aforementioned maximum rate on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or
- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding the prime rate of the chartered bank having the highest prime rate on the day the by-law is passed plus 1½ per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment role on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made.

Application

(5) A by-law passed under this section,

- (a) may be made applicable to taxes payable in 1981, whether or not such taxes are overdue on the day this Act comes into force, and to taxes paid in 1981, if notice of the by-law is given in accordance with subsection 6 of section 527 of *The Municipal Act*, and such a by-law

applies notwithstanding that prior to the coming into force of this Act, the municipality has imposed a percentage charge or allowed a discount under subsection 3, 4 or 5 of section 527 of *The Municipal Act* or that notices have been sent out in 1981 under section 303, 521 or 521a of that Act; R.S.O. 1970,
c. 284

(b) shall be passed prior to the day on which tax notices are first given or mailed under section 303, 521, or 521a of *The Municipal Act*, where the by-law is passed after 1981; and

(c) applies only to taxes levied in the year in which it was passed.

(6) Where a by-law to which clause *a* of subsection 5 applies Idem has been passed, any percentage charge or discount or interest in force in the municipality under subsection 3, 4 or 5 of section 527 of *The Municipal Act* on the day the by-law is passed shall, notwithstanding *The Municipal Act*, cease to have effect as of the day on which the percentage charge, discount or interest imposed or allowed by the by-law takes effect.

(7) A by-law passed,

Amendments
to by-law

(a) under subsection 2 or 3, may be amended to reduce the percentage charge but may not be amended to increase the percentage charge;

(b) under clause *a* of subsection 4, may be amended to increase the discount rate but may not be amended to decrease the discount rate; and

(c) under clause *b* of subsection 4, may be amended to increase the interest rate but may not be amended to decrease the interest rate.

(8) Where in any Act there is a reference to subsection 3, 4 or 5 of section 527 of *The Municipal Act* and where a by-law has been passed under this section, the reference to the said subsection 3, 4 or 5 shall be deemed to be a reference to subsection 2, 3 or 4, respectively, of this section. References
in other
Acts

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

7. The short title of this Act is *The Municipal Interest and Discount Rates Act, 1981*. Short title

An Act to provide Alternative
Methods of Fixing Penalty Charges,
Interest Rates and Discount Rates
on Payments to Municipalities

1st Reading

June 17th, 1981

2nd Reading

July 2nd, 1981

3rd Reading

July 3rd, 1981

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act respecting
Insured Services under the Ontario Health Insurance Plan**

MR. MARTEL

EXPLANATORY NOTE

The purpose of this Bill is to declare that surgical procedures for breast reconstruction are insured services under the Ontario Health Insurance Plan.

BILL 122

1981

**An Act respecting Insured Services under
the Ontario Health Insurance Plan**

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

1. Notwithstanding any provision to the contrary in *The Health Insurance Act, 1972* or the regulations made thereunder, the surgical procedures set out in the Schedule below are hereby declared to be medically necessary and constitute insured services for the purposes of the Ontario Health Insurance Plan established by that Act.

Breast reconstruction declared to be insured services 1972, c. 91

SCHEDULE

Breast reconstruction

- breast skin reconstruction by flaps or grafts
- breast mound creation by prosthesis and/or soft tissue
- nipple reconstruction by grafts

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

Commencement

3. The short title of this Act is *The Insured Health Services Act, 1981*.

Short title

An Act respecting
Insured Services under the
Ontario Health Insurance Plan

1st Reading

June 17th, 1981

2nd Reading

3rd Reading

MR. MARTEL

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Ontario Mental Health Foundation Act

**THE HON. D. R. TIMBRELL
Minister of Health**

EXPLANATORY NOTES

SECTION 1. Section 4 of the Act is re-enacted to change the term “advisory medical board” to “advisory board” and to revise the composition of the advisory board.

SECTION 2. Section 11 of the Act is re-enacted to change the term “advisory medical board” to “advisory board”.

**An Act to amend
The Ontario Mental Health Foundation Act**

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

1. Section 4 of *The Ontario Mental Health Foundation Act*, being chapter 322 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 4,
re-enacted

4. Subject to the approval of the Lieutenant Governor in Council, the Foundation may appoint an advisory board consisting of, Advisory
board

- (a) one person recommended by the faculty of health sciences of McMaster University;
- (b) one person recommended by the medical faculty of Université d'Ottawa;
- (c) one person recommended by the medical faculty of Queen's University;
- (d) one person recommended by the medical faculty of University of Toronto;
- (e) one person recommended by the medical faculty of The University of Western Ontario; and
- (f) such other persons as the Foundation considers appropriate.

2. Section 11 of the said Act is repealed and the following substituted therefor: s. 11,
re-enacted

11. The members of the Foundation and its advisory board shall be paid such amounts for travelling and other expenses as the Foundation, subject to the approval of the Lieutenant Governor in Council, may determine from time to time. Expenses

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 Mental Health Founda-
tion Amendment Act, 1981*.



An Act to amend
The Ontario Mental Health
Foundation Act

1st Reading

June 18th, 1981

2nd Reading

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Health

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
the Ontario Mental Health Foundation Act**

THE HON. D. R. TIMBRELL
Minister of Health

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTES

SECTION 1. Section 4 of the Act is re-enacted to change the term “advisory medical board” to “advisory board” and to revise the composition of the advisory board.

SECTION 2. Section 11 of the Act is re-enacted to change the term “advisory medical board” to “advisory board”.

**An Act to amend
the Ontario Mental Health Foundation Act**

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

1. Section 4 of the *Ontario Mental Health Foundation Act*, being chapter 345 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 4,
re-enacted

4. Subject to the approval of the Lieutenant Governor in Council, the Foundation may appoint an advisory board consisting of, Advisory
board

- (a) one person recommended by the faculty of health sciences of McMaster University;
- (b) one person recommended by the medical faculty of Université d'Ottawa;
- (c) one person recommended by the medical faculty of Queen's University;
- (d) one person recommended by the medical faculty of University of Toronto;
- (e) one person recommended by the medical faculty of The University of Western Ontario; and
- (f) such other persons as the Foundation considers appropriate.

2. Section 11 of the said Act is repealed and the following substituted therefor: s. 11,
re-enacted

11. The members of the Foundation and its advisory board shall be paid such amounts for travelling and other expenses as the Foundation, subject to the approval of the Lieutenant Governor in Council, may determine from time to time. Expenses

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 Mental Health Foundation
Amendment Act, 1981*.





An Act to amend
the Ontario Mental Health
Foundation Act

1st Reading

June 18th, 1981

2nd Reading

3rd Reading

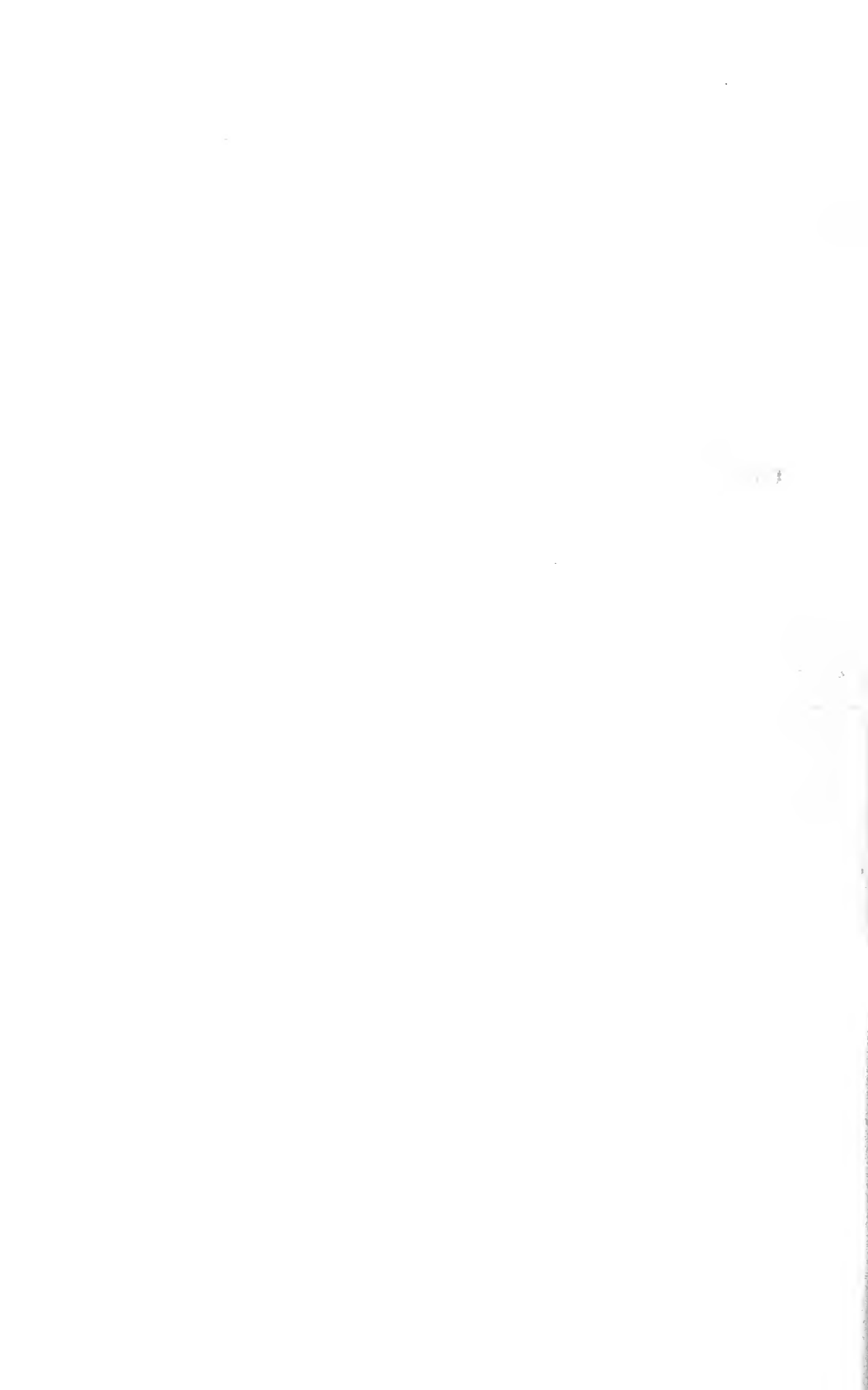
THE HON. D. R. TIMBRELL
Minister of Health

(Government Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act respecting The Leeds and Grenville
County Board of Education and Teachers Dispute**

THE HON. B. M. STEPHENSON
Minister of Education and Minister of Colleges and Universities



BILL 124

1981

**An Act respecting
The Leeds and Grenville County
Board of Education and Teachers Dispute**

WHEREAS The Leeds and Grenville County Board of Education and its secondary school teachers have been negotiating terms and conditions of employment; and whereas a strike by the secondary school teachers against the board began on the 7th day of May, 1981; and whereas the board 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 and its secondary school teachers;

Preamble

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

1. In this Act,

Interpre-
tation

- (a) "board" means The Leeds and Grenville County Board of Education;
- (b) "branch affiliate" means the organization composed of all the teachers employed by the board who are members of The Ontario Secondary School Teachers' Federation;
- (c) "Commission" means the Education Relations Commission established under *The School Boards and Teachers Collective Negotiations Act, 1975*; ^{1975, c. 72}
- (d) "lock-out" has the same meaning as in *The School Boards and Teachers Collective Negotiations Act, 1975*;
- (e) "parties" means the board and the branch affiliate;
- (f) "school day" has the same meaning as in Ontario Regulation 546/73;

- (g) "selector" means the selector appointed under this Act;
- (h) "strike" has the same meaning as in *The School Boards and Teachers Collective Negotiations Act, 1975*;
- (i) "teachers" means the secondary school teachers employed on permanent or probationary contracts by the board.

Resumption
of
employment
and
operation
of schools

2.—(1) The teachers who are on strike against the board shall, on the first school day following the day this Act comes into force, return to and resume their duties in accordance with their contracts of employment and the written collective agreement in effect on the 31st day of August, 1980 with the board and the board shall, on the first school day following the day this Act comes into force, resume the employment of such teachers in accordance with such contracts and written collective agreement 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 school day after the day this Act comes into force until the day an agreement that includes the decision of the selector 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,

1975, c. 72

(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.

Appointment
of selector
by
Commission

(2) The Commission shall appoint the selector forthwith after this Act comes into force and shall give notice of the appointment to the parties, and the notice shall set out the name and address of the person appointed and the date of the appointment.

Application
of 1975, c. 72

(3) 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.

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, 1980 and expiring on the 31st day of August, 1983. 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 periods

5.—(1) Every person or party that contravenes any provision 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 a day to be named by proclamation of the Lieutenant Governor and is repealed on the day on which the collective agreement made under this Act comes into force. Commencement and repeal

7. The short title of this Act is *The Leeds and Grenville County Board of Education and Teachers Dispute Act, 1981*. Short title

An Act respecting
The Leeds and Grenville County
Board of Education and Teachers Dispute

1st Reading

June 18th, 1981

2nd Reading

3rd Reading

THE HON. B. M. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

(Government Bill)

BILL 124

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act respecting The Leeds and Grenville County Board of Education and Teachers Dispute

THE HON. B. M. STEPHENSON
Minister of Education and Minister of Colleges and Universities



BILL 124

1981

**An Act respecting
The Leeds and Grenville County
Board of Education and Teachers Dispute**

WHEREAS The Leeds and Grenville County Board of Education and its secondary school teachers have been negotiating terms and conditions of employment; and whereas a strike by the secondary school teachers against the board began on the 7th day of May, 1981; and whereas the board 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 and its secondary school teachers;

Preamble

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

1. In this Act,

Interpre-
tation

- (a) "board" means The Leeds and Grenville County Board of Education;
- (b) "branch affiliate" means the organization composed of all the teachers employed by the board who are members of The Ontario Secondary School Teachers' Federation;
- (c) "Commission" means the Education Relations Commission established under *The School Boards and Teachers Collective Negotiations Act, 1975*; ^{1975, c. 72}
- (d) "lock-out" has the same meaning as in *The School Boards and Teachers Collective Negotiations Act, 1975*;
- (e) "parties" means the board and the branch affiliate;
- (f) "school day" has the same meaning as in Ontario Regulation 546/73;

- (g) "selector" means the selector appointed under this Act;
- (h) "strike" has the same meaning as in *The School Boards and Teachers Collective Negotiations Act, 1975*;
- (i) "teachers" means the secondary school teachers employed on permanent or probationary contracts by the board.

Resumption
of
employment
and
operation
of schools

2.—(1) The teachers who are on strike against the board shall, on the first school day following the day this Act comes into force, return to and resume their duties in accordance with their contracts of employment and the written collective agreement in effect on the 31st day of August, 1980 with the board and the board shall, on the first school day following the day this Act comes into force, resume the employment of such teachers in accordance with such contracts and written collective agreement 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 school day after the day this Act comes into force until the day an agreement that includes the decision of the selector 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,

1975, c. 72

(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.

Appointment
of selector
by
Commission

(2) The Commission shall appoint the selector forthwith after this Act comes into force and shall give notice of the appointment to the parties, and the notice shall set out the name and address of the person appointed and the date of the appointment.

Application
of 1975, c. 72

(3) 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.

4.—(1) Notwithstanding subsection 1 of section 51 of *The School Boards and Teachers Collective Negotiations Act, 1975*,^{Term of agreement 1975, c. 72} 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, 1980 and expiring on the 31st day of August, 1983.

