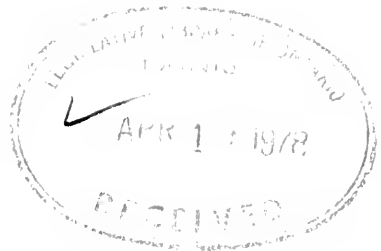




Out
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LEGISLATIVE ASSEMBLY
OF ONTARIO

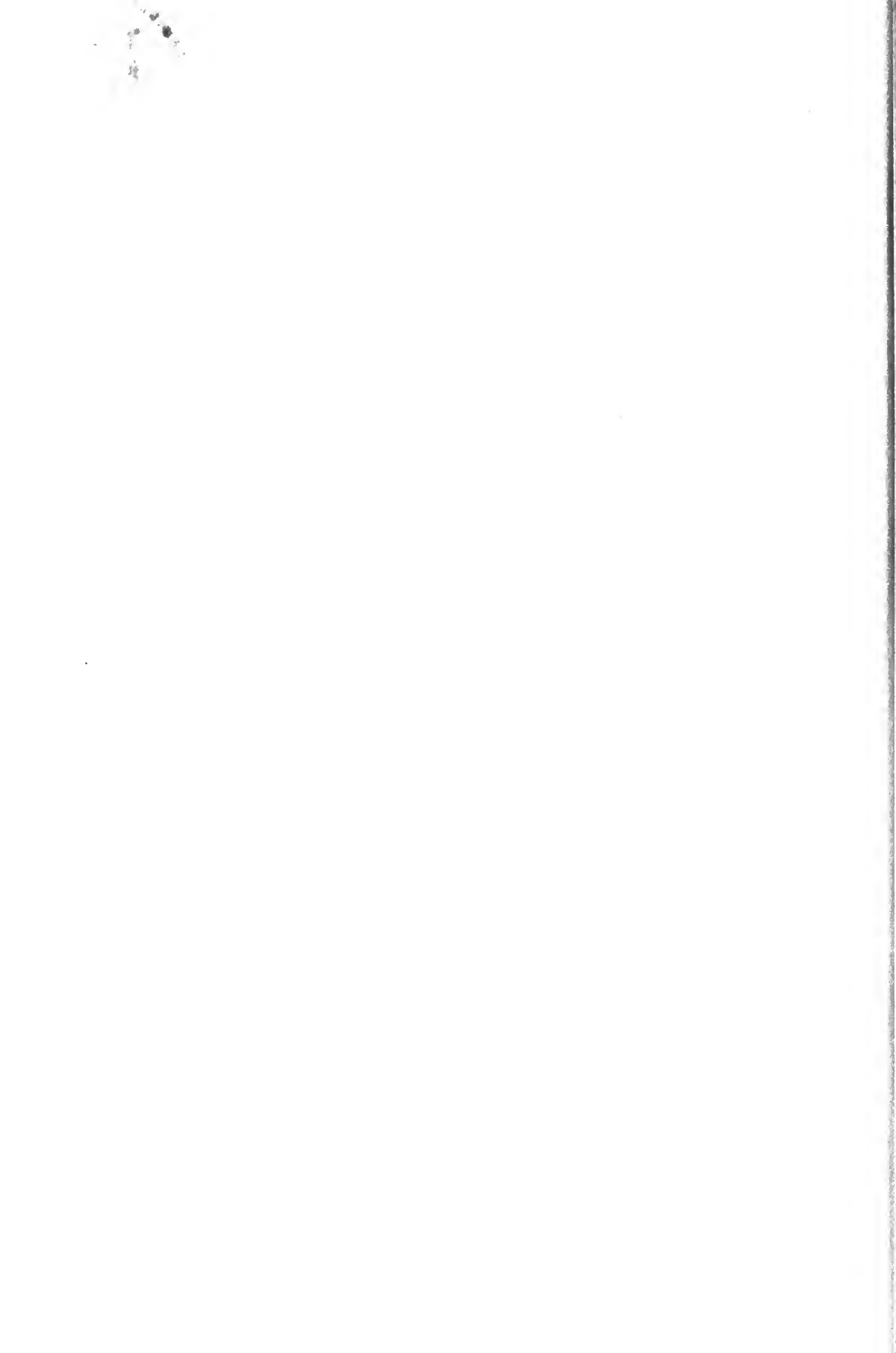
FIRST SESSION
THIRTY-FIRST PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

137245

SESSION
JUNE 27th to JULY 12th, 1977
AND
OCTOBER 17th to DECEMBER 16th, 1977



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THIRTY-FIRST PARLIAMENT

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1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to reform the
Law respecting the Status of Children**

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

PART I. The Bill would remove any distinction in law between legitimate and illegitimate children. A child would be a child of his natural parents regardless of their marital status.

PART II. This Part deals with the establishment of parentage. Maternity is generally ascertainable through the event of birth, registration and nurture. The existence of certain circumstances set out in section 8 would raise a presumption of paternity similar to the present presumption of legitimacy if born in wedlock. Also, similarly, the presumption can be rebutted where an issue arises turning on paternity.

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1977

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

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EQUAL STATUS OF CHILDREN

1.—(1) Subject to subsection 2, for all purposes of the law of Ontario a person is the child of his or her natural parents and his or her status as their child is independent of whether the child is born within or outside marriage. Rule of parentage

(2) Where an adoption order has been made, section 83 or 85 of *The Child Welfare Act* applies and the child is the child of the adopting parents as if they were the natural parents. Exception for adopted children
R.S.O. 1970,
c. 64

(3) The parent and child relationships as determined under subsections 1 and 2 shall be followed in the determination of other kindred relationships flowing therefrom. Kindred relationships

(4) Any distinction at common law between the status of children born in wedlock and born out of wedlock is abolished and the relationship of parent and child and kindred relationships flowing therefrom shall be determined for the purposes of the common law in accordance with this section. Common law distinction of legitimacy abolished

2.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be construed to refer to or include a person who comes within the description by reason of Rule of construction

the relationship of parent and child as determined under section 1.

- Application (2) Subsection 1 applies to,
- (a) 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 Act comes into force; and
 - (b) any instrument made on or after the day this Act comes into force.

PART II

ESTABLISHMENT OF PARENTAGE

Court under ss. 4-7 **3.** The court having jurisdiction for the purposes of sections 4 to 7 shall be the Unified Family Court in the Judicial District of Hamilton-Wentworth and the Supreme Court in the other parts of Ontario.

Application for declaration **4.—(1)** Any person having an interest may apply to a court for a declaration that a male person is recognized in law to be the father of a child or that a female person is the mother of a child.

Declaration of paternity recognized at law (2) Where the court finds that a presumption of paternity exists under section 8 and unless it is established, on the balance of probabilities, that the presumed father is not the father of the child, the court shall make a declaratory order confirming that the paternity is recognized in law.

Declaration of maternity (3) Where the court finds on the balance of probabilities that the relationship of mother and child has been established, the court may make a declaratory order to that effect.

Idem (4) Subject to sections 6 and 7, an order made under this section shall be recognized for all purposes.

Application for declaration of paternity where no presumption **5.—(1)** Where there is no person recognized in law under section 8 to be the father of a child, any person may apply to the court for a declaration that a male person is his or her father, or any male person may apply to the court for a declaration that a person is his child.

Limitation (2) An application shall not be made under subsection 1 unless both the persons whose relationship is sought to be established are living.

SECTION 4. Judicial procedure is provided for confirming paternity that is under a presumption or maternity. This may be taken by a third person having an interest, e.g., the personal representative in an estate, and whether or not the parent and child are living.

SECTION 5. Judicial procedure is provided for establishing paternity where there is no presumption, but only during the life of both father and child.

SECTIONS 6 AND 7. Review on new evidence and appeals are provided for.

SECTION 8. The presumptions of paternity are set out.

(3) Where the court finds on the balance of probabilities that the relationship of father and child has been established, the court may make a declaratory order to that effect and, subject to sections 6 and 7, the order shall be recognized for all purposes. Declaratory order

6. Where a declaration has been made under section 4 or 5 and evidence becomes available that was not available at the previous hearing, the court may, upon application, discharge or vary the order and make such other orders or directions as are ancillary thereto. Reopening on new evidence

7. An appeal lies from an order under section 4 or 5 or a decision under section 6 in accordance with the rules of the court. Appeal

8.—(1) Unless the contrary is proven on a balance of probabilities, there is a presumption that a male person is, and he shall be recognized in law to be, the father of a child in any one of the following circumstances: Recognition in law of parentage

1. The person is married to the mother of the child at the time of the birth of the child.
2. The person was married to the mother of the child by a marriage that was terminated by death or judgment of nullity within 300 days before the birth of the child or by divorce where the decree *nisi* was granted within 300 days before the birth of the child.
3. The person marries the mother of the child after the birth of the child and acknowledges that he is the natural father.
4. The person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child or the child is born within 300 days after they ceased to cohabit.
5. The person and the mother of the child have filed a statutory declaration under subsection 8 of section 6 of *The Vital Statistics Act* or a request under subsection 5 of section 6 of that Act, or either under a similar provision under the corresponding Act in another jurisdiction in Canada. R.S.O. 1970.
c. 483
6. The person has been found or recognized in his lifetime by a court of competent jurisdiction in Canada to be the father of the child.