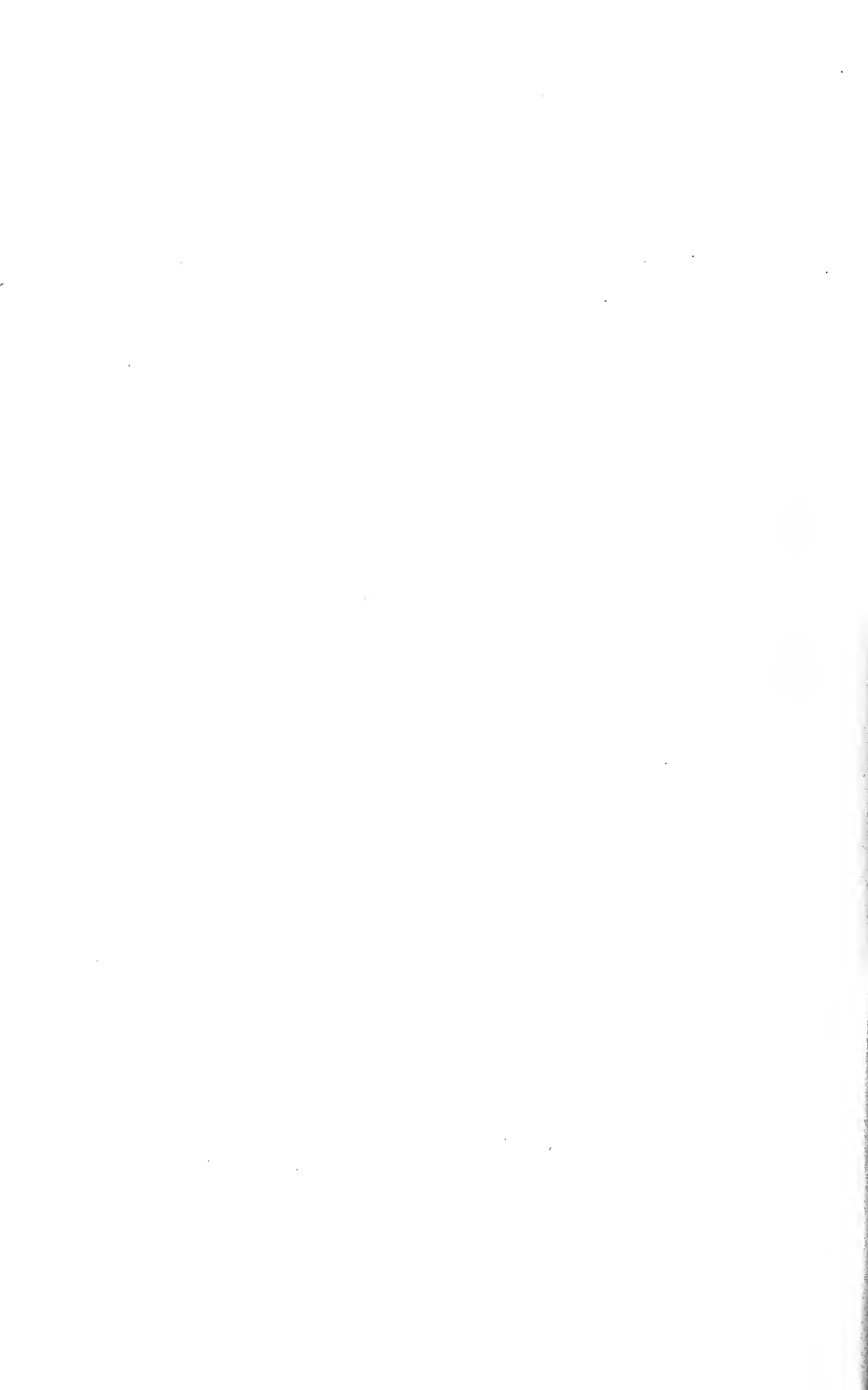
(2) The Commission may, with the concurrence of the selector and the parties, reduce any period of time referred to in section 41, 42, 44, 45 or 48 of *The School Boards and Teachers Collective Negotiations Act, 1975*.^{Reduction of time periods}

5.—(1) Every person or party that contravenes any provision 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 a day to be named by proclamation of the Lieutenant Governor and is repealed on the day on which the collective agreement made under this Act comes into force.^{Commencement and repeal}

7. The short title of this Act is *The Leeds and Grenville County Board of Education and Teachers Dispute Act, 1981*.^{Short title}





An Act respecting
The Leeds and Grenville County
Board of Education and Teachers Dispute

1st Reading

June 18th, 1981

2nd Reading

July 2nd, 1981

3rd Reading

July 3rd, 1981

THE HON. B. M. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Children's Law Reform Act, 1977

THE HON. R. MCMURTRY
Attorney General

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EXPLANATORY NOTE

The Bill adds Part IV to the Act. This new Part deals with custody of and access to children. The Part also deals with guardianship of property of children and incorporates the Convention on the Civil Aspects of International Child Abduction.

BILL 125

1981

**An Act to amend
The Children's Law Reform Act, 1977**

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

1. *The Children's Law Reform Act, 1977*, being chapter 41, is ^{Act,} amended,
amended,

(a) by renumbering sections 25 and 26 as sections 87 and 88;
and

(b) by adding thereto the following Part:

PART IV

CUSTODY, ACCESS AND GUARDIANSHIP

INTERPRETATION

25.—(1) In this Part,

Interpre-
tation

(a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 77;

(b) "extra-provincial order" means an order, or that part of an order of an extra-provincial tribunal that grants to a person custody of or access to a child;

(c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child.

(2) A reference in this Part to a child is a reference to the child ^{Child} while a minor.

Purposes

26. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

CUSTODY AND ACCESS

Father and mother entitled to custody

27.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights and responsibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child, including,

- (a) the right to care and control of the child;
- (b) the right to direct the education and moral and religious training of the child,

in the best interests of the child.

Authority to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where parents separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

(5) The entitlement to access to a child includes the right to make reasonable inquiries and to be given information as to the health, education and welfare of the child. Access includes certain information

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

28.—(1) A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

(2) No proceeding under this Part shall be commenced in a provincial court (family division) until after a date to be named by proclamation of the Lieutenant Governor. Exception

29.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

- (a) with both parents;
- (b) where the parents are living separate and apart, with one parent under a separation agreement or with the implied consent of the other or under a court order; or
- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious
harm
to child

30. Notwithstanding sections 29 and 49, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
 - (i) the child remains in the custody of the person legally entitled to custody of the child,
 - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
 - (iii) the child is removed from Ontario.

Merits of
application
for custody
or access

31.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best
interests
of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
 - (i) each person entitled to or claiming custody of or access to the child,
 - (ii) other members of the child's family who reside with the child, and

- (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the capacity and disposition of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of any proposed custodial home as a family unit; and
- (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody or access to a child unless the conduct is relevant to the capacity of the person to act as a parent of a child. ^{Past conduct}

32. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. ^{Declining jurisdiction}

33.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. ^{Delay}

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection 1, the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. ^{Directions}

(3) Where the court fixes a date under subsection 2, the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. ^{Early date}

Effect of
divorce
proceedings
R.S.C. 1970,
c. D-8

34. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court.

CUSTODY AND ACCESS—ORDERS

Powers
of court

35. The court to which an application is made under section 28,

(a) by order may grant the custody of or access to the child to one or more persons;

(b) by order may determine any aspect of the incidents of the right to custody or access; and

(c) may make such additional order as the court considers necessary and proper in the circumstances.

Order
varying
an order

36. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment
of needs of
child

37.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When
order
may be
made

(2) An order may be made under subsection 1 on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent
to act

(4) The court shall not appoint a person under subsection 1 unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance
for
assessment

(5) In an order under subsection 1, the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection 1 shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection 7 is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection 1 to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection 1. Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection 1 where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection 1 does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

38.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection 1 unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of mediator

(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.

Form of report

(4) Before entering into mediation on the matter, the parties shall decide whether,

(a) the mediator is to file a full report on the mediation, including anything that the mediator considers relevant to the matter in mediation; or

(b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.

Filing of report

(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection 4.

Copies of report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.

Admissions made in the course of mediation

(7) Where the parties have decided that the mediator's report is to be in the form described in clause *b* of subsection 4, evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection 1.

Fees and expenses

(8) The court shall require the parties to pay the fees and expenses of the mediator.

Idem, proportions or amounts

(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.

Idem, serious financial hardship

(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.

Official Guardian's report

39. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 6 of *The Matrimonial Causes Act* shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.

R.S.O. 1970, c. 265

Further evidence

40.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection 1 may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause. Cost of obtaining evidence

41.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 40 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court. Referral to court

(2) A court to which a request is referred by the Attorney General under subsection 1 shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request. Obtaining evidence

CUSTODY AND ACCESS—ENFORCEMENT

42.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body. Supervision of custody or access

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection 1 unless the person, society or body has consented to act as supervisor. Consent to act

43. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate. Order restraining harassment

44.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to Order where child unlawfully withheld

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to locate and take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application without notice

(3) An order may be made under subsection 2 upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to act

(4) The sheriff or police force directed to act by an order under subsection 2 shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection 2, a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection 5 shall be made only between sunrise and sunset unless the court, in the order, authorizes entry and search at another time.

Expiration of order

(7) An order made under subsection 2 expires six months after the day on which it was made, unless the order specifically provides otherwise.

(8) An application under subsection 1 or 2 may be made in an application for custody or access or at any other time. When application may be made

45.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection 3. Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection 3. Application to ensure return of child

(3) An order mentioned in subsection 1 or 2 may require a person to do any one or more of the following: Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection 3. Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection 3, the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate. Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection 3 shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order. Safekeeping

Directions

(7) In an order under subsection 3, a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt
of orders
of provincial
court (family
division)

46.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions
of
imprisonment

(2) An order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information
as to
address

47.—(1) Where, upon application to a court, it appears to the court that,

(a) for the purpose of bringing an application in respect of custody or access under this Part; or

(b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause *b* is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause *b* is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

Exception

(2) A court shall not make an order on an application under subsection 1 where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance
with order

(3) The giving of information in accordance with an order under subsection 1 shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section
binds Crown

(4) This section binds the Crown in right of Ontario.

CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

48. Upon application, a court,

Interim
powers of
court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario; or
- (b) that may not exercise jurisdiction under section 29 or that has declined jurisdiction under section 32 or 50,

may do any one or more of the following:

1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.
2. Stay the application subject to,
 - i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
 - ii. such other conditions as the court considers appropriate.
3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

49.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement
of foreign
orders

- (a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;
- (b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

(e) that, in accordance with section 29, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of recognition of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection 1 shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding order, material change in circumstances

50.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

(a) the child is habitually resident in Ontario at the commencement of the application for the order; or

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,

(iii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iv) that the child has a real and substantial connection with Ontario, and

(v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

51. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if, Superseding order, serious harm

- (a) the child remains in the custody of the person legally entitled to custody of the child;
- (b) the child is returned to the custody of the person entitled to custody of the child; or
- (c) the child is removed from Ontario.

52. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person. True copy of extra-provincial order

53. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal. Court may take notice of foreign law

54.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section. Interpretation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection 3, the convention is in force in Ontario and the provisions thereof are law in Ontario. Convention on Civil Aspects of International Child Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with *The Legal Aid Act*. Exception
R.S.O. 1970, c. 239

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention. Central Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention. Application to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs Request to ratify convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

SCHEDULE

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention.

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody.

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access.

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions.

CHAPTER I—SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II—CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III—RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER IV—RIGHTS OF ACCESS

Article 21

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

CHAPTER V—GENERAL PROVISIONS

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI—FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

GUARDIANSHIP

55.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian for the child. Appointment of guardian

(2) A guardian for a child has charge of and is responsible for the care and management of the property of the child. Responsibility of guardian

56.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians for the child. Parents as guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian for the child. Parent and other person

More than one guardian

(3) A court may appoint more than one guardian for a child.

Guardians jointly responsible

(4) Where more than one guardian is appointed for a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

57. In deciding an application for the appointment of a guardian for a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of appointment

58. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment of debt due to child

59.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian has been appointed for the child, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money payable under judgment

(2) Subsection 1 does not apply in respect of money payable under a judgment or order of a court.

Receipt for payment

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection 1 received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian for the child.

Responsibility for money or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection 1 has the responsibility of a

guardian for the care and management of the money or personal property.

60. A guardian for a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

61. A guardian for a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

62. A guardian for a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

63.—(1) A court that appoints a guardian for a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection 1 does not apply where the court appoints a parent of a child as guardian for the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

64. Upon application by a married child, the court that appointed a guardian for the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

65.—(1) A guardian for a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian for a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

66. A notice of every application to a court for appointment of a guardian shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

DISPOSITION OF PROPERTY

67.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child

- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

Criteria (2) An order shall be made under subsection 1 only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.

Conditions (3) An order under subsection 1 may be made subject to such conditions as the Supreme Court considers appropriate.

Limitation (4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.

Execution of documents (5) The Supreme Court, where it makes an order under subsection 1, may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.

Directions (6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection 1.

Validity of documents (7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.

Liability (8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause *c* of subsection 1.

Order for maintenance where power of appointment in favour of children 68.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.

Idem (2) An order may be made under subsection 1 whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

TESTAMENTARY CUSTODY AND GUARDIANSHIP

69.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian for a child may appoint by will one or more persons to be guardians for the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection 1 or 2 by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection 1, 2 or 3 is effective only, Limitation

(a) if the appointor is the only person entitled to custody of the child or who is the guardian for the child, as the case requires, on the day immediately before the appointment is to take effect; or

(b) if the appointor and any other person entitled to custody of the child or who is the guardian for the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians for a child by appointors who die as mentioned in clause *b* of subsection 4, only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

(6) No appointment under subsection 1, 2 or 3 is effective without the consent of the person appointed. Consent of appointee

(7) An appointment under subsection 1, 2 or 3 for custody or guardianship of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of or guardianship for the child within the ninety-day period, when the application is disposed of. Expiration of appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 28 or 55. Application or order under ss. 28, 55

(9) This section applies in respect of, Application

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

PROCEDURE

Joinder of
proceedings
1978, c. 2

70.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under *The Family Law Reform Act, 1978*, or in another proceeding.

Nature
of order

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

Parties

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

Combining
of
applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 33.

Where
identity
of father
not known

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

Application
or response
by minor

71.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

Consent by
minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

72.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them.

Child entitled to be heard

(2) The court may interview the child to determine the views and preferences of the child.

Interview by court

(3) The interview shall be recorded.

Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview.

Counsel

73. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control.

Where child is sixteen or more years old

74. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

All proceedings in one court

75. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing.

Closed hearings

76.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child.

Consent orders

(2) Any matter provided for in this Part and in a domestic contract as defined in *The Family Law Reform Act, 1978* may be incorporated in an order made under this Part.

Incorporation of contract in order 1978, c. 2

77. Where a domestic contract as defined in *The Family Law Reform Act, 1978* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of *The Family Law Reform Act, 1978*.

Part subject to contracts

78. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction.

Jurisdiction of Supreme Court

Surrogate
court

79. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made
under
R.S.O. 1970,
c. 222

80. An application to vary an order made by a surrogate court under *The Infants Act* shall be made to a county or district court.

Place where
application
to be made

81.—(1) Subject to subsections 2 and 3, an application under this Part in a provincial court (family division) or a county or district court shall be made in the judicial district in which the child resides.

Idem,
application
for interim
order

(2) An application for an interim order shall be made to the court in which the original proceeding was taken.

Idem,
application
to vary
order

(3) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim
order

82. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from
provincial
court
(family
division)

83. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order
effective
pending
appeal

84. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of
construction

85.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship for the child.

Application

(2) Subsection 1 applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

Application
of Part to
order under
R.S.O. 1970,
cc. 222, 128,
1978, c. 2

86. This Part applies to an outstanding order for custody or guardianship of or access to a child made under *The Infants Act* (repealed by section 4 of *The Children's Law Reform Amendment Act, 1980*), *The Family Law Reform Act, 1978* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part.

COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 21 of subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, is repealed and the following substituted therefor: 1974, c. 109, s. 1, par. 21, re-enacted

21. “guardian” means a person who has lawful custody of a child, other than the parent of the child.

- (2) Section 17 of the said Act is amended by striking out “in law” in the second line and inserting in lieu thereof “in section 1” and by striking out “or legal custody” in the fifth line. s. 17, amended

- 3.—(1) Subsection 1 of section 20 of *The Family Law Reform Act, 1978*, being chapter 2, is amended by striking out “or custody” in the third line. 1978, c. 2, s. 20 (1), amended

- (2) Clause *b* of subsection 1 of section 26 of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b), amended

- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35, re-enacted

35. An application for custody or access under *The Children's Law Reform Act, 1977* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of actions 1977, c. 41

- 4.—(1) *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 222, repealed

- (2) Paragraph 14 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, is repealed. 1971, c. 98, Sched., par. 14, repealed

- (3) Section 18 of *The Children's Law Reform Act, 1977*, being chapter 41, is repealed. 1977, c. 41, s. 18, repealed

- (4) Where an application is made under *The Infants Act* or under section 35 of *The Family Law Reform Act, 1978* before subsection 1 comes into force and no evidence has been heard in the proceeding before subsection 1 comes into force, other than in respect of an interim order, the application shall be deemed to be an application under *The Children's Law Reform Act, 1977* subject to such directions as the court considers appropriate. Application of subs. 1 to proceeding already commenced 1978, c. 2 1977, c. 41

- (5) Where an application referred to in subsection 4 is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Where proceeding in surrogate court

Unified Family Court, as the case may be, subject to such directions as the court considers appropriate.

1976, c. 85,
Sched.,
amended

5. The Schedule to *The Unified Family Court Act, 1976*, being chapter 85, as re-enacted by the Statutes of Ontario, 1977, chapter 4, section 6, is amended by adding thereto the following:

*“The Children’s Law
Reform Act, 1977*

All, except sections 65 and 66”

Commence-
ment

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

Short title

7. The short title of this Act is *The Children’s Law Reform Amendment Act, 1981*.





An Act to amend
The Children's Law Reform Act, 1977

1st Reading

June 19th, 1981

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Children's Law Reform Act

THE HON. R. MCMURTRY
Attorney General

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

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EXPLANATORY NOTE

The Bill adds Part III to the Act. This new Part deals with custody of and access to children. The Part also deals with guardianship of property of children and incorporates the Convention on the Civil Aspects of International Child Abduction.

BILL 125

1981

An Act to amend the Children's Law Reform Act

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

1. The *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Act.
amended

PART III

CUSTODY, ACCESS AND GUARDIANSHIP

INTERPRETATION

18.—(1) In this Part,

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 72;
- (b) "extra-provincial order" means an order, or that part of an order of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child.

Inter-
pre-
ta-
tion

(2) A reference in this Part to a child is a reference to the child while a minor. Child

Purposes

19. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

CUSTODY AND ACCESS

Father and mother entitled to custody

20.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights and responsibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child, including,

- (a) the right to care and control of the child;
- (b) the right to direct the education and moral and religious training of the child,

in the best interests of the child.

Authority to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where parents separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

(5) The entitlement to access to a child includes the right to make reasonable inquiries and to be given information as to the health, education and welfare of the child. Access includes certain information

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

21.—(1) A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

(2) No proceeding under this Part shall be commenced in a provincial court (family division) until after a date to be named by proclamation of the Lieutenant Governor. Exception

22.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

- (a) with both parents;
- (b) where the parents are living separate and apart, with one parent under a separation agreement or with the implied consent of the other or under a court order; or
- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious
harm
to child

23. Notwithstanding sections 22 and 42, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
 - (i) the child remains in the custody of the person legally entitled to custody of the child,
 - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
 - (iii) the child is removed from Ontario.

Merits of
application
for custody
or access

24.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best
interests
of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
 - (i) each person entitled to or claiming custody of or access to the child,
 - (ii) other members of the child's family who reside with the child, and

- (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
 - (c) the length of time the child has lived in a stable home environment;
 - (d) the capacity and disposition of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
 - (e) any plans proposed for the care and upbringing of the child;
 - (f) the permanence and stability of any proposed custodial home as a family unit; and
 - (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody or access to a child unless the conduct is relevant to the capacity of the person to act as a parent of a child. ^{Past conduct}

25. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. ^{Declining jurisdiction}

26.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. ^{Delay}

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection (1), the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. ^{Directions}

(3) Where the court fixes a date under subsection (2), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. ^{Early date}

Effect of
divorce
proceedings
R.S.C. 1970,
c. D-8

27. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court.

CUSTODY AND ACCESS—ORDERS

Powers
of court

28. The court to which an application is made under section 21,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order
varying
an order

29. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment
of needs of
child

30.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When
order
may be
made

(2) An order may be made under subsection (1) on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent
to act

(4) The court shall not appoint a person under subsection (1) unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance
for
assessment

(5) In an order under subsection (1), the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection (1) shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection (7) is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection (1) to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection (1). Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection (1) where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection (1) does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

31.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection (1) unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

- Duty of mediator (3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.
- Form of report (4) Before entering into mediation on the matter, the parties shall decide whether,
- (a) the mediator is to file a full report on the mediation, including anything that the mediator considers relevant to the matter in mediation; or
- (b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.
- Filing of report (5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection (4).
- Copies of report (6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.
- Admissions made in the course of mediation (7) Where the parties have decided that the mediator's report is to be in the form described in clause (4) (b), evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection (1).
- Fees and expenses (8) The court shall require the parties to pay the fees and expenses of the mediator.
- Idem, proportions or amounts (9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.
- Idem, serious financial hardship (10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.
- Official Guardian's report 32. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 1 of the *Matrimonial Causes Act* shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.
- R.S.O. 1980, c. 258
- Further evidence 33.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection (1) may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause. Cost of obtaining evidence

34.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 33 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court. Referral to court

(2) A court to which a request is referred by the Attorney General under subsection (1) shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request. Obtaining evidence

CUSTODY AND ACCESS—ENFORCEMENT

35.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body. Supervision of custody or access

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection (1) unless the person, society or body has consented to act as supervisor. Consent to act

36. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate. Order restraining harassment

37.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to Order where child unlawfully withheld

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to
locate and
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application
without
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between sunrise and sunset unless the court, in the order, authorizes entry and search at another time.

Expiration
of order

(7) An order made under subsection (2) expires six months after the day on which it was made, unless the order specifically provides otherwise.

(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time. When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3). Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3). Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following: Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3). Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate. Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order. Safekeeping

Directions

(7) In an order under subsection (3), a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt of orders of provincial court (family division)

39.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions of imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information as to address

40.—(1) Where, upon application to a court, it appears to the court that,

(a) for the purpose of bringing an application in respect of custody or access under this Part; or

(b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause (b) is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause (b) is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

Exception

(2) A court shall not make an order on an application under subsection (1) where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance with order

(3) The giving of information in accordance with an order under subsection (1) shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section binds Crown

(4) This section binds the Crown in right of Ontario.

CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

41. Upon application, a court,

Interim
powers of
court

(a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario; or

(b) that may not exercise jurisdiction under section 22 or that has declined jurisdiction under section 25 or 43,

may do any one or more of the following:

1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.

2. Stay the application subject to,

i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or

ii. such other conditions as the court considers appropriate.

3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

42.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement
of foreign
orders

(a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;

(b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;

(c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;

(d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

(e) that, in accordance with section 22, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of recognition of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection (1) shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding order, material change in circumstances

43.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

(a) the child is habitually resident in Ontario at the commencement of the application for the order; or

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,

(iii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iv) that the child has a real and substantial connection with Ontario, and

(v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

44. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if,

Superseding order, serious harm

- (a) the child remains in the custody of the person legally entitled to custody of the child;
- (b) the child is returned to the custody of the person entitled to custody of the child; or
- (c) the child is removed from Ontario.

45. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person.

True copy of extra-provincial order

46. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal.

Court may take notice of foreign law

47.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section.

Interpretation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection (3), the convention is in force in Ontario and the provisions thereof are law in Ontario.

Convention on Civil Aspects of International Child Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with the *Legal Aid Act*.

Exception

R.S.O. 1980, c. 234

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention.

Central Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention.

Application to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs

Request to ratify convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

SCHEDULE

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

CHAPTER I—SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II—CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III—RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER IV—RIGHTS OF ACCESS

Article 21

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

CHAPTER V—GENERAL PROVISIONS

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI—FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

GUARDIANSHIP

48.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian for the child. Appointment of guardian

(2) A guardian for a child has charge of and is responsible for the care and management of the property of the child. Responsibility of guardian

49.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians for the child. Parents as guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian for the child. Parent and other person

More than
one guardian

(3) A court may appoint more than one guardian for a child.

Guardians
jointly
responsible

(4) Where more than one guardian is appointed for a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

50. In deciding an application for the appointment of a guardian for a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of
appointment

51. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment
of debt
due to
child

52.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian has been appointed for the child, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money
payable
under
judgment

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

Receipt for
payment

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian for the child.

Responsibility
for money
or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection (1) has the responsibility of a

guardian for the care and management of the money or personal property.

53. A guardian for a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

54. A guardian for a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

55. A guardian for a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

56.—(1) A court that appoints a guardian for a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection (1) does not apply where the court appoints a parent of a child as guardian for the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

57. Upon application by a married child, the court that appointed a guardian for the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

58.—(1) A guardian for a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian for a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

59. A notice of every application to a court for appointment of a guardian shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

DISPOSITION OF PROPERTY

60.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child

- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

Criteria	(2) An order shall be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.
Conditions	(3) An order under subsection (1) may be made subject to such conditions as the Supreme Court considers appropriate.
Limitation	(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.
Execution of documents	(5) The Supreme Court, where it makes an order under subsection (1), may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.
Directions	(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection (1).
Validity of documents	(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.
Liability	(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause (1) (c).
Order for maintenance where power of appointment in favour of children	61.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.
Idem	(2) An order may be made under subsection (1) whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

TESTAMENTARY CUSTODY AND GUARDIANSHIP

62.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian for a child may appoint by will one or more persons to be guardians for the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection (1) or (2) by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection (1), (2) or (3) is effective only, Limitation

(a) if the appointor is the only person entitled to custody of the child or who is the guardian for the child, as the case requires, on the day immediately before the appointment is to take effect; or

(b) if the appointor and any other person entitled to custody of the child or who is the guardian for the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians for a child by appointors who die as mentioned in clause (4) (b), only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

(6) No appointment under subsection (1), (2) or (3) is effective without the consent of the person appointed. Consent of appointee

(7) An appointment under subsection (1), (2) or (3) for custody or guardianship of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of or guardianship for the child within the ninety-day period, when the application is disposed of. Expiration of appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 21 or 48. Application or order under ss. 21, 48

(9) This section applies in respect of, Application

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

PROCEDURE

Joinder of proceedings

R.S.O. 1980, c. 152

Nature of order

Parties

Combining of applications

Where identity of father not known

Application or response by minor

Consent by minor

63.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under the *Family Law Reform Act*, or in another proceeding.

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 26.

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

64.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

65.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them.

Child entitled to be heard

(2) The court may interview the child to determine the views and preferences of the child.

Interview by court

(3) The interview shall be recorded.

Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview.

Counsel

66. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control.

Where child is sixteen or more years old

67. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

All proceedings in one court

68. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing.

Closed hearings

69.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child.

Consent orders

(2) Any matter provided for in this Part and in a domestic contract as defined in the *Family Law Reform Act* may be incorporated in an order made under this Part.

Incorporation of contract in order
R.S.O. 1980, c. 152

70. Where a domestic contract as defined in the *Family Law Reform Act* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of the *Family Law Reform Act*.

Part subject to contracts

71. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction.

Jurisdiction of Supreme Court

Surrogate
court

72. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made
under
R.S.O. 1980,
c. 292

73. An application to vary an order made by a surrogate court under the *Minors Act* shall be made to a county or district court.

Place where
application
to be made

74.—(1) Subject to subsections (2) and (3), an application under this Part in a provincial court (family division) or a county or district court shall be made in the judicial district in which the child resides.

Idem,
application
for interim
order

(2) An application for an interim order shall be made to the court in which the original proceeding was taken.

Idem,
application
to vary
order

(3) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim
order

75. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from
provincial
court
(family
division)

76. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order
effective
pending
appeal

77. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of
construction

78.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship for the child.

Application

(2) Subsection (1) applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

Application
of Part to
order under
R.S.O. 1980,
cc. 292, 152;
R.S.O. 1970,
c. 128

79. This Part applies to an outstanding order for custody or guardianship of or access to a child made under the *Minors Act* (repealed by section 4 of the *Children's Law Reform Amendment Act, 1981*), the *Family Law Reform Act* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part.

COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 22 of subsection 1 (1) of the *Education Act*, being chapter 129, is repealed and the following substituted therefor: R.S.O. 1980, c. 129, s. 1 (1), par. 22, re-enacted
22. “guardian” means a person who has lawful custody of a child, other than the parent of the child.
- (2) Section 17 of the said Act is amended by striking out “in law” in the second line and inserting in lieu thereof “in section 1” and by striking out “or legal custody” in the fifth line. s. 17, amended
- 3.—(1) Subsection 20 (1) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by striking out “or custody” in the third line. R.S.O. 1980, c. 152, s. 20 (1), amended
- (2) Clause 26 (1) (b) of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b), amended
- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35, re-enacted
35. An application for custody or access under the *Children’s Law Reform Act* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of actions
R.S.O. 1980, c. 68
- 4.—(1) The *Minors Act*, being chapter 292 of the Revised Statutes of Ontario, 1980, is repealed. R.S.O. 1980, c. 292, repealed
- (2) Where an application is made under the *Minors Act* or under section 35 of the *Family Law Reform Act* before subsection (1) comes into force and no evidence has been heard in the proceeding before subsection (1) comes into force, other than in respect of an interim order, the application shall be deemed to be an application under the *Children’s Law Reform Act*, subject to such directions as the court considers appropriate. Application of subs. (1) to proceeding already commenced
- (3) Where an application referred to in subsection (2) is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate. Where proceeding in surrogate court

R.S.O. 1980,
c. 515

- 5.** The Schedule to the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following:

Sched.,
amended

*"Children's Law
Reform Act*

All, except sections 67 and 68".

Commence-
ment

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

Short title

- 7.** The short title of this Act is the *Children's Law Reform Amendment Act, 1981*.



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An Act to amend the
Children's Law Reform Act

1st Reading

June 19th, 1981

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Executive Council Act**

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**

EXPLANATORY NOTES

SECTION 1. Subsection 1 of section 2 of the Act is revised to up-date the list of ministers. The establishment of the Ministry of Municipal Affairs and Housing is dealt with in Bill 67.

BILL 126

1981

An Act to amend The Executive Council Act

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

1. Subsection 1 of section 2 of *The Executive Council Act*, being chapter 153 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 3, is repealed and the following substituted therefor: ^{s. 2 (1), re-enacted}

(1) The Lieutenant Governor may appoint under the Great Seal from among the ministers of the Crown the following ministers to hold office during pleasure: ^{Portfolios}

President of the Council
 Attorney General
 Chairman of the Management Board of Cabinet
 Minister of Agriculture and Food
 Minister of Colleges and Universities
 Minister of Community and Social Services
 Minister of Consumer and Commercial Relations
 Minister of Correctional Services
 Minister of Culture and Recreation
 Minister of Education
 Minister of Energy
 Minister of the Environment
 Minister of Government Services
 Minister of Health
 Minister of Industry and Tourism
 Minister of Intergovernmental Affairs
 Minister of Labour
 Minister of Municipal Affairs and Housing
 Minister of Natural Resources
 Minister of Northern Affairs
 Minister of Revenue
 Minister of Transportation and Communications
 Provincial Secretary for Justice
 Provincial Secretary for Resources Development

Provincial Secretary for Social Development
Solicitor General
Treasurer of Ontario and Minister of Economics,

and such other ministers as the Lieutenant Governor sees fit, and may by order in council prescribe their duties and the duties of any ministries over which they preside, and of the officers and clerks under their jurisdiction.

s. 3 (1-3a),
re-enacted

- 2.** Subsections 1 to 3a of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 17, section 1, are repealed and the following substituted therefor:

Salaries

(1) The annual salary of every minister with portfolio is \$23,300.

Additional
salary for
Premier

(2) The member of the Executive Council holding the recognized position of First Minister shall receive, in addition, \$9,900 per annum.

Salary of
minister
without
portfolio

(3) The annual salary of every minister without portfolio is \$11,700.

Salary of
Parliamentary
Assistant

(3a) The annual salary of every Parliamentary Assistant is \$7,200.

Commence-
ment

- 3.** This Act shall be deemed to have come into force on the 1st day of April, 1981.

Short title

- 4.** The short title of this Act is *The Executive Council Amendment Act, 1981*.

SECTION 2. Annual salaries are increased as follows:

1. **Minister with portfolio, from \$21,000 to \$23,300.**
2. **First Minister, in addition, from \$8,900 to \$9,900.**
3. **Minister without portfolio, from \$9,000 to \$11,700.**
4. **Parliamentary Assistant, from \$6,500 to \$7,200.**





An Act to amend
The Executive Council Act

1st Reading

June 19th, 1981

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 126

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend
The Executive Council Act**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



BILL 126

1981

An Act to amend The Executive Council Act

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

1. Subsection 1 of section 2 of *The Executive Council Act*, being chapter 153 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 3, is repealed and the following substituted therefor: s. 2 (1),
re-enacted

(1) The Lieutenant Governor may appoint under the Great Portfolios Seal from among the ministers of the Crown the following ministers to hold office during pleasure:

President of the Council
 Attorney General
 Chairman of the Management Board of Cabinet
 Minister of Agriculture and Food
 Minister of Colleges and Universities
 Minister of Community and Social Services
 Minister of Consumer and Commercial Relations
 Minister of Correctional Services
 Minister of Culture and Recreation
 Minister of Education
 Minister of Energy
 Minister of the Environment
 Minister of Government Services
 Minister of Health
 Minister of Industry and Tourism
 Minister of Intergovernmental Affairs
 Minister of Labour
 Minister of Municipal Affairs and Housing
 Minister of Natural Resources
 Minister of Northern Affairs
 Minister of Revenue
 Minister of Transportation and Communications
 Provincial Secretary for Justice
 Provincial Secretary for Resources Development

Provincial Secretary for Social Development
Solicitor General
Treasurer of Ontario and Minister of Economics,

and such other ministers as the Lieutenant Governor sees fit, and may by order in council prescribe their duties and the duties of any ministries over which they preside, and of the officers and clerks under their jurisdiction.

s. 3 (1-3a),
re-enacted

- 2.** Subsections 1 to 3a of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 17, section 1, are repealed and the following substituted therefor:

Salaries

(1) The annual salary of every minister with portfolio is \$23,300.

Additional
salary for
Premier

(2) The member of the Executive Council holding the recognized position of First Minister shall receive, in addition, \$9,900 per annum.

Salary of
minister
without
portfolio

(3) The annual salary of every minister without portfolio is \$11,700.

Salary of
Parliamentary
Assistant

(3a) The annual salary of every Parliamentary Assistant is \$7,200.