Where marriage void

(2) For the purpose of subsection 1, where a man and woman go through a form of marriage with each other, in good faith, that is void and cohabit, they shall be deemed to be married during the time they cohabit and the marriage shall be deemed to be terminated when they cease to cohabit.

Conflicting presumptions

(3) Where circumstances exist that give rise to a presumption or presumptions of paternity by more than one father under subsection 1, no presumption shall be made as to paternity and no person is recognized in law to be the father.

Admissibility in evidence of acknowledgment against interest

9. A written acknowledgment of parentage that is admitted in evidence in any civil proceeding against the interest of the person making the acknowledgment is *prima facie* proof of the fact.

Approved blood tests

10.—(1) Upon the application of a party in a civil proceeding in which the court is called upon to determine the parentage of a child, the court may give the party leave to obtain blood tests of such persons as are named in the order granting leave and to submit the results in evidence.

Conditions attached

(2) Leave under subsection 1 may be given subject to such terms and conditions as the court thinks proper.

Inference from refusal

(3) Where leave is given under subsection 1 and a person named therein refuses to submit to the blood test, the court may draw such inferences as it thinks appropriate.

Consent where incapacity

(4) Where a person named in an order granting leave under subsection 1 is not capable of consenting to having a blood test taken, the consent shall be deemed to be sufficient,

(a) where the person is a minor of the age of sixteen years or more, if the minor consents;

(b) where the person is a minor under the age of sixteen years, if the person having the charge of the minor consents; and

(c) where the person is without capacity for any reason other than minority, if the person having his charge consents and a legally qualified medical practitioner certifies that the giving of a blood sample would not be prejudicial to his proper care and treatment.

Regulations for blood tests

11. The Lieutenant Governor in Council may make regulations governing blood tests for which leave is given

SECTION 9. Acknowledgments against interest are given recognition as evidence of parentage.

SECTIONS 10 AND 11. The use of blood tests as evidence of paternity is encouraged by regulating standards for testing, by facilitating medical consents in cases of persons without capacity and by permitting the court to attach evidentiary significance to a refusal.

SECTIONS 12, 13, 14, 15 and 16. Provision is made for acknowledgment of paternity by statutory declaration to be filed and available in the office of the Registrar General, with no special evidentiary value except when used in a court case against interest. Other documents clarifying paternity would also be collected and available.

by a court under section 10 including, without limiting the generality of the foregoing,

- (a) the method of taking blood samples and the handling, transportation and storage thereof;
- (b) the conditions under which a blood sample may be tested;
- (c) designating persons or facilities or classes thereof who are authorized to conduct blood tests for the purposes of section 10;
- (d) prescribing procedures respecting the admission of reports of blood tests in evidence;
- (e) prescribing forms for the purpose of section 10 and this section and providing for their use.

12.—(1) Any person may file in the office of the Registrar General a statutory declaration, in the form prescribed by the regulations, affirming that he is the father of a child. Statutory declaration of paternity

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person having an interest may inspect any relevant statutory declaration filed under subsection 1 and obtain a certified copy thereof from the Registrar General. Inspection and copies under R.S.O. 1970, c. 483

13. Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person who has an interest, furnishes substantially accurate particulars and satisfies the Registrar General as to his reason for requiring it may inspect any statutory declaration filed under subsection 8 of section 6 of *The Vital Statistics Act* or any request filed under subsection 5 of section 6 of that Act and obtain a certified copy thereof from the Registrar General. Inspection of filings under R.S.O. 1970, c. 483, s. 6 (5, 8)

14.—(1) The registrar or clerk of every court in Ontario shall furnish the Registrar General with a statement in the form prescribed by the regulations respecting each order or judgment of the court that makes a finding of parentage or that is based upon a recognition of parentage. Filing of court decisions respecting parentage

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person may inspect an order or judgment filed under subsection 1 and obtain a certified copy thereof from the Registrar General. Inspection by public

Certified
copies as
evidence

15. A certificate certifying a copy of a document to be a true copy, obtained under section 12, 13 or 14, purporting to be signed by the Registrar General or Deputy Registrar General or on which the signature of either is lithographed, printed or stamped is, without proof of the office or signature of the Registrar General or Deputy Registrar General, receivable in evidence as *prima facie* proof of the filing and contents of the document for all purposes in any action or proceeding.

Duties of
Registrar
General

16. Nothing in this Act shall be construed to require the Registrar General to amend a registration showing parentage other than in recognition of an order made under section 4, 5 or 6.

Regulations
for forms

17. The Lieutenant Governor in Council may make regulations prescribing forms for the purposes of this Part.

PART III

COMPLEMENTARY AMENDMENTS

R.S.O. 1970,
c. 222, s. 16 (1),
amended

18.—(1) Subsection 1 of section 16 of *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by inserting after “father” in the third line “if known”.

s. 16 (2),
amended

(2) Subsection 2 of the said section 16 is amended by inserting after “no” in the first line “known”.

R.S.O. 1970,
c. 242,
repealed

19. *The Legitimacy Act*, being chapter 242 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,
c. 343, s. 7 (4),
amended

20. Subsection 4 of section 7 of *The Perpetuities Act*, being chapter 343 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimation” in the second line.

R.S.O. 1970,
c. 396, s. 30,
amended

21. Section 30 of *The Quieting Titles Act*, being chapter 396 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimate” in the second line.

R.S.O. 1970,
c. 449,
s. 1 (d) (1),
amended

22.—(1) Subclause i of clause *d* of section 1 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimate”.

s. 1 (d) (iv),
amended

(2) Subclause iv of clause *d* of the said section 1 is amended by striking out “legitimate” in the first line.

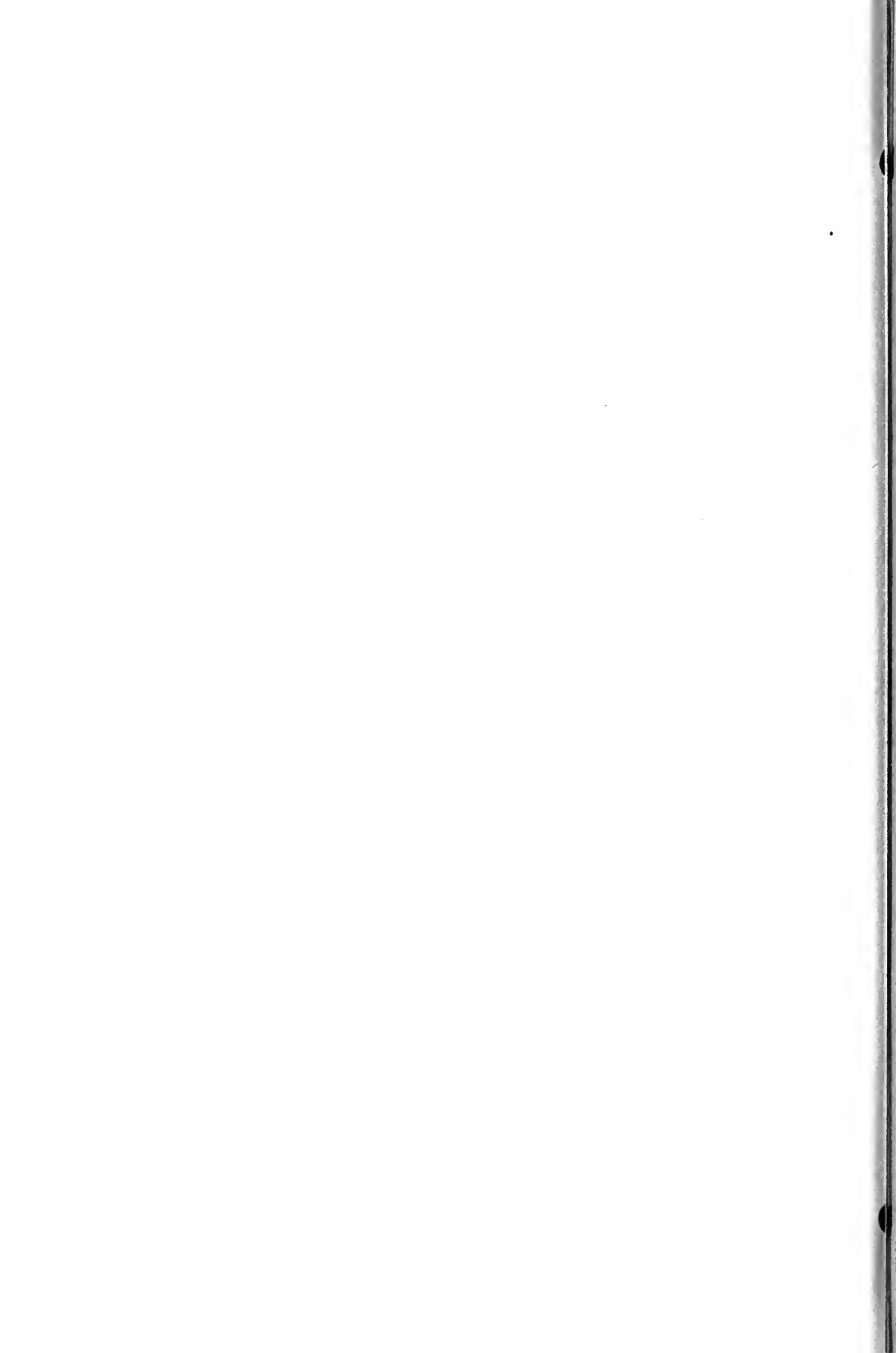
s. 7 (11) (c) (1),
amended

(3) Subclause i of clause *c* of subsection 11 of section 7 of the said Act, as re-enacted by the Statutes of Ontario,

SECTION 17. Prescribing forms by regulation is provided for.