Commence-
ment

- 3.** This Act shall be deemed to have come into force on the 1st day of April, 1981.

Short title

- 4.** The short title of this Act is *The Executive Council Amendment Act, 1981*.







An Act to amend
The Executive Council Act

1st Reading

June 19th, 1981

2nd Reading

July 2nd, 1981

3rd Reading

July 3rd, 1981

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Legislative Assembly Act**

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The annual indemnity of members of the Assembly is increased from \$24,500 to \$30,000.

Subsection 2. The annual allowance for expenses of members of the Assembly is increased from \$8,000 to \$10,000.

Subsection 3. Subsection 5 of section 60 of the Act provides for payment of a member's indemnity and allowance for expenses at intervals during the year. The repeal is complementary to the enactment of proposed new section 68a set out in this Bill.

SECTION 2.—Subsection 1. Additional indemnities are increased:

1. For the Speaker, from \$15,500 to \$17,200.
2. For the Leader of the Opposition, from \$21,000 to \$23,300.
3. For the Leader of the Third Party, from \$8,000 to \$11,700.

**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.—(1) Subsection 1 of section 60 of *The Legislative Assembly Act*, s. 60 (1),
being chapter 240 of the Revised Statutes of Ontario, 1970, as re-enacted
re-enacted by the Statutes of Ontario, 1980, chapter 16, section 1, is repealed and the following substituted therefor:

(1) An indemnity at the rate of \$30,000 per annum shall be paid to every member of the Assembly. Members' indemnities

- (2) Subsection 2 of the said section 60, as re-enacted by the Statutes of Ontario, 1979, chapter 75, section 1, is repealed and the following substituted therefor: s. 60 (2), re-enacted

(2) An allowance for expenses at the rate of \$10,000 per annum shall be paid to every member of the Assembly. Members' allowances

- (3) Subsection 5 of the said section 60, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 1, is repealed. s. 60 (5), repealed

- 2.—(1) Subsection 1 of section 62 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 16, section 3, is repealed and the following substituted therefor: s. 62 (1), re-enacted

(1) In addition to his indemnity as a member, there shall be paid, Indemnity of Speaker, Leader of Opposition and leader of a minority party

(a) to the Speaker an indemnity at the rate of \$17,200 per annum;

(b) to the Leader of the Opposition an indemnity at the rate of \$23,300 per annum; and

(c) to the Leader of a party, except the Premier and the Leader of the Opposition, that has a recognized mem-

bership of twelve or more persons in the Assembly an indemnity at the rate of \$11,700.

s. 62 (4),
repealed

(2) Subsection 4 of the said section 62 is repealed.

s. 63 (1),
re-enacted

3. Subsection 1 of section 63 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 75, section 5 and amended by the Statutes of Ontario, 1980, chapter 16, section 4, 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 \$7,200 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,000 per annum; and
- (c) to the chairman of each standing committee at the rate of \$3,900 per annum.

s. 64 (1),
re-enacted

4. Subsection 1 of section 64 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 16, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$8,900 per annum;
- (b) to the Deputy Government Whip, at the rate of \$6,100 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$4,400 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$6,100 per annum;
- (e) to each of not more than two Opposition Whips, at the rate of \$4,400 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,

Subsection 2. Subsection 4 of section 62 of the Act provides that the additional indemnities mentioned in subsection 1 of the section may be paid at intervals during the year. The repeal is complementary to the enactment of proposed new section 68a set out in this Bill.

SECTION 3. Additional indemnities are increased:

1. For the Chairman of the Whole House, from \$6,500 to \$7,200.
2. For the Deputy Chairman of the Whole House, from \$4,000 to \$5,000.
3. For chairmen of standing committees, from \$3,300 to \$3,900.

SECTION 4. Additional indemnities to Whips are increased as follows:

1. For the Chief Government Whip, from \$7,000 to \$8,900.
2. For the Deputy Government Whip, from \$4,300 to \$6,100.
3. For the Government Whips, from \$3,000 to \$4,400.
4. For the Chief Opposition Whip, from \$4,300 to \$6,100.
5. For the Opposition Whips, from \$3,000 to \$4,400.
6. For the Chief Party Whip of the Third Party, from \$3,500 to \$5,000.
7. For the Party Whip of the Third Party, from \$2,750 to \$4,000.

SECTION 5. Subsections 2 and 3 of section 65 of the Act relate to the expenses of round trip travel by air, train and bus between a member's residence and the seat of government at Toronto. The subsections also provide that four of such trips may be used annually for a member's spouse. The subsections are re-enacted to widen the use of such trips to include persons in such relationship to the member as may be prescribed from time to time by the Board of Internal Economy. The number of such annual trips is increased from four to six.

Subsection 3a is added to section 65 of the Act to clarify the authority of the Board of Internal Economy in determining mileage allowances under subsection 1 and prescribing family relationships under subsections 2 and 3.

SECTION 6. The daily allowances for expenses while attending a committee of the Assembly when the Assembly is not sitting are increased, for committee members from \$52 to \$60, and for the chairman of the committee from \$62 to \$70.

SECTION 7. Members' severance allowances are increased from one-quarter to one-half of the annual indemnity. Section 67 of the Act relates to the three following situations:

1. Where a person is a member immediately before a dissolution of the Assembly and does not become a member of the next following Assembly.
2. Where a member resigns his seat.
3. Where a member dies.

- (i) to the Chief Party Whip of the party, at the rate of \$5,000 per annum, and
- (ii) to the Party Whip of the party, at the rate of \$4,000 per annum.

5. Subsections 2 and 3 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 151, section 7, are repealed and the following substituted therefor: s. 65 (2, 3),
re-enacted

(2) Where a member of the Assembly travels between his residence and the seat of government at Toronto while on business as a member of the Assembly, he shall be paid the actual and reasonable cost of transportation by scheduled airline economy flight, on not more than fifty-two round trips for the member in any year, six of which may be used for such round trip travel for the member's spouse or persons in such relationship to the member as may be prescribed from time to time by the Board of Internal Economy. Expenses,
air travel

(3) Where a member of the Assembly travels between his residence and the seat of government at Toronto while on business as a member of the Assembly, he shall be paid the actual and reasonable cost of transportation by first class train accommodation or bus on any number of round trips for the member and not more than six such round trips in any year for the member's spouse or persons in such relationship to the member as may be prescribed from time to time by the Board of Internal Economy, and the actual and reasonable cost of berths, meals and gratuities incurred in the course of such transportation. train and
bus

(3a) The Board of Internal Economy has power to determine amounts and prescribe relationships for the purposes of subsections 1 to 3. Power of
Board of
Internal
Economy

6. Subsection 1 of section 66 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 24, section 3, and 1978, chapter 98, section 8, is further amended by striking out the first, second, third and fourth lines and inserting in lieu thereof the following: s. 66 (1),
amended

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$60 and to the chairman thereof an allowance for expenses of \$70, and,

7.—(1) Subsection 1 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 9, is amended by striking out "one quarter" in the fifth line and inserting in lieu thereof "one-half". s. 67 (1),
amended

s. 67 (2),
amended

- (2) Subsection 2 of the said section 67 is amended by striking out "one-quarter" in the second line and inserting in lieu thereof "one-half".

s. 67 (3),
amended

- (3) Subsection 3 of the said section 67 is amended by striking out "one-quarter" in the fifth line and inserting in lieu thereof "one-half".

s. 68,
re-enacted

- 8.** Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 16, section 6, 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 \$8,900 per annum;
- (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 \$6,700 per annum.

s. 68a,
enacted

- 9.** The said Act is amended by adding thereto the following section:

Advances

68a.—(1) Upon the request of a member, there shall be paid, out of the moneys that have accrued to the member at the time the request is made,

- (a) any part of the indemnity and any additional indemnity payable to the member under this Act, not exceeding one-twelfth of the annual indemnities per month; and
- (b) any part of the annual allowances for expenses payable to the member under this Act, not exceeding one-twelfth of the annual allowances for expenses per month.

Application
of subs. 1

(2) Subsection 1 applies notwithstanding the other provisions of this Act as to the times of payment of indemnities and allowances for expenses.

Commence-
ment

- 10.** This Act shall be deemed to have come into force on the 1st day of April, 1981.

Short title

- 11.** The short title of this Act is *The Legislative Assembly Amendment Act, 1981*.

SECTION 8. Additional indemnities are increased as follows:

1. For the Opposition House Leader, from \$7,000 to \$8,900.
2. For the House Leader of the Third Party, from \$5,000 to \$6,700.

SECTION 9. Subsection 1 of new section 68a of the Act provides for payment, upon the request of a member of the member's indemnity and any additional indemnity and the member's allowances for expenses at intervals during the year. Subsection 2 is self-explanatory and refers to provisions such as subsection 4 of section 60 of the Act, which provides for payment on the 31st day of March in each year.





An Act to amend
The Legislative Assembly Act

1st Reading

June 19th, 1981

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 127

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

**An Act to amend
The Legislative Assembly Act**

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**



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.—(1) Subsection 1 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, 1980, chapter 16, section 1, is repealed and the following substituted therefor: s. 60 (1),
re-enacted

(1) An indemnity at the rate of \$30,000 per annum shall be paid to every member of the Assembly. Members'
indemnities

- (2) Subsection 2 of the said section 60, as re-enacted by the Statutes of Ontario, 1979, chapter 75, section 1, is repealed and the following substituted therefor: s. 60 (2),
re-enacted

(2) An allowance for expenses at the rate of \$10,000 per annum shall be paid to every member of the Assembly. Members'
allowances

- (3) Subsection 5 of the said section 60, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 1, is repealed. s. 60 (5),
repealed

- 2.—(1) Subsection 1 of section 62 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 16, section 3, is repealed and the following substituted therefor: s. 62 (1),
re-enacted

- (1) In addition to his indemnity as a member, there shall be paid, Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party
- (a) to the Speaker an indemnity at the rate of \$17,200 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$23,300 per annum; and
- (c) to the Leader of a party, except the Premier and the Leader of the Opposition, that has a recognized mem-

bership of twelve or more persons in the Assembly an
indemnity at the rate of \$11,700.

s. 62 (4),
repealed

(2) Subsection 4 of the said section 62 is repealed.

s. 63 (1),
re-enacted

3. Subsection 1 of section 63 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 75, section 5 and amended by the Statutes of Ontario, 1980, chapter 16, section 4, 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 \$7,200 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,000 per annum; and
- (c) to the chairman of each standing committee at the rate of \$3,900 per annum.

s. 64 (1),
re-enacted

4. Subsection 1 of section 64 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 16, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$8,900 per annum;
- (b) to the Deputy Government Whip, at the rate of \$6,100 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$4,400 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$6,100 per annum;
- (e) to each of not more than two Opposition Whips, at the rate of \$4,400 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 \$5,000 per annum, and
- (ii) to the Party Whip of the party, at the rate of \$4,000 per annum.

5. Subsections 2 and 3 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 151, section 7, are repealed and the following substituted therefor: s. 65 (2, 3),
re-enacted

(2) Where a member of the Assembly travels between his residence and the seat of government at Toronto while on business as a member of the Assembly, he shall be paid the actual and reasonable cost of transportation by scheduled airline economy flight, on not more than fifty-two round trips for the member in any year, six of which may be used for such round trip travel for the member's spouse or persons in such relationship to the member as may be prescribed from time to time by the Board of Internal Economy. Expenses,
air travel

(3) Where a member of the Assembly travels between his residence and the seat of government at Toronto while on business as a member of the Assembly, he shall be paid the actual and reasonable cost of transportation by first class train accommodation or bus on any number of round trips for the member and not more than six such round trips in any year for the member's spouse or persons in such relationship to the member as may be prescribed from time to time by the Board of Internal Economy, and the actual and reasonable cost of berths, meals and gratuities incurred in the course of such transportation. train and
bus

(3a) The Board of Internal Economy has power to determine amounts and prescribe relationships for the purposes of subsections 1 to 3. Power of
Board of
Internal
Economy

6. Subsection 1 of section 66 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 24, section 3, and 1978, chapter 98, section 8, is further amended by striking out the first, second, third and fourth lines and inserting in lieu thereof the following: s. 66 (1),
amended

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$60 and to the chairman thereof an allowance for expenses of \$70, and,

7.—(1) Subsection 1 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 98, section 9, is amended by striking out "one quarter" in the fifth line and inserting in lieu thereof "one-half". s. 67 (1),
amended

s. 67 (2),
amended

(2) Subsection 2 of the said section 67 is amended by striking out "one-quarter" in the second line and inserting in lieu thereof "one-half".

s. 67 (3),
amended

(3) Subsection 3 of the said section 67 is amended by striking out "one-quarter" in the fifth line and inserting in lieu thereof "one-half".

s. 68,
re-enacted

8. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1980, chapter 16, section 6, 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 \$8,900 per annum;

(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 \$6,700 per annum.

s. 68a,
enacted

9. The said Act is amended by adding thereto the following section:

Advances

68a.—(1) Upon the request of a member, there shall be paid, out of the moneys that have accrued to the member at the time the request is made,

(a) any part of the indemnity and any additional indemnity payable to the member under this Act, not exceeding one-twelfth of the annual indemnities per month; and

(b) any part of the annual allowances for expenses payable to the member under this Act, not exceeding one-twelfth of the annual allowances for expenses per month.

Application
of subs. 1

(2) Subsection 1 applies notwithstanding the other provisions of this Act as to the times of payment of indemnities and allowances for expenses.

Commence-
ment

10. This Act shall be deemed to have come into force on the 1st day of April, 1981.

Short title

11. The short title of this Act is *The Legislative Assembly Amendment Act, 1981*.



An Act to amend
The Legislative Assembly Act

1st Reading

June 19th, 1981

2nd Reading

July 2nd, 1981

3rd Reading

July 3rd, 1981

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Insurance Act

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to make insurers responsible for the debts incurred by persons who are appointed by the insurers as insurance agents.

BILL 128

1981

An Act to amend The Insurance Act

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

1. *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 342a,
enacted

342a. An insurer who appoints a person to act as an agent of the insurer in Ontario for the purpose of enabling that person to obtain an insurance agent's licence is jointly and severally liable during the term of the agency for any debts incurred by that person while acting or holding himself out as an agent of the insurer. Liability for
debts of
agent

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Insurance Amendment Act, 1981*. Short title

An Act to amend The Insurance Act

1st Reading

June 23rd, 1981

2nd Reading

3rd Reading

MR. FOUlds

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Workmen's Compensation Act

**THE HON. R. G. ELGIE
Minister of Labour**

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Section 36 (1) sets out a scale of compensation to be paid where an injury results in death. The proposed amendments increase the amounts payable under section 36 (1) as follows:

1. Under clause *a*, the burial allowance is increased from \$1,000 to \$1,200.
2. Payments to a dependent widow or widower are increased from \$410 per month to \$447 effective the 1st day of July, 1980 and to \$492 effective the 1st day of July, 1981.
3. Where the dependent widow or widower has one or more children, the additional monthly payment for each child under the age of sixteen years is increased from \$112 per month to \$123 effective the 1st day of July, 1980 and to \$136 effective the 1st day of July, 1981. The amount payable to a child upon the death of the widow or widower is increased by the amounts set out in paragraph 4.
4. The payments for dependent children under the age of sixteen years are increased from \$127 per month to \$139 effective the 1st day of July, 1980 and to \$153 effective the 1st day of July, 1981.

BILL 129

1981

An Act to amend The Workmen's Compensation Act

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

1.—(1) Clauses *a, c, d, e* and *f* of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 1, are repealed and the following substituted therefor:

s. 36 (1) (*a, c, d, e, f*),
re-enacted

(a) the necessary expenses of the burial or cremation of the employee, not exceeding \$1,200;

(c) where the widow or widower is the sole dependant, a monthly payment of,

(i) \$447, effective the 1st day of July, 1980, and

(ii) \$492, effective the 1st day of July, 1981;

(d) where the dependants are a widow or a widower and one or more children, a monthly payment of,

(i) \$447 with an additional monthly payment of \$123 to be increased upon the death of the widow or widower to \$139 for each child under the age of sixteen years, effective the 1st day of July, 1980, and

(ii) \$492 with an additional monthly payment of \$136 to be increased upon the death of the widow or widower to \$153 for each child under the age of sixteen years, effective the 1st day of July, 1981;

(e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of,

(i) \$139, effective the 1st day of July, 1980, and

(ii) \$153, effective the 1st day of July, 1981;

(f) where there are dependants other than those mentioned in clauses *c*, *d* and *e*, and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole,

(i) \$447 a month effective the 1st day of July, 1980, and

(ii) \$492 a month effective the 1st day of July, 1981.

Application

(2) Clause *a* of subsection 1 of section 36 of the said Act, as re-enacted by subsection 1 of this section, applies only where the death occurs on or after the 1st day of July, 1981.

Idem

(3) Clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, as re-enacted by subsection 1 of this section, apply to payments accruing after the effective dates but nothing therein entitles any person to claim additional compensation for any period prior to the effective dates.

Idem

(4) The amounts payable under clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, as re-enacted by subsection 1 of this section, do not apply to a lump sum award or to payments due prior to the effective dates.

s. 36 (7),
re-enacted

2.—(1) Subsection 7 of the said section 36, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 2, is repealed and the following substituted therefor:

Payment of
lump sum

(7) In addition to any other compensation provided for, the widow or widower, or where the employee leaves no widow or widower, the person described in subsection 6, is entitled to a lump sum of \$1,200.

Application

(2) Subsection 7 of section 36 of the said Act, as re-enacted by subsection 1 of this section, applies only where the death occurs on or after the 1st day of July, 1981.

s. 41a,
amended

3. Section 41a of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 3, is amended by adding thereto the following subsections:

Subsections 2, 3, 4. Self-explanatory.

SECTION 2.—Subsection 1. The lump sum payment under section 36 (7) of the Act is increased from \$1,000 to \$1,200.

Subsection 2. Self-explanatory.

SECTION 3. The proposed amendment to section 41a permits a 10 per cent adjustment in the rate of compensation of an employee who is not working and who has continuously received temporary disability benefits for the immediately preceding twenty-four months.

SECTION 4. The amounts payable for permanent disability under section 42 of the Act are increased by the percentages set out in the proposed subsections 8 and 9 of section 42. The proposed subsection 10 has the same effect as the present subsection 11. Subsection 12 establishes a new maximum for the purposes of subsection 8.

SECTION 5.—Subsection 1. The minimum amount of compensation payable for temporary total disability is increased from \$129 per week to \$156 per week effective the 1st day of July, 1981 where the average earnings of the injured employee were not less than \$156.

The minimum amount payable for permanent total disability is increased from \$571 per month to \$623 for the period from the 1st day of July, 1980 to the 30th day of June, 1981 and to \$686 from the 1st day of July, 1981.

Further
adjustment

(3) Notwithstanding subsection 1, where the employee is not working and is in receipt of temporary disability benefits and has continuously received temporary disability benefits for the immediately preceding twenty-four months, the Board shall adjust the rate of compensation being paid by adding thereto an additional 10 per cent of the compensation rate being paid but the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 44.

Application

(4) Subsection 3 applies to payments accruing on and after the 1st day of July, 1981, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the twenty-four month period referred to in subsection 3 and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection 3.

s. 42 (8-11),
re-enacted

4. Subsections 8 to 10, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 4, and subsection 11, as enacted by the Statutes of Ontario, 1979, chapter 114, section 4, of section 42 of the said Act, are repealed and the following substituted therefor:

Increase in
payments

(8) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1980, by adding thereto a factor of 9 per cent effective the 1st day of July, 1980.

Idem

(9) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1981, by adding thereto a factor of 10 per cent effective the 1st day of July, 1981, but the amounts of compensation to which an employee is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings computed under subsection 1 of section 44 effective on the 1st day of July, 1981, for amounts accruing on and after the 1st day of July, 1981.

Non-applica-
tion of
subbs. (4, 6,
8, 9),
s. 43 (b)

(10) Subsections 8 and 9 do not apply to a lump sum award previously made by the Board under this Part, including an award that was previously commuted or paid as a lump sum under subsection 4, an award under subsection 6 or an award under clause *b* of section 43.

Maximum
established

(11) For paying compensation for accidents occurring on or before the 30th day of June, 1980, the maximum established by subsection 1 of section 44 shall be \$20,200 for the purposes of subsection 8.

s. 43,
re-enacted

- 5.—(1) Section 43 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 5, is repealed and the following substituted therefor:

Minimum
amount of
compensation

43. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured employee is entitled shall not be less than,

(a) for temporary total disability,

- (i) \$156 a week where his average earnings were not less than \$156 a week, from the 1st day of July, 1981, and
- (ii) the amount of his earnings where his average earnings are less than \$156 a week from the 1st day of July, 1981,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 42 and 44, but the amount of such pension shall not be less than,

(i) for permanent total disability,

1. \$623 a month for the period from the 1st day of July, 1980, to and including the 30th day of June, 1981, and
2. \$686 a month from the 1st day of July, 1981, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause 1 in accordance with the impairment of earning capacity; or

(c) alternatively to subclause i of clause b, for permanent total disability the benefits which would have been payable from time to time under clauses c, d and e of subsection 1 of section 36 and under section 38, as if he had died from the injury.

Application

(2) Subclauses i and ii of clause a of section 43 of the said Act, as re-enacted by subsection 1 of this section, apply to accidents occurring on and after the 1st day of July, 1981, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1981.

Idem

(3) Sub-subclause 1 of subclause i of clause b and subclause ii of the said clause b and clause c of the said section 43, as re-

Subsections 2, 3. Self-explanatory.

SECTION 6.—Subsection 1. The earnings ceiling is increased from \$18,500 to \$22,200.

Subsection 2. Self-explanatory.

SECTION 7.—Subsection 1. The allowance for the repair and replacement of clothing worn or damaged by a lower limb prosthesis or back brace is increased from \$240 to \$290 and by an upper limb prosthesis from \$120 to \$145.

Subsection 2. Self-explanatory.

enacted by subsection 1 of this section, apply to payments accruing on and after the 1st day of July, 1980, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1980.

- 6.—(1) Subsection 1 of section 44 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, 1975, chapter 47, section 10, 1978, chapter 54, section 5 and 1979, chapter 114, section 6, is further amended by striking out “\$18,500” in the amendment of 1979 and inserting in lieu thereof “\$22,200”. s. 44 (1),
amended

- (2) Subsection 1 of section 44 of the said Act, as amended by subsection 1 of this section, applies to accidents occurring on and after the 1st day of July, 1981, and to benefits arising under subsection 1 of section 41a and subsection 10 of section 42 of the Act, as amended by section 5 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 4 of section 42, or to an award made under subsection 6 of section 42, or to an award under clause *b* of section 43 of the Act, and nothing in subsection 1 of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1981. Application

- 7.—(1) Clause *b* of subsection 3 of section 51 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 7, is repealed and the following substituted therefor: s. 51 (3) (b),
re-enacted

(b) on application, an allowance not exceeding \$290 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$145 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

- (2) Clause *b* of subsection 3 of section 51 of the said Act, as re-enacted by subsection 1 of this section, applies to payments accruing on and after the 1st day of July, 1981, but nothing therein entitles any person to claim additional payment for any period before the 1st day of July, 1981. Application

8. This Act comes into force on the day it receives Royal Assent. Commence-
ment
9. The short title of this Act is *The Workmen's Compensation Amendment Act, 1981*. Short title

An Act to amend
The Workmen's Compensation Act

1st Reading

June 24th, 1981

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Labour

(Government Bill)

BILL 129

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Workmen's Compensation Act

**THE HON. R. G. ELGIE
Minister of Labour**

101

THE UNIVERSITY OF CHICAGO
LIBRARY

BILL 129

1981

An Act to amend The Workmen's Compensation Act

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

1.—(1) Clauses *a, c, d, e* and *f* of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 1, are repealed and the following substituted therefor:

(a) the necessary expenses of the burial or cremation of the employee, not exceeding \$1,200;

.

(c) where the widow or widower is the sole dependant, a monthly payment of,

(i) \$447, effective the 1st day of July, 1980, and

(ii) \$492, effective the 1st day of July, 1981;

(d) where the dependants are a widow or a widower and one or more children, a monthly payment of,

(i) \$447 with an additional monthly payment of \$123 to be increased upon the death of the widow or widower to \$139 for each child under the age of sixteen years, effective the 1st day of July, 1980, and

(ii) \$492 with an additional monthly payment of \$136 to be increased upon the death of the widow or widower to \$153 for each child under the age of sixteen years, effective the 1st day of July, 1981;

(e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of,

(i) \$139, effective the 1st day of July, 1980, and

(ii) \$153, effective the 1st day of July, 1981;

(f) where there are dependants other than those mentioned in clauses *c*, *d* and *e*, and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole,

(i) \$447 a month effective the 1st day of July, 1980, and

(ii) \$492 a month effective the 1st day of July, 1981.

Application

(2) Clause *a* of subsection 1 of section 36 of the said Act, as re-enacted by subsection 1 of this section, applies only where the death occurs on or after the 1st day of July, 1981.

Idem

(3) Clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, as re-enacted by subsection 1 of this section, apply to payments accruing after the effective dates but nothing therein entitles any person to claim additional compensation for any period prior to the effective dates.

Idem

(4) The amounts payable under clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, as re-enacted by subsection 1 of this section, do not apply to a lump sum award or to payments due prior to the effective dates.

s. 36 (7),
re-enacted

2.—(1) Subsection 7 of the said section 36, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 2, is repealed and the following substituted therefor:

Payment of
lump sum

(7) In addition to any other compensation provided for, the widow or widower, or where the employee leaves no widow or widower, the person described in subsection 6, is entitled to a lump sum of \$1,200.

Application

(2) Subsection 7 of section 36 of the said Act, as re-enacted by subsection 1 of this section, applies only where the death occurs on or after the 1st day of July, 1981.

s. 41a,
amended

3. Section 41a of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 3, is amended by adding thereto the following subsections:

(3) Notwithstanding subsection 1, where the employee is not working and is in receipt of temporary disability benefits and has continuously received temporary disability benefits for the immediately preceding twenty-four months, the Board shall adjust the rate of compensation being paid by adding thereto an additional 10 per cent of the compensation rate being paid but the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 44.

(4) Subsection 3 applies to payments accruing on and after the 1st day of July, 1981, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the twenty-four month period referred to in subsection 3 and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection 3.

4. Subsections 8 to 10, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 4, and subsection 11, as enacted by the Statutes of Ontario, 1979, chapter 114, section 4, of section 42 of the said Act, are repealed and the following substituted therefor:

(8) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1980, by adding thereto a factor of 9 per cent effective the 1st day of July, 1980.

(9) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1981, by adding thereto a factor of 10 per cent effective the 1st day of July, 1981, but the amounts of compensation to which an employee is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings computed under subsection 1 of section 44 effective on the 1st day of July, 1981, for amounts accruing on and after the 1st day of July, 1981.

(10) Subsections 8 and 9 do not apply to a lump sum award previously made by the Board under this Part, including an award that was previously commuted or paid as a lump sum under subsection 4, an award under subsection 6 or an award under clause *b* of section 43.

(11) For paying compensation for accidents occurring on or before the 30th day of June, 1980, the maximum established by subsection 1 of section 44 shall be \$20,200 for the purposes of subsection 8.

- 5.—(1) Section 43 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 5, is repealed and the following substituted therefor:

Minimum
amount of
compensation

43. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured employee is entitled shall not be less than,

(a) for temporary total disability,

- (i) \$156 a week where his average earnings were not less than \$156 a week, from the 1st day of July, 1981, and
- (ii) the amount of his earnings where his average earnings are less than \$156 a week from the 1st day of July, 1981,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 42 and 44, but the amount of such pension shall not be less than,

(i) for permanent total disability,

- 1. \$623 a month for the period from the 1st day of July, 1980, to and including the 30th day of June, 1981, and
- 2. \$686 a month from the 1st day of July, 1981, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause i in accordance with the impairment of earning capacity; or

(c) alternatively to subclause i of clause b, for permanent total disability the benefits which would have been payable from time to time under clauses c, d and e of subsection 1 of section 36 and under section 38, as if he had died from the injury.

Application

(2) Subclauses i and ii of clause a of section 43 of the said Act, as re-enacted by subsection 1 of this section, apply to accidents occurring on and after the 1st day of July, 1981, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1981.

Idem

(3) Sub-subclause 1 of subclause i of clause b and subclause ii of the said clause b and clause c of the said section 43, as re-

enacted by subsection 1 of this section, apply to payments accruing on and after the 1st day of July, 1980, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1980.

- 6.—(1) Subsection 1 of section 44 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, 1975, chapter 47, section 10, 1978, chapter 54, section 5 and 1979, chapter 114, section 6, is further amended by striking out “\$18,500” in the amendment of 1979 and inserting in lieu thereof “\$22,200”. s. 44 (1),
amended
- (2) Subsection 1 of section 44 of the said Act, as amended by subsection 1 of this section, applies to accidents occurring on and after the 1st day of July, 1981, and to benefits arising under subsection 1 of section 41*a* and subsection 10 of section 42 of the Act, as amended by section 5 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 4 of section 42, or to an award made under subsection 6 of section 42, or to an award under clause *b* of section 43 of the Act, and nothing in subsection 1 of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1981. Application
- 7.—(1) Clause *b* of subsection 3 of section 51 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 114, section 7, is repealed and the following substituted therefor: s. 51 (3) (b),
re-enacted
- (b) on application, an allowance not exceeding \$290 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$145 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,
-
- (2) Clause *b* of subsection 3 of section 51 of the said Act, as re-enacted by subsection 1 of this section, applies to payments accruing on and after the 1st day of July, 1981, but nothing therein entitles any person to claim additional payment for any period before the 1st day of July, 1981. Application
8. This Act comes into force on the day it receives Royal Assent. Commence-
ment
9. The short title of this Act is *The Workmen's Compensation Amendment Act, 1981*. Short title

An Act to amend
The Workmen's Compensation Act

1st Reading

June 24th, 1981

2nd Reading

June 29th, 1981

3rd Reading

July 2nd, 1981

THE HON. R. G. ELGIE
Minister of Labour

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Education Act, 1974

MR. MARTEL

EXPLANATORY NOTE

The purpose of the Bill is to authorize the apportionment of school rates between public and separate schools in the case of a mixed marriage where the husband and wife own or lease rateable property jointly.

BILL 130

1981

An Act to amend The Education Act, 1974

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

1. Section 122 of *The Education Act, 1974*, being chapter 109, is s. 122, amended amended by adding thereto the following subsection:

(3) Where more than one owner or tenant is the occupant or tenant of land, each owner or tenant shall be deemed to be a Joint ownership, tenancy, etc. person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes and, in such case, the owners or tenants who are primarily liable for the payment of school rates may determine that the application of the rates shall be apportioned between public and separate school purposes.

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is *The Education Amendment Act, 1981*. Short title

An Act to amend
The Education Act, 1974

1st Reading

June 25th, 1981

2nd Reading

3rd Reading

MR. MARTEL

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to prohibit the Possession of Wild Life

MR. SAMIS

EXPLANATORY NOTE

The purpose of the Bill is to prohibit the possession, sale, et cetera, of wild animals that are not native to Canada. Zoos, research facilities and humane society shelters are exempt from this prohibition.

BILL 131

1981

An Act to prohibit the Possession of Wild Life

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, "wild life" means any reptile, amphibian, bird or mammal not native to Canada, and includes, Interpre-
tation

(a) the eggs of any such reptile, amphibian or bird; and

(b) any domestically raised species of any such reptile, amphibian, bird or mammal that is wild by nature,

but does not include tropical fish or budgerigars.

2.—(1) No person shall transport, sell, purchase or have in his possession wild life. Possession,
etc.,
prohibited

(2) Subsection 1 does not apply in respect of wild life used or to be used in research facilities licensed under *The Animals for Research Act* or resident or to be resident in a zoo that is a member of the Canadian Association of Zoological Parks and Aquaria or in a shelter of a humane society. Exception
R.S.O. 1970,
c. 22

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

4. The short title of this Act is *The Prohibition of Possession of Wild Life in Ontario Act, 1981*. Short title

An Act to prohibit
the Possession of Wild Life

1st Reading

June 25th, 1981

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act respecting Public Access to Meetings of
Municipal Councils and Local Boards**

Ms. BRYDEN

EXPLANATORY NOTE

The purpose of this Bill is to make it mandatory for all meetings of municipal councils and local boards to be open to the public.

Local boards are defined to include school boards, police commissions and other special purpose bodies.

Meetings include committee of the whole meetings and meetings of committees and subcommittees.

Meetings dealing with the purchase and sale of property, litigation, personnel matters, contract negotiations with employees and certain policing matters may be closed at the discretion of the municipal council or local board.

The Act takes precedence over any other Act.

BILL 132

1981

An Act respecting Public Access to Meetings of Municipal Councils and Local Boards

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) "council" means the council of a municipality;
- (b) "local board" means a local board as defined in *The Municipal Affairs Act*; R.S.O. 1970,
c. 118
- (c) "meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy and includes a meeting of a sub-committee of a public body;
- (d) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in a territory without municipal organization.

2. The meetings of every council and local board and every committee of a council or local board, including a committee of the whole, shall be open to the public, except as provided in section 3. Open
meetings

3.—(1) Every council, local board or committee may exclude the public from a meeting while it considers matters relating to, Closed
meetings,
general

- (a) contract negotiations with employees;
- (b) the purchase and sale of property; and

(c) litigation affecting the municipality or local board.

Personnel relations

(2) A council, local board or committee may exclude the public from a meeting while it considers matters relating to personnel relations unless the person or persons who are the subject-matter of the meeting request that the meeting be open to the public.

Police

(3) A board of police commissioners or a committee thereof may exclude the public from a meeting while it considers matters that, if publicly disclosed, would detrimentally affect the ability of the board to supervise and direct policing functions in the municipality.