SECTION 18. The provisions amended are concerned with the consent of a father on appointment of a guardian. The amendments recognize that the father, as determined under this Act, may not be known.

SECTIONS 19 TO 24. The amendments eliminate references to legitimate and illegitimate children.



1973, chapter 109, section 2, is amended by striking out "legitimate".

23.—(1) Subsection 2 of section 6 of *The Vital Statistics Act*, being chapter 483 of the Revised Statutes of Ontario, 1970, is amended by striking out "an illegitimate child" in the first and second lines and inserting in lieu thereof "a child born outside marriage". R.S.O. 1970, c. 483, s. 6 (2), amended

(2) Section 12 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, is further amended by striking out "a child has been legitimated by the subsequent intermarriage of his parents" in the first and second lines and inserting in lieu thereof "after the birth of a child his parents intermarry", and by striking out "as to the legitimation" in the thirteenth line. s. 12, amended

(3) Subsection 2 of section 41 of the said Act is repealed. s. 41 (2), repealed

24. Clause *r* of subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by striking out "and, where the employee is the parent or grandparent of an illegitimate child, includes such child and, where the employee is an illegitimate child, includes his parents and grandparents" in the eighth, ninth, tenth and eleventh lines and in the amendment of 1973. R.S.O. 1970, c. 505, s. 1 (1) (r), amended

25. This Act comes into force on the 31st day of March, 1978. Commencement

26. The short title of this Act is *The Children's Law Reform Act, 1977*. Short title

An Act to reform the
Law respecting the Status of Children

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to reform the
Law respecting the Status of Children**

THE HON. R. MCMURTRY
Attorney General

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

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c. 64

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SECTIONS 6 AND 7. Review on new evidence and appeals are provided for.

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6. Where a declaration has been made under section 4 or 5 and evidence becomes available that was not available at the previous hearing, the court may, upon application, discharge or vary the order and make such other orders or directions as are ancillary thereto. Reopening on new evidence

7. An appeal lies from an order under section 4 or 5 or a decision under section 6 in accordance with the rules of the court. Appeal

8.—(1) Unless the contrary is proven on a balance of probabilities, there is a presumption that a male person is, and he shall be recognized in law to be, the father of a child in any one of the following circumstances: Recognition in law of parentage

1. The person is married to the mother of the child at the time of the birth of the child.
2. The person was married to the mother of the child by a marriage that was terminated by death or judgment of nullity within 300 days before the birth of the child or by divorce where the decree *nisi* was granted within 300 days before the birth of the child.
3. The person marries the mother of the child after the birth of the child and acknowledges that he is the natural father.
4. The person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child or the child is born within 300 days after they ceased to cohabit.
5. The person and the mother of the child have filed a statutory declaration under subsection 8 of section 6 of *The Vital Statistics Act* or a request under subsection 5 of section 6 of that Act, or either under a similar provision under the corresponding Act in another jurisdiction in Canada.
6. The person has been found or recognized in his lifetime by a court of competent jurisdiction in Canada to be the father of the child.

Where
marriage
void

(2) For the purpose of subsection 1, where a man and woman go through a form of marriage with each other, in good faith, that is void and cohabit, they shall be deemed to be married during the time they cohabit and the marriage shall be deemed to be terminated when they cease to cohabit.

Conflicting
presump-
tions

(3) Where circumstances exist that give rise to a presumption or presumptions of paternity by more than one father under subsection 1, no presumption shall be made as to paternity and no person is recognized in law to be the father.

Admissi-
bility in
evidence of
acknowledg-
ment against
interest

9. A written acknowledgment of parentage that is admitted in evidence in any civil proceeding against the interest of the person making the acknowledgment is *prima facie* proof of the fact.

Approved
blood tests

10.—(1) Upon the application of a party in a civil proceeding in which the court is called upon to determine the parentage of a child, the court may give the party leave to obtain blood tests of such persons as are named in the order granting leave and to submit the results in evidence.

Conditions
attached

(2) Leave under subsection 1 may be given subject to such terms and conditions as the court thinks proper.

Inference
from refusal

(3) Where leave is given under subsection 1 and a person named therein refuses to submit to the blood test, the court may draw such inferences as it thinks appropriate.

Consent
where
incapacity

(4) Where a person named in an order granting leave under subsection 1 is not capable of consenting to having a blood test taken, the consent shall be deemed to be sufficient,

(a) where the person is a minor of the age of sixteen years or more, if the minor consents;

(b) where the person is a minor under the age of sixteen years, if the person having the charge of the minor consents; and

(c) where the person is without capacity for any reason other than minority, if the person having his charge consents and a legally qualified medical practitioner certifies that the giving of a blood sample would not be prejudicial to his proper care and treatment.

Regulations
for blood
tests

11. The Lieutenant Governor in Council may make regulations governing blood tests for which leave is given

SECTION 9. Acknowledgments against interest are given recognition as evidence of parentage.

SECTIONS 10 AND 11. The use of blood tests as evidence of paternity is encouraged by regulating standards for testing, by facilitating medical consents in cases of persons without capacity and by permitting the court to attach evidentiary significance to a refusal.

SECTIONS 12, 13, 14, 15 and 16. Provision is made for acknowledgment of paternity by statutory declaration to be filed and available in the office of the Registrar General, with no special evidentiary value except when used in a court case against interest. Other documents clarifying paternity would also be collected and available.

by a court under section 10 including, without limiting the generality of the foregoing,

- (a) the method of taking blood samples and the handling, transportation and storage thereof;
- (b) the conditions under which a blood sample may be tested;
- (c) designating persons or facilities or classes thereof who are authorized to conduct blood tests for the purposes of section 10;
- (d) prescribing procedures respecting the admission of reports of blood tests in evidence;
- (e) prescribing forms for the purpose of section 10 and this section and providing for their use.

12.—(1) Any person may file in the office of the Registrar General a statutory declaration, in the form prescribed by the regulations, affirming that he is the father of a child. Statutory declaration of paternity

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person having an interest may inspect any relevant statutory declaration filed under subsection 1 and obtain a certified copy thereof from the Registrar General. Inspection and copies R.S.O. 1970, c. 483

13. Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person who has an interest, furnishes substantially accurate particulars and satisfies the Registrar General as to his reason for requiring it may inspect any statutory declaration filed under subsection 8 of section 6 of *The Vital Statistics Act* or any request filed under subsection 5 of section 6 of that Act and obtain a certified copy thereof from the Registrar General. Inspection of filings under R.S.O. 1970, c. 483, s. 6 (5, 8)

14.—(1) The registrar or clerk of every court in Ontario shall furnish the Registrar General with a statement in the form prescribed by the regulations respecting each order or judgment of the court that confirms or makes a finding of parentage. Filing of court decisions respecting parentage

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person may inspect an order or judgment filed under subsection 1 and obtain a certified copy thereof from the Registrar General. Inspection by public

Certified
copies as
evidence

15. A certificate certifying a copy of a document to be a true copy, obtained under section 12, 13 or 14, purporting to be signed by the Registrar General or Deputy Registrar General or on which the signature of either is lithographed, printed or stamped is, without proof of the office or signature of the Registrar General or Deputy Registrar General, receivable in evidence as *prima facie* proof of the filing and contents of the document for all purposes in any action or proceeding.

Duties of
Registrar
General

16. Nothing in this Act shall be construed to require the Registrar General to amend a registration showing parentage other than in recognition of an order made under section 4, 5 or 6.

Regulations
for forms

17. The Lieutenant Governor in Council may make regulations prescribing forms for the purposes of this Part.

PART III

COMPLEMENTARY AMENDMENTS

R.S.O. 1970,
c. 222, s. 16 (1),
amended

18.—(1) Subsection 1 of section 16 of *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by inserting after “father” in the third line “if known”.

s. 16 (2),
amended

(2) Subsection 2 of the said section 16 is amended by inserting after “no” in the first line “known”.

R.S.O. 1970,
c. 242,
repealed

19. *The Legitimacy Act*, being chapter 242 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,
c. 343, s. 7 (4),
amended

20. Subsection 4 of section 7 of *The Perpetuities Act*, being chapter 343 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimation” in the second line.

R.S.O. 1970,
c. 396, s. 30,
amended

21. Section 30 of *The Quieting Titles Act*, being chapter 396 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimate” in the second line.

R.S.O. 1970,
c. 449,
s. 1 (d) (i),
amended

22.—(1) Subclause i of clause *d* of section 1 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimate”.

s. 1 (d) (iv),
amended

(2) Subclause iv of clause *d* of the said section 1 is amended by striking out “legitimate” in the first line.

s. 7 (11) (c) (i),
amended

(3) Subclause i of clause *c* of subsection 11 of section 7 of the said Act, as re-enacted by the Statutes of Ontario,

SECTION 17. Prescribing forms by regulation is provided for.

SECTION 18. The provisions amended are concerned with the consent of a father on appointment of a guardian. The amendments recognize that the father, as determined under this Act, may not be known.

SECTIONS 19 TO 24. The amendments eliminate references to legitimate and illegitimate children.



1973, chapter 109, section 2, is amended by striking out "legitimate".

23.—(1) Subsection 2 of section 6 of *The Vital Statistics Act*, being chapter 483 of the Revised Statutes of Ontario, 1970, is amended by striking out "an illegitimate child" in the first and second lines and inserting in lieu thereof "a child born outside marriage". R.S.O. 1970, c. 483, s. 6 (2), amended

(2) Section 12 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, is further amended by striking out "a child has been legitimated by the subsequent intermarriage of his parents" in the first and second lines and inserting in lieu thereof "after the birth of a child his parents intermarry", and by striking out "as to the legitimation" in the thirteenth line. s. 12, amended

(3) Subsection 2 of section 41 of the said Act is repealed. s. 41 (2), repealed

24. Clause *r* of subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by striking out "and, where the employee is the parent or grandparent of an illegitimate child, includes such child and, where the employee is an illegitimate child, includes his parents and grandparents" in the eighth, ninth, tenth and eleventh lines and in the amendment of 1973. R.S.O. 1970, c. 505, s. 1 (1) (r), amended

25. This Act comes into force on the 31st day of March, 1978. Commencement

26. The short title of this Act is *The Children's Law Reform Act*, 1977. Short title

An Act to reform the
Law respecting the Status of Children

1st Reading

October 17th, 1977

2nd Reading

October 18th, 1977

3rd Reading

THE HON. R. MCMURTRY
Attorney General

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

BILL 61

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to reform the
Law respecting the Status of Children**

THE HON. R. MCMURTRY
Attorney General

BILL 61

1977

An Act to reform the Law respecting the Status of Children

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

PART I

EQUAL STATUS OF CHILDREN

1.—(1) Subject to subsection 2, for all purposes of the law of Ontario a person is the child of his or her natural parents and his or her status as their child is independent of whether the child is born within or outside marriage. Rule of parentage

(2) Where an adoption order has been made, section 83 or 85 of *The Child Welfare Act* applies and the child is the child of the adopting parents as if they were the natural parents. Exception for adopted children
R.S.O. 1970, c. 64

(3) The parent and child relationships as determined under subsections 1 and 2 shall be followed in the determination of other kindred relationships flowing therefrom. Kindred relationships

(4) Any distinction at common law between the status of children born in wedlock and born out of wedlock is abolished and the relationship of parent and child and kindred relationships flowing therefrom shall be determined for the purposes of the common law in accordance with this section. Common law distinction of legitimacy abolished

2.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be construed to refer to or include a person who comes within the description by reason of Rule of construction

the relationship of parent and child as determined under section 1.

Application

(2) Subsection 1 applies to,

- (a) 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 Act comes into force; and
- (b) any instrument made on or after the day this Act comes into force.

PART II

ESTABLISHMENT OF PARENTAGE

Court under ss. 4-7

3. The court having jurisdiction for the purposes of sections 4 to 7 shall be the Unified Family Court in the Judicial District of Hamilton-Wentworth and the Supreme Court in the other parts of Ontario.

Application for declaration

4.—(1) Any person having an interest may apply to a court for a declaration that a male person is recognized in law to be the father of a child or that a female person is the mother of a child.

Declaration of paternity recognized at law

(2) Where the court finds that a presumption of paternity exists under section 8 and unless it is established, on the balance of probabilities, that the presumed father is not the father of the child, the court shall make a declaratory order confirming that the paternity is recognized in law.

Declaration of maternity

(3) Where the court finds on the balance of probabilities that the relationship of mother and child has been established, the court may make a declaratory order to that effect.

Idem

(4) Subject to sections 6 and 7, an order made under this section shall be recognized for all purposes.

Application for declaration of paternity where no presumption

5.—(1) Where there is no person recognized in law under section 8 to be the father of a child, any person may apply to the court for a declaration that a male person is his or her father, or any male person may apply to the court for a declaration that a person is his child.

Limitation

(2) An application shall not be made under subsection 1 unless both the persons whose relationship is sought to be established are living.

(3) Where the court finds on the balance of probabilities that the relationship of father and child has been established, the court may make a declaratory order to that effect and, subject to sections 6 and 7, the order shall be recognized for all purposes. Declaratory order

6. Where a declaration has been made under section 4 or 5 and evidence becomes available that was not available at the previous hearing, the court may, upon application, discharge or vary the order and make such other orders or directions as are ancillary thereto. Reopening on new evidence

7. An appeal lies from an order under section 4 or 5 or a decision under section 6 in accordance with the rules of the court. Appeal

8.—(1) Unless the contrary is proven on a balance of probabilities, there is a presumption that a male person is, and he shall be recognized in law to be, the father of a child in any one of the following circumstances: Recognition in law of parentage

1. The person is married to the mother of the child at the time of the birth of the child.
2. The person was married to the mother of the child by a marriage that was terminated by death or judgment of nullity within 300 days before the birth of the child or by divorce where the decree *nisi* was granted within 300 days before the birth of the child.
3. The person marries the mother of the child after the birth of the child and acknowledges that he is the natural father.
4. The person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child or the child is born within 300 days after they ceased to cohabit.
5. The person and the mother of the child have filed a statutory declaration under subsection 8 of section 6 of *The Vital Statistics Act* or a request under subsection 5 of section 6 of that Act, or either under a similar provision under the corresponding Act in another jurisdiction in Canada. R.S.O. 1970, c. 483
6. The person has been found or recognized in his lifetime by a court of competent jurisdiction in Canada to be the father of the child.

Where marriage void

(2) For the purpose of subsection 1, where a man and woman go through a form of marriage with each other, in good faith, that is void and cohabit, they shall be deemed to be married during the time they cohabit and the marriage shall be deemed to be terminated when they cease to cohabit.

Conflicting presumptions

(3) Where circumstances exist that give rise to a presumption or presumptions of paternity by more than one father under subsection 1, no presumption shall be made as to paternity and no person is recognized in law to be the father.

Admissibility in evidence of acknowledgment against interest

9. A written acknowledgment of parentage that is admitted in evidence in any civil proceeding against the interest of the person making the acknowledgment is *prima facie* proof of the fact.

Approved blood tests

10.—(1) Upon the application of a party in a civil proceeding in which the court is called upon to determine the parentage of a child, the court may give the party leave to obtain blood tests of such persons as are named in the order granting leave and to submit the results in evidence.

Conditions attached

(2) Leave under subsection 1 may be given subject to such terms and conditions as the court thinks proper.

Inference from refusal

(3) Where leave is given under subsection 1 and a person named therein refuses to submit to the blood test, the court may draw such inferences as it thinks appropriate.

Consent where incapacity

(4) Where a person named in an order granting leave under subsection 1 is not capable of consenting to having a blood test taken, the consent shall be deemed to be sufficient,

(a) where the person is a minor of the age of sixteen years or more, if the minor consents;

(b) where the person is a minor under the age of sixteen years, if the person having the charge of the minor consents; and

(c) where the person is without capacity for any reason other than minority, if the person having his charge consents and a legally qualified medical practitioner certifies that the giving of a blood sample would not be prejudicial to his proper care and treatment.

Regulations for blood tests

11. The Lieutenant Governor in Council may make regulations governing blood tests for which leave is given

by a court under section 10 including, without limiting the generality of the foregoing,

- (a) the method of taking blood samples and the handling, transportation and storage thereof;
- (b) the conditions under which a blood sample may be tested;
- (c) designating persons or facilities or classes thereof who are authorized to conduct blood tests for the purposes of section 10;
- (d) prescribing procedures respecting the admission of reports of blood tests in evidence;
- (e) prescribing forms for the purpose of section 10 and this section and providing for their use.

12.—(1) Any person may file in the office of the Registrar General a statutory declaration, in the form prescribed by the regulations, affirming that he is the father of a child. Statutory declaration of paternity

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person having an interest may inspect any relevant statutory declaration filed under subsection 1 and obtain a certified copy thereof from the Registrar General. Inspection and copies under R.S.O. 1970, c. 483

13. Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person who has an interest, furnishes substantially accurate particulars and satisfies the Registrar General as to his reason for requiring it may inspect any statutory declaration filed under subsection 8 of section 6 of *The Vital Statistics Act* or any request filed under subsection 5 of section 6 of that Act and obtain a certified copy thereof from the Registrar General. Inspection of filings under R.S.O. 1970, c. 483, s. 6 (5, 8)

14.—(1) The registrar or clerk of every court in Ontario shall furnish the Registrar General with a statement in the form prescribed by the regulations respecting each order or judgment of the court that confirms or makes a finding of parentage. Filing of court decisions respecting parentage

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person may inspect an order or judgment filed under subsection 1 and obtain a certified copy thereof from the Registrar General. Inspection by public

Certified
copies as
evidence

15. A certificate certifying a copy of a document to be a true copy, obtained under section 12, 13 or 14, purporting to be signed by the Registrar General or Deputy Registrar General or on which the signature of either is lithographed, printed or stamped is, without proof of the office or signature of the Registrar General or Deputy Registrar General, receivable in evidence as *prima facie* proof of the filing and contents of the document for all purposes in any action or proceeding.