Notice

4.—(1) Reasonable public notice of all meetings referred to in section 2 shall be given by the body holding the meeting.

Idem

(2) A person directly affected by any matter considered at a meeting of a council, local board or a committee thereof shall be given written notice of the meeting by the council, local board or committee.

Contents of notice

(3) A notice under subsections 1 and 2 shall include a statement of the date, time, place and purpose of the meeting.

Originating motion

5.—(1) A person directly affected by a decision made at a meeting,

(a) from which the public was excluded contrary to this Act; or

(b) about which the person did not receive reasonable notice,

may apply to a judge by way of originating notice for a determination of whether or not the council, local board or committee thereof has contravened this Act.

Judge's order

(2) Where the judge determines that the council, local board or a committee thereof has contravened this Act, the judge may order the council, local board or committee to reconsider its decision at a meeting convened in accordance with this Act.

Appeal to Divisional Court

6.—(1) An appeal lies from an order made under section 5 to the Divisional Court in accordance with the rules of court.

Judgment

(2) The Divisional Court may give any judgment that ought to have been pronounced and its decision is final.

Conflict

7. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

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

9. The short title of this Act is *The Municipal Sunshine Act*, Short title
1981.



An Act respecting Public Access
to Meetings of Municipal Councils
and Local Boards

1st Reading

June 26th, 1981

2nd Reading

3rd Reading

MS. BRYDEN

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act respecting Public Access to Meetings of
Municipal Councils and Local Boards**

Ms. BRYDEN

*(Reprinted as revised by Legislative Counsel having reference to the
Revised Statutes of Ontario, 1980)*

EXPLANATORY NOTE

The purpose of this Bill is to make it mandatory for all meetings of municipal councils and local boards to be open to the public.

Local boards are defined to include school boards, police commissions and other special purpose bodies.

Meetings include committee of the whole meetings and meetings of committees and subcommittees.

Meetings dealing with the purchase and sale of property, litigation, personnel matters, contract negotiations with employees and certain policing matters may be closed at the discretion of the municipal council or local board.

The Act takes precedence over any other Act.

BILL 132

1981

An Act respecting Public Access to Meetings of Municipal Councils and Local Boards

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) "council" means the council of a municipality;
- (b) "local board" means a local board as defined in the *Municipal Affairs Act*;
- (c) "meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy and includes a meeting of a sub-committee of a public body;
- (d) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in a territory without municipal organization.

R.S.O. 1980,
c. 303

2. The meetings of every council and local board and every committee of a council or local board, including a committee of the whole, shall be open to the public, except as provided in section 3. Open
meetings

3.—(1) Every council, local board or committee may exclude the public from a meeting while it considers matters relating to, Closed
meetings,
general

- (a) contract negotiations with employees;
- (b) the purchase and sale of property; and

(c) litigation affecting the municipality or local board.

Personnel
relations

(2) A council, local board or committee may exclude the public from a meeting while it considers matters relating to personnel relations unless the person or persons who are the subject-matter of the meeting request that the meeting be open to the public.

Police

(3) A board of police commissioners or a committee thereof may exclude the public from a meeting while it considers matters that, if publicly disclosed, would detrimentally affect the ability of the board to supervise and direct policing functions in the municipality.

Notice

4.—(1) Reasonable public notice of all meetings referred to in section 2 shall be given by the body holding the meeting.

Idem

(2) A person directly affected by any matter considered at a meeting of a council, local board or a committee thereof shall be given written notice of the meeting by the council, local board or committee.

Contents
of notice

(3) A notice under subsections (1) and (2) shall include a statement of the date, time, place and purpose of the meeting.

Originating
motion

5.—(1) A person directly affected by a decision made at a meeting,

(a) from which the public was excluded contrary to this Act; or

(b) about which the person did not receive reasonable notice,

may apply to a judge by way of originating notice for a determination of whether or not the council, local board or committee thereof has contravened this Act.

Judge's
order

(2) Where the judge determines that the council, local board or a committee thereof has contravened this Act, the judge may order the council, local board or committee to reconsider its decision at a meeting convened in accordance with this Act.

Appeal to
Divisional
Court

6.—(1) An appeal lies from an order made under section 5 to the Divisional Court in accordance with the rules of court.

Judgment

(2) The Divisional Court may give any judgment that ought to have been pronounced and its decision is final.

Conflict

7. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

8. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
^{ment}

9. The short title of this Act is the *Municipal Sunshine Act*, ^{Short title}
1981.



An Act respecting Public Access
to Meetings of Municipal Councils
and Local Boards

1st Reading

June 26th, 1981

2nd Reading

3rd Reading

MS. BRYDEN

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend The Consumer Protection Act

MR. SWART

EXPLANATORY NOTE

Self-explanatory.

BILL 133

1981

**An Act to amend
The Consumer Protection Act**

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

1. Section 41 of *The Consumer Protection Act*, being chapter 82 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:
 - (3) No supermarket chain shall spend on advertising within Ontario in any fiscal year more than an amount equal to one-third of 1 per cent of its total sales revenue from operations in Ontario for that fiscal year.

s. 41,
amended

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

Commence-
ment
3. The short title of this Act is *The Consumer Protection Amendment Act, 1981*.

Short title

An Act to amend
The Consumer Protection Act

1st Reading

June 26th, 1981

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act respecting Environmental Rights in Ontario

MR. SMITH

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

BILL 134

1981

An Act respecting Environmental Rights in Ontario

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

PART I

INTERPRETATION AND PURPOSE

1. In this Act,

Interpre-
tation

- (a) "Board" means the Environmental Assessment Board established under *The Environmental Assessment Act*, 1975, c. 69, 1975;
- (b) "contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of man which may,
- (i) impair the quality of the environment or the public trust therein for any use that can be made of it,
 - (ii) cause injury or damage to property or to plant or animal life,
 - (iii) cause harm or material discomfort to any person,
 - (iv) adversely affect the health or impair the safety of any person, or
 - (v) render any property or plant or animal life unfit for use by man,

and "contamination" has a corresponding meaning;

- (c) "Court" means the Supreme Court of Ontario;
- (d) "degradation" refers to any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and "degrade" has a corresponding meaning;
- (e) "environment" means,
- (i) air, land or water,
 - (ii) plant and animal life, including man,
 - (iii) the social, economic and cultural conditions that influence the life of man or a community,
 - (iv) any building, structure, machine or other device or thing made by man,
 - (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or
 - (vi) any part or combination of the foregoing and the inter-relationships between any two or more of them,
- in or of Ontario;
- (f) "Minister" means the Minister of the Environment;
- (g) "public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;
- (h) "regulation" means a regulation made under an Act listed in the Schedule to this Act.

Environ-
mental
rights

2.—(1) The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation. Declaration

3.—(1) Where a person considers that the environment is being contaminated or degraded he may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation. Request for investigation

(2) Where the Minister receives a written request under subsection 1 and, where he is satisfied that the request is made in good faith and is not frivolous, he shall make, or cause to be made, any investigation that he considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action. Written request

(3) Upon an investigation referred to in subsection 2 being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation. Report

PART II

CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against, Right of action

(a) any person who is responsible for the activity; and

(b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection 1 applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule. Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to, Court may determine standard

- (a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;
- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security
for costs
or damage

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection 1 shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation
on order

(3) Upon the completion of the hearing referred to in subsection 2, if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 of section 3 and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that

there is no feasible and prudent alternative to the defendant's activity and that such activity is in the best interests of the public having regard to the matters set out in subsection 3 of section 4.

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

(a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or

(b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary. Injunction, etc.

8.—(1) The Court may, Reference

(a) on the motion of any party; or

(b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of *The Statutory Powers Procedure Act, 1971* any when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action. 1971, c. 47

- Order (2) When the Board has completed its review and consideration of the question referred to it under subsection 1, the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.
- Inspector **9.**—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his findings and his opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to him.
- Costs (2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

PART III

PARTIES, INTERVENORS *Amicus Curiae*, CLASS ACTIONS

- Parties, etc. **10.** Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.
- Class actions **11.**—(1) In an action under this Act the Court may, by order, permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,
- (a) the claims of the representative party are typical of the claims of the class;
 - (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
 - (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
 - (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class action ^{Judgment} for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART IV

INSTRUMENTS AND REGULATIONS

12.—(1) In this section,

Interpre-
tation

- (a) “appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;
- (b) “instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;
- (c) “proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section. <sup>Notice of
proposed
instrument</sup>

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice, <sup>Sub-
missions</sup>

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

(4) Where the proper authority has received notice of a request ^{Idem} for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection 4, the proper authority shall give notice for a hearing under subsection 3, together with written reasons therefor.

Where instrument may be issued

(6) Where there is no notice of a request for a hearing under subsection 3, or where the proper authority has declined to refer the matter to the appropriate board under subsection 4, the proper authority may issue the proposed instrument,

(a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;

(b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of instrument

(7) Any person may make an application to the Board requesting the Board to review any existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection 7 unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection 8, or where the Board decides that a *prima facie* case has not been made under subsection 7, the Board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of hearing

(10) Where the appropriate board holds a hearing under subsection 4 or subsection 7, the appropriate board shall,

(a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;

(b) cause notice to be given of the hearing,

(i) to the proper authority,

(ii) to any person who submitted notice to the proper authority under subsection 3,

- (iii) to any person who submitted notice to the Board under subsection 7,
- (iv) to any person as the appropriate board may direct, and
- (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act. Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act. Recommendations, etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

13.—(1) In 1982 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario. Review of regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate. Public notice

(3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session, or if not, at the commencement of the next ensuing session. Report

14.—(1) In this section,

- (a) "regulation-make authority" means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

Notice of proposed regulation

- Publication (2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.
- Effect of contravention (3) A regulation filed in contravention of subsection 2 does not come into effect.

PART V

ACCESS TO INFORMATION

- Interpretation **15.**—(1) In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.
- Right to information (2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.
- Right to examine (3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.
- Idem (4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under his authority relating to any operation subject to an Act listed in the Schedule under his jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.
- Where disclosure may be reduced (5) Notwithstanding subsections 3 and 4, the designated Minister may refuse an application made under subsections 3 and 4 where, in his opinion, the information sought to be disclosed contains,
 - (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;

- (b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,
 - (i) vital statistics,
 - (ii) background personal information,
 - (iii) medical, criminal, educational or employment records or history,
 - (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;
- (c) information of a financial, commercial, scientific or technical sort,
 - (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
 - (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or

- (d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

(6) Where the designated Minister, under subsection 5, refuses ^{Notice} an application for disclosure of information, he shall, within twenty days, so inform the applicant, together with written reasons thereof, and he shall inform the applicant of his right of appeal to the Board.

(7) Any applicant may, within fifteen days of receipt of a ^{Hearing} notice under subsection 6, by written notice served upon the designated Minister and the Board, require a hearing before the Board.

- Idem (8) In a hearing under subsection 7, the Board shall take every precaution, including, when appropriate, receiving representations *ex parte* and conducting hearings *in camera*, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.
- Onus (9) In a hearing under subsection 7, the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.
- Order (10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,
- (a) order the disclosure of all or part of the information sought to be disclosed; or
 - (b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.
- Appeal (11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

PART VI

PUBLIC INTEREST FUNDING

- Interpre-
tation **16.**—(1) In this section,
- (a) “Fund” means the Environmental Hearing Assistance Fund.
- Fund (2) The Lieutenant Governor in Council may establish a fund to be known as the Environmental Hearing Assistance Fund.
- Idem (3) Where a Fund has been established under subsection 2, the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.
- Financial
assistance (4) Subject to subsection 5, whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board.

(5) A person may apply under subsection 4 only where that ^{Idem} person,

- (a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and
- (b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate. ^{Idem}

(7) No person is precluded from applying under subsection 4 ^{Idem} by reason only that he has previously received financial assistance under subsection 6.

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate. ^{Consolidating applications}

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including, ^{Matters to be considered}

- (a) legal fees;
- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

PART VII

EMPLOYEE RIGHTS

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;

No discipline, dismissal, etc., by employer

- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection 1 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VIII

MISCELLANEOUS

Common
Law
remedies
preserved

18. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

Conflict
1971, c. 84

19. Where a conflict appears between any other Act, including *The Environmental Protection Act, 1971*, the provision of this Act shall prevail.

Crown

20. This Act binds the Crown.

Commence-
ment

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

Short title

22. The short title of this Act is *The Ontario Environmental Rights Act, 1981*.

SCHEDULE

The Conservation Authorities Act

The Drainage Act, 1975

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Mining Act

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Water Resources Act

The Pesticides Act, 1973

The Pits and Quarries Control Act, 1971

The Planning Act

The Consolidated Hearings Act, 1981

The Ontario Waste Management Corporation Act, 1981

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An Act respecting
Environmental Rights in Ontario

1st Reading

June 29th, 1981

2nd Reading

3rd Reading

MR. SMITH

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend The Health Insurance Act, 1972

MR. KOLYN



**An Act to amend
The Health Insurance Act, 1972**

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

1. *The Health Insurance Act, 1972*, being chapter 91, is amended by adding thereto the following section: s. 20b,
enacted

20b.—(1) Every insured person shall be issued a plastic card by the General Manager in the form prescribed by the regulations. Plastic
card to
be issued

(2) Notwithstanding clause *b* of subsection 3 of section 20, every patient receiving insured services shall be given a copy, which shall be signed by the patient, produced in the manner prescribed in the regulations, of the account for insured services performed by a physician, laboratory or practitioner. Copy of
account
to be
given to
patient

2. Subsection 1 of section 51 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 60, section 12, 1974, chapter 86, section 4 and 1975, chapter 52, section 9, is further amended by adding thereto the following clauses: s. 51,
amended

(u) prescribing the form of plastic card to be issued to insured persons;

(v) prescribing the manner of producing copies of accounts for the purpose of clause *b* of subsection 2 of section 20.

3. The said Act is amended by adding thereto the following section: s. 51a,
enacted

51a. Cards issued to persons whose Ontario Hospital Insurance Plan payments are subsidized by a source other than by an employer pursuant to an agreement of employment or who are not required to pay the full premium thereof shall be designated by the use of special numbers which numbers shall be made available to the medical profession. Card numbers

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 Health Insurance Amendment Act 1981*.







An Act to amend
The Health Insurance Act, 1972

1st Reading

June 29th, 1981

2nd Reading

3rd Reading

MR. KOLYNN

(Private Member's Bill)

**1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981**

An Act to amend the Milk Act

**THE HON. L. C. HENDERSON
Minister of Agriculture and Food**

EXPLANATORY NOTES

SECTION 1. Paragraph 37 of subsection 8 (1) of the Act now reads as follows:

(1) The Commission may make regulations with respect to regulated products generally or to any regulated product, and, without limiting the generality of the foregoing, may make regulations,

37. *authorizing any marketing board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product, and requiring such marketing board, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade and size of the regulated product delivered by him, and authorizing such marketing board to make an initial payment on delivery of the regulated product and subsequent payments until all the remainder of the moneys received from the sale is distributed to the producers.*

The paragraph is re-enacted to provide that moneys received from the sale of a regulated product shall be distributed on the basis of,

- (a) the amount, content and grade of the regulated product supplied by a producer;
- (b) the amount and kind of quota held by a producer; and
- (c) the sales by a marketing board of the various classes of the regulated product.

The proposed paragraphs 37a and 37b of subsection 8 (1) replace the present paragraphs 36 and 37 of subsection 20 (1) of the Act. The transposition of these provisions will enable the Commission to make regulations in respect of the matters set out in the proposed paragraphs 37a and 37b or to delegate the power to make such regulations to a marketing board.

The proposed re-enactment of paragraph 38 of subsection 8 (1) of the Act is complementary to the re-enactment of paragraph 37 of subsection 8 (1). The proposed paragraph 38 is set out below, showing underlined the proposed amendments:

38. *providing for statements to be given by any marketing board to producers showing the amount, content and grade of the regulated product marketed, the price or prices paid and the particulars of the service charges, licence fees and levies imposed by the marketing board.*

An Act to amend the Milk Act

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

1. Paragraphs 37 and 38 of subsection 8 (1) of the *Milk Act*, being s. 8 (1),
pars. 37, 38,
re-enacted chapter 266 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

37. authorizing any marketing board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, content and grade of the regulated product supplied by him and the amount and type of quota for the marketing of the regulated product held by him and the sales by the marketing board of the classes of the regulated product, and authorizing such marketing board to make an initial payment on delivery of the regulated product and subsequent payments until all the remainder of the moneys received from the sale is distributed to the producers;
- 37a. providing for the establishment and the manner of payment of price differentials for any grade of milk or cream, or any class thereof;
- 37b. providing for the establishment and the manner of payment of price differentials in relation to the content of milk or any class thereof;
38. providing for statements to be given by any marketing board to producers showing the amount, content and grade of the regulated product marketed, the price or prices paid and the particulars of the service charges, licence fees and levies imposed by the marketing board.

s. 20 (1),
pars. 36, 37,
repealed

2. Paragraphs 36 and 37 of subsection 20 (1) of the said Act are 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 *Milk Amendment Act, 1981*.