Duties of
Registrar
General

16. Nothing in this Act shall be construed to require the Registrar General to amend a registration showing parentage other than in recognition of an order made under section 4, 5 or 6.

Regulations
for forms

17. The Lieutenant Governor in Council may make regulations prescribing forms for the purposes of this Part.

PART III

COMPLEMENTARY AMENDMENTS

R.S.O. 1970,
c. 222, s. 16 (1),
amended

18.—(1) Subsection 1 of section 16 of *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by inserting after “father” in the third line “if known”.

s. 16 (2),
amended

(2) Subsection 2 of the said section 16 is amended by inserting after “no” in the first line “known”.

R.S.O. 1970,
c. 242,
repealed

19. *The Legitimacy Act*, being chapter 242 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,
c. 343, s. 7 (4),
amended

20. Subsection 4 of section 7 of *The Perpetuities Act*, being chapter 343 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimation” in the second line.

R.S.O. 1970,
c. 396, s. 30,
amended

21. Section 30 of *The Quieting Titles Act*, being chapter 396 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimate” in the second line.

R.S.O. 1970,
c. 449,
s. 1 (d) (1),
amended

22.—(1) Subclause i of clause d of section 1 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, is amended by striking out “legitimate”.

s. 1 (d) (iv),
amended

(2) Subclause iv of clause d of the said section 1 is amended by striking out “legitimate” in the first line.

s. 7 (11) (c) (1),
amended

(3) Subclause i of clause c of subsection 11 of section 7 of the said Act, as re-enacted by the Statutes of Ontario,

1973, chapter 109, section 2, is amended by striking out "legitimate".

23.—(1) Subsection 2 of section 6 of *The Vital Statistics Act*, being chapter 483 of the Revised Statutes of Ontario, 1970, is amended by striking out "an illegitimate child" in the first and second lines and inserting in lieu thereof "a child born outside marriage". R.S.O. 1970, c. 483, s. 6 (2), amended

(2) Subsection 1 of section 12 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, is further amended by striking out "a child has been legitimated by the subsequent intermarriage of his parents" in the first and second lines and inserting in lieu thereof "after the birth of a child his parents intermarry", and by striking out "as to the legitimation" in the thirteenth line. s. 12, amended

(3) Subsection 2 of section 41 of the said Act is repealed. s. 41 (2), repealed

24. Clause *r* of subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by striking out "and, where the employee is the parent or grandparent of an illegitimate child, includes such child and, where the employee is an illegitimate child, includes his parents and grandparents" in the eighth, ninth, tenth and eleventh lines and in the amendment of 1973. R.S.O. 1970, c. 505, s. 1 (1) (r), amended

25. This Act comes into force on the 31st day of March, 1978. Commencement

26. The short title of this Act is *The Children's Law Reform Act, 1977*. Short title





An Act to reform the
Law respecting the Status of Children

1st Reading

October 17th, 1977

2nd Reading

October 18th, 1977

3rd Reading

November 1st, 1977

THE HON. R. MCMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to revise The Marriage Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The Bill revises *The Marriage Act* for the purpose of implementing some of the recommendations of the Ontario Law Reform Commission made in Part II of its Report on Family Law (Marriage) and also to implement certain administrative improvements.

The principal changes are:

1. The Act only applies to the first marriage ceremony and permits additional ceremonies by the same couple. (s. 1 (2)).
2. The requirement of fifteen days residence is deleted.
3. The minimum age for marriage is 18 years or 16 years with consent of the parents. (s. 5).
4. The duty of performing civil marriages now performed by provincial judges and county and district court judges is extended to justices of the peace and other designated persons. (s. 24).
5. The action for breach of promise of marriage is abolished. (s. 32)
6. The question of fault is removed from consideration of the question of entitlement to gifts made in contemplation of or conditional upon marriage. (s. 33)
7. The procedural forms and prescribing of fees are moved from the Act to be provided by regulations.

BILL 62

1977

An Act to revise The Marriage Act

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

1.—(1) In this Act,

Interpre-
tation

- (a) "band" means a band as defined in the *Indian Act* (Canada); R.S.C. 1970,
c. I-6
- (b) "church" includes chapel, meeting-house or place set aside for religious worship;
- (c) "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);
- (d) "issuer" means a person authorized under this Act to issue marriage licences;
- (e) "judge" means a provincial judge or a judge of a county or district court;
- (f) "licence" means a marriage licence issued under this Act;
- (g) "Minister" means the Minister of Consumer and Commercial Relations;
- (h) "prescribed" means prescribed by the regulations;
- (i) "regulations" means the regulations made under this Act;
- (j) "reserve" means a reserve as defined in the *Indian Act* (Canada). R.S.O. 1970, c. 261, s. 1; 1972, c. 1, s. 44 (1-3), *amended*.

Application
of Act to
subsequent
ceremonies

(2) This Act does not apply in respect of any ceremony or form of marriage gone through by two persons who are married to each other by a marriage previously solemnized in accordance with this Act or recognized as valid in Ontario.
New.

Administra-
tion

2. The administration of this Act is under the direction of the Minister.

Delegation
of powers
and duties

3. Where, under this Act, a power or duty is granted to or vested in the Minister, he may in writing, subject to the approval of the Lieutenant Governor in Council, delegate that power or duty to the Deputy Minister of Consumer and Commercial Relations, or to any officer or officers of the Ministry of Consumer and Commercial Relations, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation. 1972, c. 1, s. 44 (3), *amended*.

Authority
to marry

4. No marriage may be solemnized except under the authority of a licence issued in accordance with this Act or the publication of banns. R.S.O. 1970, c. 261, s. 4 (1), *amended*.

Who may
marry

5.—(1) Any person who is of the age of majority may obtain a licence or be married under authority of publication of banns, provided no lawful cause exists to hinder the solemnization. R.S.O. 1970, c. 261, s. 5 (1), *amended*.

Idem

(2) No person shall issue a licence to a minor, or solemnize the marriage of a minor under the authority of the publication of banns, except where the minor is of the age of sixteen years or more and has the consent in writing of both parents in the form prescribed by the regulations.

Giving of
consent

(3) The consent referred to in subsection 2 is not required in respect of a person who is a widow, widower or divorced.

Idem

(4) Where one of the parents of a minor is dead or both parents are living apart, the consent required by subsection 2 may be given by the parent having actual or legal custody of the minor.

Idem

1974, c. 2

(5) Where both parents of a minor are dead or are voluntary or involuntary patients in a psychiatric facility, or are residents of a facility under *The Developmental Services Act, 1974*, the consent required by subsection 2 may be given by a lawfully appointed guardian or an acknowledged guardian who has brought up or who for the three years immediately preceding the intended marriage has supported the minor.

(6) Where a minor is made a ward of someone other than ^{Idem} a parent by order of a court or under any Act, the consent required by subsection 2 may be given by the lawful guardian of the minor or person responsible for exercising the rights and duties of a guardian of the minor. R.S.O. 1970, c. 261, ss. 7, 8, *amended*.

6.—(1) Where a person whose consent is required by section 5 is not available or unreasonably or arbitrarily withholds his consent, the person in respect of whose marriage the consent is required may apply to a judge without the intervention of a next friend for an order dispensing with the consent. ^{Application to dispense with consent}

(2) The judge shall hear the application in a summary ^{Powers of judge} manner and may, in his discretion, make an order dispensing with the consent required by section 5. R.S.O. 1970, c. 261, s. 9, *amended*.

7. No person shall issue a licence to or solemnize the marriage of any person whom he knows or has reasonable grounds to believe is mentally ill or mentally defective or under the influence of intoxicating liquor or drugs. ^{Persons mentally ill or under influence} R.S.O. 1970, c. 261, s. 6, *amended*.

8.—(1) An applicant for a licence who has been previously married is entitled to be issued a licence if such marriage has been dissolved or annulled and such dissolution or annulment is recognized under the law of Ontario and the applicant ^{Where dissolution of former marriage recognized in Ontario} otherwise complies with the requirements of this Act.

(2) Subject to subsection 6, no issuer shall issue a licence ^{Material to be filed with issuer where dissolution in Canada} to a person whose previous marriage has been dissolved or annulled in Canada unless such person deposits with the issuer,

(a) the final decree or judgment dissolving or annulling the marriage or a copy of the final decree or judgment or Act dissolving or annulling the marriage, certified by the proper officer; and

(b) such other material as the issuer may require.

(3) Subject to subsection 6, no issuer shall issue a licence ^{Where dissolution, etc., outside Canada} to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Minister is obtained upon the deposit of such material as he may require.

Review of
refusal to
issue
licence

1971, c. 48

(4) Where an issuer refuses to issue a licence, or the Minister refuses to issue an authorization under subsection 3, the applicant may apply to the Supreme Court for judicial review under *The Judicial Review Procedure Act, 1971* and for an order directing that a licence be issued to him and if the court finds that he is so entitled it may make such an order.

Parties

(5) The applicant, the Minister and such other persons as the court may order are parties to an application under subsection 4.

Issue of
licence
under court
order

(6) Where an applicant for a licence files with an issuer, together with his application, an order of the Supreme Court made on an application under subsection 4 directing that a licence be issued to him, the issuer shall issue the licence. 1971, c. 50, s. 55 (1).

Application
for presump-
tion of death

9.—(1) A married person whose spouse is missing and who alleges,

- (a) that his spouse has been continuously absent for at least seven years immediately preceding the application;
- (b) that his spouse has not been heard from or heard of during such period by the applicant or to the knowledge of the applicant by any other person; and
- (c) that the applicant has made reasonable inquiries and has no reason to believe that his spouse is living,

may apply to the judge of a county or district court for an order under this section.

Order

(2) Upon being satisfied as to the truth of the matters alleged, the judge may, in his discretion, make an order declaring that the spouse shall be presumed dead. R.S.O. 1970, c. 261, s. 11 (1, 2).

Remarriage
authorized

(3) Where an order has been obtained under this section, the person in whose favour the order was made may, subject to the provisions of this Act, obtain a licence or be married under the authority of publication of banns upon depositing a copy of the order with the person issuing the licence or solemnizing the marriage together with an affidavit in the prescribed form.

(4) The order has no effect for any purpose other than the issuance of a licence under subsection 3. R.S.O. 1970, c. 261, s. 11 (3, 4), *amended*. Effect of order

10. Notwithstanding anything in this Act, if the Minister considers that circumstances justify the issue of a licence in any particular case, he may, in his absolute discretion, authorize the issue of the licence. R.S.O. 1970, c. 261, s. 10, *amended*. Discretionary power of Minister

11.—(1) Marriage licences may be issued by the clerk of every city, town and village. Issuers

(2) Where it is considered expedient for the public convenience, the Lieutenant Governor in Council may appoint as an issuer the clerk of any township, or any person resident in a county, or in a township adjacent thereto, or in a provisional judicial district, or a member of a band upon the recommendation of the council of the band. R.S.O. 1970, c. 261, s. 30, *amended*. In townships and unorganized territory

(3) An issuer may, with the approval in writing of the Minister or of the head of the council of the municipality of which he is clerk, appoint in writing one or more deputies to act for him, and any such deputy while so acting has the power of the issuer appointing him. Deputy issuers

(4) The issuer shall, upon appointing a deputy, forthwith transmit to the Minister a notice of the appointment, and of the name and official position of the person by whom the appointment has been approved, and the Minister may at any time cancel the appointment. Notice of appointment of deputy

(5) The deputy shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner: Signature of licences by deputy

AB, Issuer of Marriage Licences, per CD, Deputy Issuer.

R.S.O. 1970, c. 261, s. 31.

12.—(1) An issuer or the Minister may require evidence to identify any applicant or to establish his status and may examine, under oath if required, any applicant or other person as to any matter pertaining to the issue of a licence. R.S.O. 1970, c. 261, s. 33, *amended*. Evidence on applications

(2) Where an issuer has reason to believe that any information set out in an application for a licence is untrue, he shall not issue the licence unless, on the production of such further evidence as he may require, he is satisfied as to the truth of the information. R.S.O. 1970, c. 261, s. 35, *amended*. Untrue information

Record of
licences

13.—(1) Every issuer shall keep in his office a record of the serial number and the date of issue of every licence issued by him, and the names and addresses of the parties to the intended marriage.

Searches

(2) Any person is entitled, upon application, to have a search made respecting any licence issued within three months immediately preceding the date of application. R.S.O. 1970, c. 261, s. 34.

Material to be
forwarded to
Registrar
General

14. Every issuer immediately upon issuing a licence and every person registered as authorized to solemnize marriage upon publishing banns shall forward to the Registrar General,

(a) any consent under section 5;

(b) any judge's order under section 6;

(c) any affidavit or judge's order under section 9;

(d) any documentary or other material filed on the application for a licence under section 8;

(e) any affidavit as to age;

(f) any documentary material obtained under section 12. R.S.O. 1970, c. 261, s. 36, *amended*.

Oaths

15. Issuers may administer oaths for the purposes of this Act. R.S.O. 1970, c. 261, s. 37.

Indians

16. Where both parties to an intended marriage are Indians ordinarily resident on a reserve in Ontario or on Crown lands in Ontario no fee shall be charged for the licence. R.S.O. 1970, c. 261, s. 39, *amended*.

Publication
of banns

17.—(1) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly in an audible voice during divine service,

(a) where the parties are in the habit of attending worship at the same church, being within Canada, at that church; or

(b) where the parties are in the habit of attending worship in different churches, being within Canada, in each such church.

Method and
time of
publication

(2) The banns shall be published according to the usage of the denomination, faith or creed of the church in which they are published and during divine Sunday service.

(3) Where the usage of any denomination, faith or creed ^{Exception} substitutes any other day as the usual and principal day of the week for the celebration of divine service, the banns shall be published on such other day.

(4) The person or persons who publish banns shall certify ^{Proof} proof thereof in the prescribed form. R.S.O. 1970, c. 261, s. 15, *amended*.

18. Banns shall not be published where either of the ^{Where banns not to be published} parties to the intended marriage has been married and the marriage has been dissolved or annulled. R.S.O. 1970, c. 261, s. 18, *amended*.

19. Form 1 respecting the prohibited degrees of affinity ^{Prohibited degrees to be endorsed} and consanguinity shall be endorsed on the licence and on the proof of publication of banns. R.S.O. 1970, c. 261, s. 45 (1), *amended*.

20.—(1) No person shall solemnize a marriage unless he ^{Who may solemnize marriage} is authorized by or under section 24 or is registered under this section as a person authorized to solemnize marriage.

(2) Upon application the Minister may, subject to subsec- ^{Application for registration} tion 3, register any person as a person authorized to solemnize marriage.

(3) No person shall be registered unless it appears to the ^{Who may be registered} Minister,

- (a) that the person has been ordained or appointed according to the rites and usages of the religious body to which he belongs, or is, by the rules of that religious body, deemed ordained or appointed;
- (b) that the person is duly recognized by the religious body to which he belongs as entitled to solemnize marriage according to its rites and usages;
- (c) that the religious body to which the person belongs is permanently established both as to the continuity of its existence and as to its rites and ceremonies; and
- (d) that the person is resident in Ontario or has his parish or pastoral charge in whole or in part in Ontario; provided that in the case of a person who is in Ontario temporarily and who, if resident in Ontario, might be registered under this section, the Minister may register him as authorized to solemnize marriage during a period to be fixed by the Minister.

- Where no person authorized to solemnize marriage (4) Notwithstanding subsection 1, where it appears to the Minister that the doctrines of a religious body described in clause *c* of subsection 3 do not recognize any person as authorized to solemnize marriage, the Minister may register a person duly designated by the governing authority of the religious body who shall, in respect of marriages performed according to the rites, usages and customs of the religious body, perform all the duties imposed by this Act upon a person solemnizing a marriage, other than solemnizing the marriage.
- Idem (5) Where a person registered under subsection 4 performs the duties imposed by subsection 4, every marriage solemnized according to the rites, usages and customs of the religious body is valid. R.S.O. 1970, c. 261, s. 22, *amended*.
- Register **21.**—(1) The Minister shall keep a register of the name of every person registered as a person authorized to solemnize marriage, the date of such registration, and such other particulars as he considers advisable.
- Certificate of registration (2) The Minister may issue a certificate of registration under this section in the prescribed form. R.S.O. 1970, c. 261, s. 23.
- Cancellation of registration **22.**—(1) Where it appears to the Minister that any person registered as authorized to solemnize marriage has ceased to possess the qualifications entitling him to be so registered, or for any other cause, the Minister may cancel such registration.
- Notice of change (2) Every religious body, members of which are registered under this Act, shall notify the Minister of the name of every such member so registered who has died or has ceased to reside in Ontario or has ceased to be associated with such religious body. R.S.O. 1970, c. 261, s. 24.
- Publication of registration and cancellation **23.** When a person is registered under this Act as authorized to solemnize marriage, and when any such registration is cancelled, the Minister shall publish notice thereof in *The Ontario Gazette*. R.S.O. 1970, c. 261, s. 25.
- Civil marriage **24.**—(1) A judge, a justice of the peace or any other person of a class designated by the regulations may solemnize marriages under the authority of a licence.
- Time and place (2) The solemnization of a marriage by a judge shall take place in the judge's office and shall be performed between the hours of 9 o'clock in the morning and 5 o'clock in the afternoon.
- Form of ceremony (3) No particular form of ceremony is required except that in some part of the ceremony, in the presence of the person

solemnizing the marriage and witnesses, each of the parties shall declare:

I do solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD,

and each of the parties shall say to the other:

I call upon these persons here present to witness that I, AB, do take you, CD, to be my lawful wedded wife (or husband),

after which the person solemnizing the marriage shall say:

I, EF, by virtue of the powers vested in me by *The Marriage Act, 1977*, do hereby pronounce you AB and CD to be husband and wife.