1981
Milk Amendment Act
Royal Assent
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1981

SECTION 2. The repeal of paragraphs 36 and 37 of subsection 20 (1) of the Act is complementary to the enactment of paragraphs 37*a* and 37*b* of subsection 8 (1).

An Act to amend the Milk Act

1st Reading

October 13th, 1981

2nd Reading

3rd Reading

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

BILL 136

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Milk Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food



An Act to amend the Milk Act

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

1. Paragraphs 37 and 38 of subsection 8 (1) of the *Milk Act*, being s. 8 (1),
pars. 37, 38,
re-enacted chapter 266 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:
 37. authorizing any marketing board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, content and grade of the regulated product supplied by him and the amount and type of quota for the marketing of the regulated product held by him and the sales by the marketing board of the classes of the regulated product, and authorizing such marketing board to make an initial payment on delivery of the regulated product and subsequent payments until all the remainder of the moneys received from the sale is distributed to the producers;
 - 37a. providing for the establishment and the manner of payment of price differentials for any grade of milk or cream, or any class thereof;
 - 37b. providing for the establishment and the manner of payment of price differentials in relation to the content of milk or any class thereof;
 38. providing for statements to be given by any marketing board to producers showing the amount, content and grade of the regulated product marketed, the price or prices paid and the particulars of the service charges, licence fees and levies imposed by the marketing board.

s. 20 (1),
pars. 36, 37,
repealed

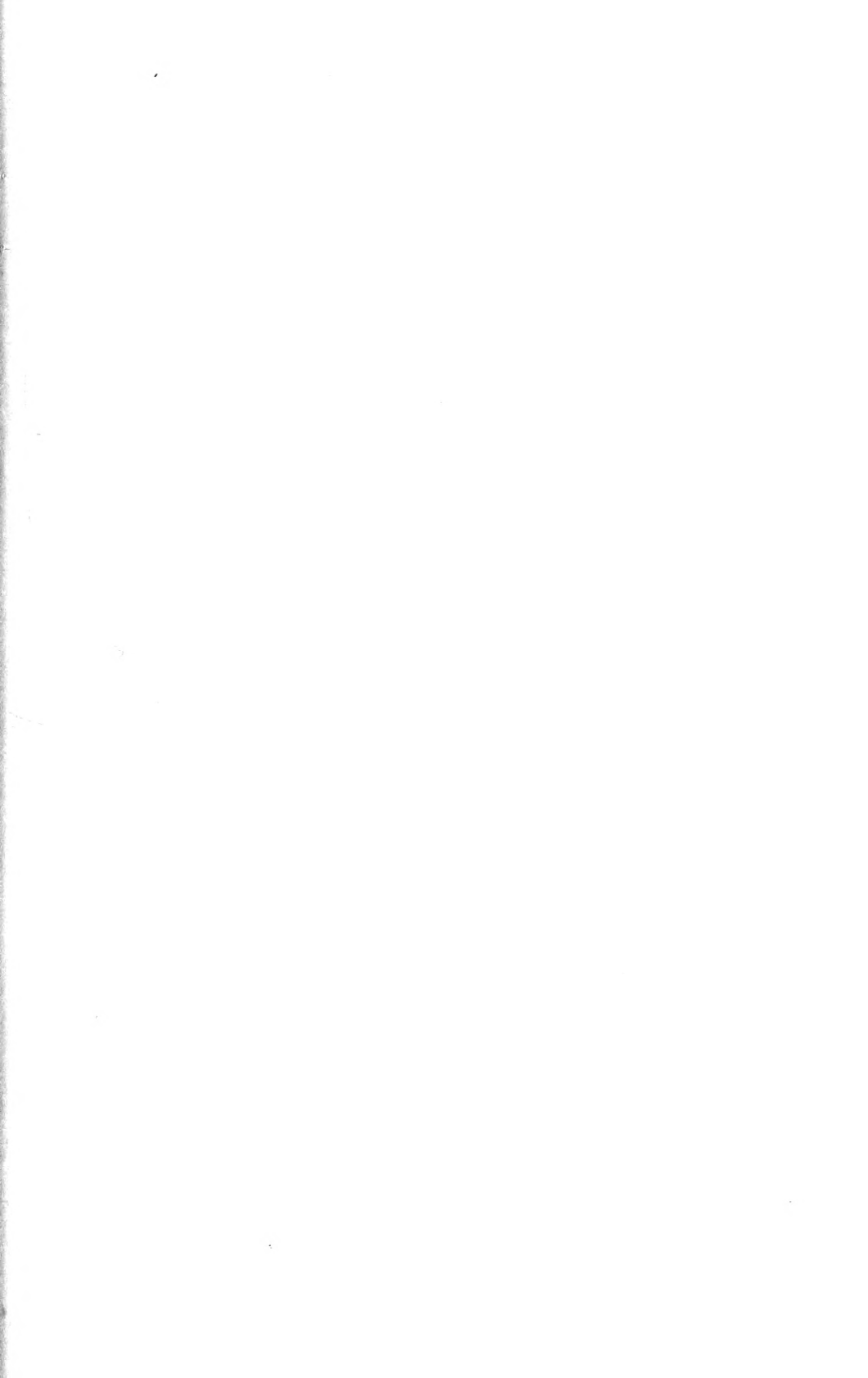
2. Paragraphs 36 and 37 of subsection 20 (1) of the said Act are repealed.

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 *Milk Amendment Act, 1981*.







An Act to amend the Milk Act

1st Reading

October 13th, 1981

2nd Reading

December 8th, 1981

3rd Reading

December 10th, 1981

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend the
Ontario Pensioners Property Tax Assistance Act**

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTE

The Bill implements the home heating grant for persons over 65 announced by the Treasurer of Ontario on June 23rd last. The grant is a temporary measure providing \$60 for 1981, \$40 for 1982 and \$20 for 1983. The grant for each year will be payable in the year following the year for which the grant is paid, and it will be paid at the time of the first interim instalment of grants paid under subsection 2 (3) of the Act.

BILL 137

1981

An Act to amend the Ontario Pensioners Property Tax Assistance Act

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

1. Section 7 of the *Ontario Pensioners Property Tax Assistance Act*, s. 7, being chapter 352 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 14, section 3, is further amended by adding thereto the following subsection:

(2) In addition to the grants payable under subsection (1) and section 2, each family unit, or individual who is not a member of the family unit, to whom a grant under section 2 is paid for the year 1981, 1982 or 1983 shall be paid a grant in the amount of, Home heating grant

- (a) \$60 for the year 1981;
- (b) \$40 for the year 1982; and
- (c) \$20 for the year 1983,

to defray in part the cost of heating the principal residence of the family unit or individual, and the grant payable under this subsection shall be apportioned among the members of a family unit on the same basis as the grant under section 2 to that family unit was apportioned for the year in respect of which the grant under this subsection is paid, and the grant payable for the year under this subsection shall be paid at the time of the payment of the first interim instalment under subsection 2 (3) in the year next following the end of the year in respect of which the grant under this subsection is payable.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Ontario Pensioners Property Tax Assistance Amendment Act, 1981*. Short title

An Act to amend the
Ontario Pensioners Property
Tax Assistance Act

1st Reading

October 13th, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 137

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

**An Act to amend the
Ontario Pensioners Property Tax Assistance Act**

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

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An Act in relation to the

BILL 137

1981

**An Act to amend the
Ontario Pensioners Property Tax Assistance Act**

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

1. Section 7 of the *Ontario Pensioners Property Tax Assistance Act*, s. 7, amended being chapter 352 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 14, section 3, is further amended by adding thereto the following subsection:

(2) In addition to the grants payable under subsection (1) and section 2, each family unit, or individual who is not a member of the family unit, to whom a grant under section 2 is paid for the year 1981, 1982 or 1983 shall be paid a grant in the amount of, Home heating grant

(a) \$60 for the year 1981;

(b) \$40 for the year 1982; and

(c) \$20 for the year 1983,

to defray in part the cost of heating the principal residence of the family unit or individual, and the grant payable under this subsection shall be apportioned among the members of a family unit on the same basis as the grant under section 2 to that family unit was apportioned for the year in respect of which the grant under this subsection is paid, and the grant payable for the year under this subsection shall be paid at the time of the payment of the first interim instalment under subsection 2 (3) in the year next following the end of the year in respect of which the grant under this subsection is payable.

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is the *Ontario Pensioners Property Tax Assistance Amendment Act, 1981*. Short title

An Act to amend the
Ontario Pensioners Property
Tax Assistance Act

1st Reading

October 13th, 1981

2nd Reading

November 9th, 1981

3rd Reading

November 16th, 1981

THE HON. G. L. ASHE
Minister of Revenue

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Income Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. This section re-enacts the definition of "province" in paragraph 21 of subsection 1 (1) of the Act to parallel a corresponding amendment to the *Income Tax Act* (Canada). "Province" will now include the Yukon Territory and the Northwest Territories. Paragraph 21 of subsection 1 (1) now reads as follows:

21. "province" does not include the Yukon Territory.

SECTION 2. This section of the Bill re-enacts subsection 3 (7) of the Act to provide that the rules for preparation of the special tax table will be prescribed. This amendment parallels a corresponding amendment to the *Income Tax Act* (Canada). Subsection 3 (7) now reads as follows:

(7) An individual who, under the Federal Act, pays tax computed in accordance with subsection 117 (6), thereof may, in lieu of the tax under subsection (1), pay a tax computed in accordance with a prescribed table which shall be prepared in accordance with the following rules:

- 1. The table shall be divided into ranges of amounts not exceeding \$10 each and specifying the tax payable on every amount taxable within each range.*
- 2. The tax payable on amounts taxable within one of the ranges referred to in paragraph 1 shall be the amount in dollars and even tenths parts thereof that is nearest to the aggregate of the taxes otherwise payable under subsection (1) on the average of the highest and lowest amounts in the range.*

SECTION 3. The amendment enacts the home heating tax credit announced by the Treasurer of Ontario on June 23rd, 1981. The temporary credit applies only in the 1981, 1982 and 1983 taxation years and is equal to the amount by which \$60 in the 1981 taxation year, \$40 in the 1982 taxation year and \$20 in the 1983 taxation year exceeds 1 per cent of the taxable income for the relevant taxation year of the principal taxpayer entitled to claim the credit.

BILL 138

1981

An Act to amend the Income Tax Act

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

1. Paragraph 21 of subsection 1 (1) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (1), par. 21, re-enacted

21. "province" means a province of Canada and includes the Yukon Territory and the Northwest Territories.

2. Subsection 3 (7) of the said Act is repealed and the following substituted therefor: s. 3 (7), re-enacted

(7) An individual who, under the Federal Act, pays tax computed in accordance with subsection 117 (6) thereof, may, in lieu of the tax under subsection (1) of this section, pay a tax determined by reference to a table prepared in accordance with prescribed rules. Special table

3. Section 7 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 3, is further amended by adding thereto the following subsection: s. 7, amended

(5) Every individual who is, in respect of a taxation year for which a deduction under this subsection is claimed, a principal taxpayer within the meaning of this section, and who, during that taxation year, has incurred any occupancy cost other than the amount deemed to be his occupancy cost under subsection (4) may, in addition to any deduction permitted under subsection (2) or (6), deduct from the tax otherwise payable by him under this Act, a home heating tax credit equal to the amount by which, Home heating tax credit

- (a) \$60 for the 1981 taxation year;
- (b) \$40 for the 1982 taxation year; or
- (c) \$20 for the 1983 taxation year,

exceeds 1 per cent of such individual's taxable income for that taxation year for which a deduction is authorized under this subsection, and for the purpose of subsection (7), the deduction permitted by this subsection shall be considered to be a deduction to which the individual is entitled under subsection (2).

s. 10 (7),
re-enacted

4. Subsection 10 (7) of the said Act is repealed and the following substituted therefor:

Idem

(7) Where a taxpayer has filed the return required by section 8 for a taxation year and, within one year from the day on or before which he was required by section 8 to file the return for that year, has amended the return by filing with the Provincial Minister a prescribed form claiming a deduction from income under section 111 of the Federal Act in respect of non-capital losses, net capital losses or restricted farm losses sustained in the taxation year immediately following that year, the Provincial Minister shall reassess the taxpayer's tax for the year.

s. 11 (1),
amended

- 5.—(1) Subsection 11 (1) of the said Act is amended,

(a) by striking out "or" at the end of clause (l);

(b) by adding "or" at the end of clause (m); and

(c) by striking out all that part of the subsection immediately following clause (m) and inserting in lieu thereof,

(n) a termination payment,

at any time in a taxation year shall deduct or withhold therefrom such amount as may be determined in accordance with prescribed rules and shall, at such time as may be prescribed, remit that amount to the Treasurer on account of the payee's tax for the year under this Act.

s. 11,
amended

- (2) Section 11 of the said Act is amended by adding thereto the following subsections:

Undue
hardship

(1a) Where the Provincial Minister is satisfied that the deducting or withholding of the amount otherwise required to be deducted or withheld under subsection (1) from a payment would cause undue hardship, he may determine a lesser amount and that amount shall be deemed to be the amount determined under that subsection as the amount to be deducted or withheld from that payment.

Election to
increase
withholding

(1b) Where a taxpayer so elects in prescribed manner and prescribed form, the amount required to be deducted or withheld

SECTION 4. This section re-enacts subsection 10 (7) of the Act to provide for a prescribed form for amending a return to claim a deduction in a taxation year with respect to losses incurred in the immediately following taxation year. This amendment parallels a corresponding amendment to the *Income Tax Act* (Canada). Subsection 10 (7) now reads as follows:

(7) Where a taxpayer has filed the return required by section 8 for a taxation year and, within one year from the day on or before which he was required by section 8 to file the return for that year, has filed an amended return for the year claiming a deduction from income under section 111 of the Federal Act in respect of non-capital losses, net capital losses or restricted farm losses sustained in the taxation year immediately following that year, the Provincial Minister shall reassess the taxpayer's tax for the year.

SECTION 5. Subsection (1) of this section amends subsection 11 (1) of the Act relating to deductions at source, by adding "termination payment" (new clause (n)) to the types of payment from which tax deductions at source are to be made by the payor, and provides that the amount to be deducted shall be determined in accordance with prescribed rules. The deduction tables will no longer be prescribed, rather the rules for determining the amount of the deduction will be prescribed. This amendment parallels a corresponding amendment to the *Income Tax Act* (Canada). The portion of subsection 11 (1) of the Act following clause (m) now reads as follows:

at any time in a taxation year shall deduct or withhold therefrom such amount as is prescribed and shall, at such time as is prescribed, remit that amount to the Treasurer on account of the payee's tax for the year under this Act.

Subsection (2) of this section amends section 11 of the Act by enacting new subsections (1a), (1b), (1c) and (1d). Subsection (1a) allows the Minister to determine a lesser amount of deduction in cases of undue hardship; subsection (1b) allows a taxpayer to elect to increase the amount to be withheld; subsection (1c) provides rules applicable where the payment is to be made by a trustee; and, finally, subsection (1d) defines "trustee" (includes trustees in bankruptcy, receivers, etc.). These amendments parallel corresponding amendments to the *Income Tax Act* (Canada).

SECTION 6. This section re-enacts subsection 13 (2) of the Act to correct a typographical error in the reference to the Federal Act. Subsection 13 (2) now reads as follows:

- (2) *Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph 156 (a) of the Federal Act.*

SECTION 7. This section re-enacts subsection 17 (1) of the Act to amend the penalty for failure to file the required return. The upper limit on the penalty has been removed and an additional 1 per cent per month for up to twelve months is added. This amendment parallels a corresponding amendment to the *Income Tax Act* (Canada). Subsection 17 (1) now reads as follows:

- (1) *Every person who has failed to make a return as and when required by subsection 8 (1) is liable to a penalty of,*
- (a) *an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed, if the tax payable under this Act that was unpaid at that time was less \$2,000; and*
- (b) *\$100, if at the time the return was required to be filed tax payable under this Act equal to \$2,000 or more was unpaid.*

under subsection (1) from any payment to him shall be deemed to be the aggregate of,

- (a) the amount, if any, otherwise required to be deducted or withheld under that subsection from that payment; and
- (b) the amount specified by the taxpayer in that election with respect to that payment or with respect to a class of payments that includes that payment.

(1c) For the purposes of subsection (1), where a trustee who is administering, managing, distributing, winding up, controlling or otherwise dealing with the property, business, estate or income of another person authorizes or otherwise causes a payment referred to in subsection (1) to be made on behalf of that other person, the trustee shall be deemed to be a person making the payment and the trustee and that other person shall be jointly and severally liable in respect of the amount required under subsection (1) to be deducted or withheld and to be remitted on account of the payment.

Payments by trustee, etc.

(1d) In subsection (1c), "trustee" includes a liquidator, receiver, receiver-manager, trustee in bankruptcy, assignee, executor, administrator, sequestrator or any other person performing a function similar to that performed by any such person.

Interpretation

6. Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

s. 13 (2), re-enacted

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph 156 (1) (a) of the Federal Act.