R.S.O. 1970, c. 261, s. 26, *amended*.

25. Every marriage shall be solemnized in the presence of the parties and at least two witnesses who shall affix their names as witnesses to the entry in the register made under section 28. R.S.O. 1970, c. 261, s. 20. Attendance of parties and witnesses

26. No marriage shall be solemnized under the authority of publication of banns unless proof of publication by the person or persons publishing the banns has been deposited with the person solemnizing the marriage. R.S.O. 1970, c. 261, s. 17. Proof of publication

27.—(1) A marriage shall not be solemnized under the authority of a licence earlier than the third day after the date of the issue of the licence, but the Minister in his absolute discretion may authorize the solemnization of the marriage earlier than such third day. R.S.O. 1970, c. 261, s. 14, *amended*. Waiting period: under licence

(2) A marriage shall not be solemnized under the authority of publication of banns, earlier than the fifth day after the date of the publication of banns. R.S.O. 1970, c. 261, s. 16, *amended*. Idem: under banns

(3) A marriage shall be solemnized only within the three months immediately following the issue of the licence or the publication of banns, as the case may be. R.S.O. 1970, c. 261, s. 19, *amended*. Time within which marriage to be solemnized

28.—(1) Every person shall immediately after he has solemnized a marriage, Entry in marriage register

(a) where the marriage was solemnized in a church, enter in the church register kept for the purpose; or

(b) where the marriage was solemnized elsewhere than in the church, enter in a register kept by him for the purpose,

the particulars prescribed by the regulations, and the entry shall be authenticated by his signature and those of the parties and witnesses. R.S.O. 1970, c. 261, s. 27, *amended*.

Marriage
certificate

(2) Every person who solemnizes a marriage shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage specifying the names of the parties, the date of the marriage, the names of the witnesses, and whether the marriage was solemnized under the authority of a licence or publication of banns. R.S.O. 1970, c. 261, s. 21, *amended*.

Supply of
marriage
registers

29.—(1) Every person or religious body authorized to solemnize marriages may apply to the Minister for a marriage register, and the Minister shall thereupon supply the register.

Property of
Crown

(2) Every register supplied by the Minister is the property of the Crown. R.S.O. 1970, c. 261, s. 28, *amended*.

Protection
of persons
solemnizing
marriage in
good faith

30. No person who solemnizes or purports to solemnize a marriage is subject to any action or liability by reason of there having been any legal impediment to the marriage unless, at the time he performed the ceremony, he was aware of the impediment. R.S.O. 1970, c. 261, s. 44.

Marriages
solemnized
in good
faith

31. If the parties to a marriage solemnized in good faith and intended to be in compliance with this Act are not under a legal disqualification to contract such marriage and after such solemnization have lived together and cohabited as man and wife, such marriage shall be deemed a valid marriage, notwithstanding that the person who solemnized the marriage was not authorized to solemnize marriage, and notwithstanding the absence of or any irregularity or insufficiency in the publication of banns or the issue of the licence. R.S.O. 1970, c. 261, s. 46.

Breach of
promise of
marriage
abolished

32.—(1) No action shall be brought for a breach of a promise to marry or for any damages resulting therefrom.

Application
of subs. 1

(2) Subsection 1 does not apply in respect of actions for breach of promise to marry or damages resulting therefrom commenced before the day on which this Act comes into force. *New*.

Recovery of
gifts made in
contempla-
tion of
marriage

33. Where one person makes a gift to another in contemplation of or conditional upon their marriage to each

other and the marriage fails to take place or is abandoned, the question of whether or not the failure or abandonment was caused by or was the fault of the donor shall not be considered in determining the right of the donor to recover the gift. *New.*

34. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms for the purposes of this Act and providing for their use, and requiring any matter therein to be verified by affidavit;
- (b) prescribing any matter required by this Act to be prescribed by the regulations;
- (c) requiring the payment of fees in respect of any matter required or authorized to be done under this Act, and providing for the retention of fees or any portion thereof by issuers and persons solemnizing marriages or any class of them and for the commutation of such fees;
- (d) prescribing the duties of issuers;
- (e) requiring persons authorized to solemnize marriages to furnish such information and returns as are prescribed;
- (f) amending Form 1 to make it conform to the law for the time being;
- (g) designating classes of persons authorized to solemnize marriages under section 24. *New.*

35.—(1) Every person who knowingly makes any false statement in any document required under this Act, in addition to any other penalty or punishment to which he may be liable, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. Penalty:
false
statements

(2) Every person who contravenes any provision of this Act for which no other penalty is provided is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 261, ss. 47-52, *amended*. Idem:
general

36. The following are repealed:

Repeals

1. *The Marriage Act*, being chapter 261 of the Revised Statutes of Ontario, 1970.

2. *The Marriage Amendment Act, 1972*, being chapter 32.
3. Section 55 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
4. Section 44 of *The Government Reorganization Act, 1972*, being chapter 1.

Commence-
ment

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

Short title

38. The short title of this Act is *The Marriage Act, 1977*.

FORM 1

(Section 19)

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his

1. Grandmother
2. Grandfather's wife
3. Wife's grandmother
4. Aunt
5. Wife's aunt
6. Mother
7. Step mother
8. Wife's mother
9. Daughter
10. Wife's daughter
11. Son's wife
12. Sister
13. Granddaughter
14. Grandson's wife
15. Wife's granddaughter
16. Niece
17. Nephew's wife

A woman may not marry her

1. Grandfather
2. Grandmother's husband
3. Husband's grandfather
4. Uncle
5. Husband's uncle
6. Father
7. Step father
8. Husband's father
9. Son
10. Husband's son
11. Daughter's husband
12. Brother
13. Grandson
14. Granddaughter's husband
15. Husband's grandson
16. Nephew
17. Niece's husband

The relationships set forth in this table include all such relationships, whether by the whole or half blood.

R.S.O. 1970, c. 261, Form 10, *amended*.



BILL 62

An Act to revise The Marriage Act

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to revise The Marriage Act

THE HON. R. MCMURTRY
Attorney General

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

EXPLANATORY NOTE

The Bill revises *The Marriage Act* for the purpose of implementing some of the recommendations of the Ontario Law Reform Commission made in Part 11 of its Report on Family Law (Marriage) and also to implement certain administrative improvements.

The principal changes are:

1. The Act only applies to the first marriage ceremony and permits additional ceremonies by the same couple. (s. 1 (2)).
2. The requirement of fifteen days residence is deleted.
3. The minimum age for marriage is 18 years or 16 years with consent of the parents. (s. 5).
4. The duty of performing civil marriages now performed by provincial judges and county and district court judges is extended to justices of the peace and other designated persons. (s. 24).
5. The action for breach of promise of marriage is abolished. (s. 32)
6. The question of fault is removed from consideration of the question of entitlement to gifts made in contemplation of or conditional upon marriage. (s. 33)
7. The procedural forms and prescribing of fees are moved from the Act to be provided by regulations.

BILL 62

1977

An Act to revise The Marriage Act

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

1.—(1) In this Act,

Interpre-
tation

- (a) “band” means a band as defined in the *Indian Act* (Canada); R.S.C. 1970,
c. I-6
- (b) “church” includes chapel, meeting-house or place set aside for religious worship;
- (c) “Indian” means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);
- (d) “issuer” means a person authorized under this Act to issue marriage licences;
- (e) “judge” means a provincial judge or a judge of a county or district court;
- (f) “licence” means a marriage licence issued under this Act;
- (g) “Minister” means the Minister of Consumer and Commercial Relations;
- (h) “prescribed” means prescribed by the regulations;
- (i) “regulations” means the regulations made under this Act;
- (j) “reserve” means a reserve as defined in the *Indian Act* (Canada). R.S.O. 1970, c. 261, s. 1; 1972, c. 1, s. 44 (1-3), *amended*.

Application
of Act to
subsequent
ceremonies

(2) This Act does not apply in respect of any ceremony or form of marriage gone through by two persons who are married to each other by a marriage previously solemnized in accordance with this Act or recognized as valid in Ontario.
New.

Administra-
tion

2. The administration of this Act is under the direction of the Minister.

Delegation
of powers
and duties

3. Where, under this Act, a power or duty is granted to or vested in the Minister, he may in writing, subject to the approval of the Lieutenant Governor in Council, delegate that power or duty to the Deputy Minister of Consumer and Commercial Relations, or to any officer or officers of the Ministry of Consumer and Commercial Relations, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation. 1972, c. 1, s. 44 (3), *amended.*

Authority
to marry

4. No marriage may be solemnized except under the authority of a licence issued in accordance with this Act or the publication of banns. R.S.O. 1970, c. 261, s. 4 (1), *amended.*

Who may
marry

5.—(1) Any person who is of the age of majority may obtain a licence or be married under authority of publication of banns, provided no lawful cause exists to hinder the solemnization. R.S.O. 1970, c. 261, s. 5 (1), *amended.*

Idem

(2) No person shall issue a licence to a minor, or solemnize the marriage of a minor under the authority of the publication of banns, except where the minor is of the age of sixteen years or more and has the consent in writing of both parents in the form prescribed by the regulations.