Idem, where collection agreement

7. Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

s. 17 (1), re-enacted

(1) Every person who has failed to file a return as and when required by subsection 8 (1) is liable to a penalty equal to the aggregate of,

Failure to make return

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed; and
- (b) the product obtained when 1 per cent of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twelve, in the period between the date on

which the return was required to be filed and the date on which the return was filed.

s. 33 (1),
re-enacted;
s. 33 (1a),
enacted

8.—(1) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Requisition
of moneys
owed to
taxpayer

(1) Where the Provincial Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to another person who is liable to make a payment under this Act (in this section referred to as the "tax debtor"), he may, by registered letter or by a letter served personally, require that person to pay the moneys otherwise payable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor's liability under this Act.

Idem

(1a) Without limiting the generality of subsection (1), where the Provincial Minister has knowledge or suspects that a bank, credit union, trust company or other similar person (in this section referred to as the "institution") is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security to the institution in respect of the indebtedness, he may, by registered letter or by a letter served personally, require the institution to pay to the Treasurer on account of the tax debtor's liability under this Act the moneys that would otherwise be so advanced or paid.

s. 33 (3, 4),
re-enacted;
s. 33 (4a),
enacted

(2) Subsections 33 (3) and (4) of the said Act are repealed and the following substituted therefor:

Continuing
effect of
requisition

(3) Where the Provincial Minister has, under this section, required a person to pay to the Treasurer on account of the liability under this Act of a tax debtor moneys otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement is applicable to all such payments to be made by the person to the tax debtor until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of such amount as may be stipulated by the Provincial Minister in the registered letter or letter served personally.

Penalty for
failure to
comply

(4) Every person who fails to comply with a requirement under subsection (1) or (3) is liable to pay to Her Majesty in right of Ontario an amount equal to the amount that he was required under subsection (1) or (3), as the case may be, to pay to the Treasurer.

Idem

(4a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

SECTION 8. This section amends section 33 of the Act relating to the garnishment procedure for the collection of tax. Subsection 33 (1) is re-enacted for the purpose of clarification; subsection 33 (1a) is added to provide for garnishment of amounts payable by a bank or other financial institution which has received security from the tax debtor. Subsection 33 (3), providing for the continuing effect of the garnishment, is amended to extend its application to amounts payable as rent, interest and any other periodic payment, as well as wages and salaries (presently subsection 33 (3) applies only to wages and salaries); subsection 33 (4) providing a penalty for failure to comply, is amended to provide that a person who fails to comply with the demand under subsection 33 (1) or (3) is liable to the Minister for the amount of the demand and not merely the lesser of the amount demanded and the amount actually paid; and, finally, subsection 33 (4a) is added to provide a penalty to financial institutions for failure to comply with subsection 33 (1a). These amendments parallel corresponding amendments to the *Income Tax Act* (Canada). Subsections 33 (1), (3) and (4) now read as follows:

- (1) *Where the Provincial Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that person in whole or in part to the Treasurer on account of the liability under this Act.*
- (3) *Where the Provincial Minister has, under this section, required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as is stipulated by the Provincial Minister in the registered letter.*
- (4) *Every person who has discharged any liability to a person liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount which he was required under this section to pay to the Treasurer, whichever is the lesser.*

SECTION 9. This section re-enacts subsections 36 (2) and (3) to expand the existing provision in subsection 36 (2), which presently applies only to payments by employers to employees, to apply to other recipients of payments that are subject to deductions at source so they may file a return to claim exemptions for dependent persons in order to reduce the tax withholding; and the penalty provision in subsection 36 (3) for failure to file the return as required is similarly expanded in its application. These amendments parallel corresponding amendments to the *Income Tax Act* (Canada). Subsections 36 (2) and (3) now read as follows:

- (2) *Every person whose employer is required to deduct or withhold any amount from his remuneration under section 11 shall, from time to time as prescribed, file a return with his employer in prescribed form.*
- (3) *Every person failing to file a form as required by subsection (2) is liable to have the deduction or withholding from his salary or wages under section 11 made as though he were an unmarried person without dependants.*

SECTION 10. This section re-enacts section 40 of the Act relating to the filing of information on demand, in order to allow the Minister to serve the demand personally on the taxpayer, which will give rise to a lower minimum penalty on failure to file. Previously, on failure to comply with the section 40 demand, a demand was served personally under subsection 231 (3) of the *Income Tax Act* (Canada) resulting in a higher minimum penalty. This amendment parallels a corresponding amendment to the *Income Tax Act* (Canada). Section 40 now reads as follows:

40. *Whether or not he has filed an information return as required by a regulation made under paragraph 221 (1) (d) of the Federal Act as it applies by virtue of subsection 29 (2) of this Act, every person shall, on demand by registered letter from the Provincial Minister, file within such reasonable time as is stipulated in the registered letter with the Provincial Minister such prescribed information return as is designated in the letter.*

- (a) the aggregate of the moneys advanced or paid; and
- (b) the amount that it was required under subsection (1a) to pay to the Treasurer.

9. Subsections 36 (2) and (3) of the said Act are repealed and the following substituted therefor: s. 36 (2, 3), re-enacted

(2) Where a person (in this subsection referred to as the "payor") is required by regulations made under subsection 11 (1) to deduct or withhold from a payment to another person an amount on account of that other person's tax for the year, that other person shall, from time to time as prescribed, file a return with the payor in prescribed form. Returns by payees

(3) Every person who fails to file a return as required by subsection (2) is liable to have the deduction or withholding under section 11 on account of his tax made as though he were an unmarried person without dependants. Failure to file returns

10. Section 40 of the said Act is repealed and the following substituted therefor: s. 40, re-enacted

40. Whether or not he has filed an information return as required by a regulation made under paragraph 221 (1) (d) of the Federal Act as it applies by virtue of subsection 29 (2) of this Act, every person shall, on demand from the Provincial Minister, served personally or by registered mail, file with the Provincial Minister, within such reasonable time as may be stipulated in the demand, such prescribed information return as is designated therein. Filing of information on demand

11.—(1) Section 1 shall be deemed to have come into force on the 1st day of January, 1980. Commencement and application

(2) Section 2, subsection 5 (1), and subsection 11 (1a) of the said Act as enacted by subsection 5 (2), shall be deemed to have come into force on the 1st day of January, 1979 and apply to the 1979 and subsequent taxation years. Idem

(3) Sections 3 and 6 come into force on the day this Act receives Royal Assent. Idem

(4) Section 4 shall be deemed to have come into force on the 12th day of December, 1979. Idem

(5) Subsection 11 (1b) of the said Act, as enacted by subsection 5 (2), and section 10 shall be deemed to have come into force on the 6th day of December, 1979. Idem

- Idem (6) Subsections 11 (1c) and (1d) of the said Act, as enacted by subsection 5 (2), shall be deemed to have come into force on the 26th day of February, 1981.
- Idem (7) Section 7 comes into force on the 1st day of January, 1982 and applies in respect of returns required to be filed, but not filed, before 1982, and in respect of returns required to be filed after 1981.
- Idem (8) Section 8 shall be deemed to have come into force on the 26th day of February, 1981.
- Idem (9) Section 9 shall be deemed to have come into force on the 1st day of January, 1980 and applies to payments made after 1979.
- Short title **12.** The short title of this Act is the *Income Tax Amendment Act, 1981*.

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An Act to amend the Income Tax Act

1st Reading

October 13th, 1981

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 138

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Income Tax Act

THE HON. G. L. ASHE
Minister of Revenue

BILL 138

1981

An Act to amend the Income Tax Act

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

1. Paragraph 21 of subsection 1 (1) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 1 (1),
par. 21,
re-enacted

21. "province" means a province of Canada and includes the Yukon Territory and the Northwest Territories.

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

s. 3 (7),
re-enacted

(7) An individual who, under the Federal Act, pays tax computed in accordance with subsection 117 (6) thereof, may, in lieu of the tax under subsection (1) of this section, pay a tax determined by reference to a table prepared in accordance with prescribed rules.

Special
table

3. Section 7 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 3, is further amended by adding thereto the following subsection:

s. 7,
amended

(5) Every individual who is, in respect of a taxation year for which a deduction under this subsection is claimed, a principal taxpayer within the meaning of this section, and who, during that taxation year, has incurred any occupancy cost other than the amount deemed to be his occupancy cost under subsection (4) may, in addition to any deduction permitted under subsection (2) or (6), deduct from the tax otherwise payable by him under this Act, a home heating tax credit equal to the amount by which,

Home
heating
tax credit

- (a) \$60 for the 1981 taxation year;
- (b) \$40 for the 1982 taxation year; or
- (c) \$20 for the 1983 taxation year,

exceeds 1 per cent of such individual's taxable income for that taxation year for which a deduction is authorized under this subsection, and for the purpose of subsection (7), the deduction permitted by this subsection shall be considered to be a deduction to which the individual is entitled under subsection (2).

s. 10 (7),
re-enacted

4. Subsection 10 (7) of the said Act is repealed and the following substituted therefor:

Idem

(7) Where a taxpayer has filed the return required by section 8 for a taxation year and, within one year from the day on or before which he was required by section 8 to file the return for that year, has amended the return by filing with the Provincial Minister a prescribed form claiming a deduction from income under section 111 of the Federal Act in respect of non-capital losses, net capital losses or restricted farm losses sustained in the taxation year immediately following that year, the Provincial Minister shall reassess the taxpayer's tax for the year.

s. 11 (1),
amended

- 5.—(1) Subsection 11 (1) of the said Act is amended,

(a) by striking out "or" at the end of clause (l);

(b) by adding "or" at the end of clause (m); and

(c) by striking out all that part of the subsection immediately following clause (m) and inserting in lieu thereof,

(n) a termination payment,

at any time in a taxation year shall deduct or withhold therefrom such amount as may be determined in accordance with prescribed rules and shall, at such time as may be prescribed, remit that amount to the Treasurer on account of the payee's tax for the year under this Act.

s. 11,
amended

- (2) Section 11 of the said Act is amended by adding thereto the following subsections:

Undue
hardship

(1a) Where the Provincial Minister is satisfied that the deducting or withholding of the amount otherwise required to be deducted or withheld under subsection (1) from a payment would cause undue hardship, he may determine a lesser amount and that amount shall be deemed to be the amount determined under that subsection as the amount to be deducted or withheld from that payment.

Election to
increase
withholding

(1b) Where a taxpayer so elects in prescribed manner and prescribed form, the amount required to be deducted or withheld

under subsection (1) from any payment to him shall be deemed to be the aggregate of,

- (a) the amount, if any, otherwise required to be deducted or withheld under that subsection from that payment; and
- (b) the amount specified by the taxpayer in that election with respect to that payment or with respect to a class of payments that includes that payment.

(1c) For the purposes of subsection (1), where a trustee who is administering, managing, distributing, winding up, controlling or otherwise dealing with the property, business, estate or income of another person authorizes or otherwise causes a payment referred to in subsection (1) to be made on behalf of that other person, the trustee shall be deemed to be a person making the payment and the trustee and that other person shall be jointly and severally liable in respect of the amount required under subsection (1) to be deducted or withheld and to be remitted on account of the payment.

Payments by trustee, etc.

(1d) In subsection (1c), "trustee" includes a liquidator, receiver, receiver-manager, trustee in bankruptcy, assignee, executor, administrator, sequestrator or any other person performing a function similar to that performed by any such person.

Interpretation

6. Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

s. 13 (2), re-enacted

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph 156 (1) (a) of the Federal Act.

Idem, where collection agreement

7. Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

s. 17 (1), re-enacted

(1) Every person who has failed to file a return as and when required by subsection 8 (1) is liable to a penalty equal to the aggregate of,

Failure to make return

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed; and
- (b) the product obtained when 1 per cent of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twelve, in the period between the date on

which the return was required to be filed and the date on which the return was filed.

8.—(1) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

s. 33 (1),
re-enacted;
s. 33 (1a),
enacted

Requisition
of moneys
owed to
taxpayer

(1) Where the Provincial Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to another person who is liable to make a payment under this Act (in this section referred to as the "tax debtor"), he may, by registered letter or by a letter served personally, require that person to pay the moneys otherwise payable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor's liability under this Act.

Idem

(1a) Without limiting the generality of subsection (1), where the Provincial Minister has knowledge or suspects that a bank, credit union, trust company or other similar person (in this section referred to as the "institution") is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security to the institution in respect of the indebtedness, he may, by registered letter or by a letter served personally, require the institution to pay to the Treasurer on account of the tax debtor's liability under this Act the moneys that would otherwise be so advanced or paid.

s. 33 (3, 4),
re-enacted;
s. 33 (4a),
enacted

Continuing
effect of
requisition

(2) Subsections 33 (3) and (4) of the said Act are repealed and the following substituted therefor:

(3) Where the Provincial Minister has, under this section, required a person to pay to the Treasurer on account of the liability under this Act of a tax debtor moneys otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement is applicable to all such payments to be made by the person to the tax debtor until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of such amount as may be stipulated by the Provincial Minister in the registered letter or letter served personally.

Penalty for
failure to
comply

(4) Every person who fails to comply with a requirement under subsection (1) or (3) is liable to pay to Her Majesty in right of Ontario an amount equal to the amount that he was required under subsection (1) or (3), as the case may be, to pay to the Treasurer.

Idem

(4a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

(a) the aggregate of the moneys advanced or paid; and

(b) the amount that it was required under subsection (1a) to pay to the Treasurer.

9. Subsections 36 (2) and (3) of the said Act are repealed and the following substituted therefor: s. 36 (2, 3), re-enacted

(2) Where a person (in this subsection referred to as the "payor") is required by regulations made under subsection 11 (1) to deduct or withhold from a payment to another person an amount on account of that other person's tax for the year, that other person shall, from time to time as prescribed, file a return with the payor in prescribed form. Returns by payees

(3) Every person who fails to file a return as required by subsection (2) is liable to have the deduction or withholding under section 11 on account of his tax made as though he were an unmarried person without dependants. Failure to file returns

10. Section 40 of the said Act is repealed and the following substituted therefor: s. 40, re-enacted

40. Whether or not he has filed an information return as required by a regulation made under paragraph 221 (1) (d) of the Federal Act as it applies by virtue of subsection 29 (2) of this Act, every person shall, on demand from the Provincial Minister, served personally or by registered mail, file with the Provincial Minister, within such reasonable time as may be stipulated in the demand, such prescribed information return as is designated therein. Filing of information on demand

11.—(1) Section 1 shall be deemed to have come into force on the 1st day of January, 1980. Commencement and application

(2) Section 2, subsection 5 (1), and subsection 11 (1a) of the said Act as enacted by subsection 5 (2), shall be deemed to have come into force on the 1st day of January, 1979 and apply to the 1979 and subsequent taxation years. Idem

(3) Sections 3 and 6 come into force on the day this Act receives Royal Assent. Idem

(4) Section 4 shall be deemed to have come into force on the 12th day of December, 1979. Idem

(5) Subsection 11 (1b) of the said Act, as enacted by subsection 5 (2), and section 10 shall be deemed to have come into force on the 6th day of December, 1979. Idem

- Idem (6) Subsections 11 (1c) and (1d) of the said Act, as enacted by subsection 5 (2), shall be deemed to have come into force on the 26th day of February, 1981.
- Idem (7) Section 7 comes into force on the 1st day of January, 1982 and applies in respect of returns required to be filed, but not filed, before 1982, and in respect of returns required to be filed after 1981.
- Idem (8) Section 8 shall be deemed to have come into force on the 26th day of February, 1981.
- Idem (9) Section 9 shall be deemed to have come into force on the 1st day of January, 1980 and applies to payments made after 1979.
- Short title **12.** The short title of this Act is the *Income Tax Amendment Act, 1981*.

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An Act to amend the Income Tax Act

1st Reading

October 13th, 1981

2nd Reading

November 12th, 1981

3rd Reading

November 16th, 1981

THE HON. G. L. ASHE
Minister of Revenue

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act to amend the Consumer Protection Act

MR. WRYE

EXPLANATORY NOTE

The purpose of this Bill is to clarify the fact that the lender is responsible for delivering to the borrower at his last known address a clear written statement showing the current status of his account.

BILL 139

1981

An Act to amend the Consumer Protection Act

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

1. Section 24 of the *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by striking out “furnish to the borrower” in the second line and inserting in lieu thereof “deliver to the borrower at his last known address”. s. 24,
amended
- 2.—(1) Clause 25 (2) (a) of the said Act is amended by striking out “furnish the borrower” in the first and second lines and inserting in lieu thereof “deliver to the borrower at his last known address”. s. 25 (2) (a),
amended
- (2) Clause 25 (2) (b) of the said Act is amended by striking out “furnish the borrower” in the second line and inserting in lieu thereof “deliver to the borrower at his last known address”. s. 25 (2) (b),
amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Consumer Protection Amendment Act, 1981*. Short title

An Act to amend the
Consumer Protection Act

1st Reading

October 13th, 1981

2nd Reading

3rd Reading

MR. WRYE

(Private Member's Bill)