Giving of
consent

(3) The consent referred to in subsection 2 is not required in respect of a person who is a widow, widower or divorced.

Idem

(4) Where one of the parents of a minor is dead or both parents are living apart, the consent required by subsection 2 may be given by the parent having actual or legal custody of the minor.

Idem

1974, c. 2

(5) Where both parents of a minor are dead or are voluntary or involuntary patients in a psychiatric facility, or are residents of a facility under *The Developmental Services Act, 1974*, the consent required by subsection 2 may be given by a lawfully appointed guardian or an acknowledged guardian who has brought up or who for the three years immediately preceding the intended marriage has supported the minor.

(6) Where a minor is made a ward of someone other than a parent by order of a court or under any Act, the consent required by subsection 2 may be given by the lawful guardian of the minor or person responsible for exercising the rights and duties of a guardian of the minor. R.S.O. 1970, c. 261, ss. 7, 8, *amended*. ^{Idem}

6.—(1) Where a person whose consent is required by section 5 is not available or unreasonably or arbitrarily withholds his consent, the person in respect of whose marriage the consent is required may apply to a judge without the intervention of a next friend for an order dispensing with the consent. ^{Application to dispense with consent}

(2) The judge shall hear the application in a summary manner and may, in his discretion, make an order dispensing with the consent required by section 5. R.S.O. 1970, c. 261, s. 9, *amended*. ^{Powers of judge}

7. No person shall issue a licence to or solemnize the marriage of any person whom he knows or has reasonable grounds to believe lacks capacity to marry by reason of being mentally ill or mentally defective or under the influence of intoxicating liquor or drugs. R.S.O. 1970, c. 261, s. 6, *amended*. ^{Persons mentally ill or under influence}

8.—(1) An applicant for a licence who has been previously married is entitled to be issued a licence if such marriage has been dissolved or annulled and such dissolution or annulment is recognized under the law of Ontario and the applicant otherwise complies with the requirements of this Act. ^{Where dissolution of former marriage recognized in Ontario}

(2) Subject to subsection 6, no issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled in Canada unless such person deposits with the issuer, ^{Material to be filed with issuer where dissolution in Canada}

(a) the final decree or judgment dissolving or annulling the marriage or a copy of the final decree or judgment or Act dissolving or annulling the marriage, certified by the proper officer; and

(b) such other material as the issuer may require.

(3) Subject to subsection 6, no issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Minister is obtained upon the deposit of such material as he may require. ^{Where dissolution, etc., outside Canada}

Review of
refusal to
issue
licence

1971, c. 48

(4) Where an issuer refuses to issue a licence, or the Minister refuses to issue an authorization under subsection 3, the applicant may apply to the Supreme Court for judicial review under *The Judicial Review Procedure Act, 1971* and for an order directing that a licence be issued to him and if the court finds that he is so entitled it may make such an order.

Parties

(5) The applicant, the Minister and such other persons as the court may order are parties to an application under subsection 4.

Issue of
licence
under court
order

(6) Where an applicant for a licence files with an issuer, together with his application, an order of the Supreme Court made on an application under subsection 4 directing that a licence be issued to him, the issuer shall issue the licence. 1971, c. 50, s. 55 (1).

Application
for presump-
tion of death

9.—(1) A married person whose spouse is missing and who alleges,

(a) that his spouse has been continuously absent for at least seven years immediately preceding the application;

(b) that his spouse has not been heard from or heard of during such period by the applicant or to the knowledge of the applicant by any other person; and

(c) that the applicant has made reasonable inquiries and has no reason to believe that his spouse is living,

may apply to the judge of a county or district court for an order under this section.

Order

(2) Upon being satisfied as to the truth of the matters alleged, the judge may, in his discretion, make an order declaring that the spouse shall be presumed dead. R.S.O. 1970, c. 261, s. 11 (1, 2).

Remarriage
authorized

(3) Where an order has been obtained under this section, the person in whose favour the order was made may, subject to the provisions of this Act, obtain a licence or be married under the authority of publication of banns upon depositing a copy of the order with the person issuing the licence or solemnizing the marriage together with an affidavit in the prescribed form.

(4) The order has no effect for any purpose other than the issuance of a licence under subsection 3. R.S.O. 1970, c. 261, s. 11 (3, 4), *amended*. Effect of order

10. Notwithstanding anything in this Act, if the Minister considers that circumstances justify the issue of a licence in any particular case, he may, in his absolute discretion, authorize the issue of the licence. R.S.O. 1970, c. 261, s. 10, *amended*. Discretionary power of Minister

11.—(1) Marriage licences may be issued by the clerk of every city, town and village. Issuers

(2) Where it is considered expedient for the public convenience, the Lieutenant Governor in Council may appoint as an issuer the clerk of any township, or any person resident in a county, or in a township adjacent thereto, or in a provisional judicial district, or a member of a band upon the recommendation of the council of the band. R.S.O. 1970, c. 261, s. 30, *amended*. In townships and unorganized territory

(3) An issuer may, with the approval in writing of the Minister or of the head of the council of the municipality of which he is clerk, appoint in writing one or more deputies to act for him, and any such deputy while so acting has the power of the issuer appointing him. Deputy issuers

(4) The issuer shall, upon appointing a deputy, forthwith transmit to the Minister a notice of the appointment, and of the name and official position of the person by whom the appointment has been approved, and the Minister may at any time cancel the appointment. Notice of appointment of deputy

(5) The deputy shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner: Signature of licences by deputy

AB, Issuer of Marriage Licences, per CD, Deputy Issuer.

R.S.O. 1970, c. 261, s. 31.

12.—(1) An issuer or the Minister may require evidence to identify any applicant or to establish his status and may examine, under oath if required, any applicant or other person as to any matter pertaining to the issue of a licence. R.S.O. 1970, c. 261, s. 33, *amended*. Evidence on applications

(2) Where an issuer has reason to believe that any information set out in an application for a licence is untrue, he shall not issue the licence unless, on the production of such further evidence as he may require, he is satisfied as to the truth of the information. R.S.O. 1970, c. 261, s. 35, *amended*. Untrue information

Record of
licences

13.—(1) Every issuer shall keep in his office a record of the serial number and the date of issue of every licence issued by him, and the names and addresses of the parties to the intended marriage.

Searches

(2) Any person is entitled, upon application, to have a search made respecting any licence issued within three months immediately preceding the date of application. R.S.O. 1970, c. 261, s. 34.

Material to be
forwarded to
Registrar
General

14. Every issuer immediately upon issuing a licence and every person registered as authorized to solemnize marriage upon publishing banns shall forward to the Registrar General,

(a) any consent under section 5;

(b) any judge's order under section 6;

(c) any affidavit or judge's order under section 9;

(d) any documentary or other material filed on the application for a licence under section 8;

(e) any affidavit as to age;

(f) any documentary material obtained under section 12. R.S.O. 1970, c. 261, s. 36, *amended*.

Oaths

15. Issuers may administer oaths for the purposes of this Act. R.S.O. 1970, c. 261, s. 37.

Indians

16. Where both parties to an intended marriage are Indians ordinarily resident on a reserve in Ontario or on Crown lands in Ontario no fee shall be charged for the licence. R.S.O. 1970, c. 261, s. 39, *amended*.

Publication
of banns

17.—(1) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly in an audible voice during divine service,

(a) where the parties are in the habit of attending worship at the same church, being within Canada, at that church; or

(b) where the parties are in the habit of attending worship in different churches, being within Canada, in each such church.

Method and
time of
publication

(2) The banns shall be published according to the usage of the denomination, faith or creed of the church in which they are published and during divine Sunday service.

(3) Where the usage of any denomination, faith or creed ^{Exception} substitutes any other day as the usual and principal day of the week for the celebration of divine service, the banns shall be published on such other day.

(4) The person or persons who publish banns shall certify ^{Proof} proof thereof in the prescribed form. R.S.O. 1970, c. 261, s. 15, *amended*.

18. Banns shall not be published where either of the ^{Where banns not to be published} parties to the intended marriage has been married and the marriage has been dissolved or annulled. R.S.O. 1970, c. 261, s. 18, *amended*.

19. Form 1 respecting the prohibited degrees of affinity ^{Prohibited degrees to be endorsed} and consanguinity shall be endorsed on the licence and on the proof of publication of banns. R.S.O. 1970, c. 261, s. 45 (1), *amended*.

20.—(1) No person shall solemnize a marriage unless he ^{Who may solemnize marriage} is authorized by or under section 24 or is registered under this section as a person authorized to solemnize marriage.

(2) Upon application the Minister may, subject to subsec- ^{Application for registration} tion 3, register any person as a person authorized to solemnize marriage.

(3) No person shall be registered unless it appears to the ^{Who may be registered} Minister,

- (a) that the person has been ordained or appointed according to the rites and usages of the religious body to which he belongs, or is, by the rules of that religious body, deemed ordained or appointed;
- (b) that the person is duly recognized by the religious body to which he belongs as entitled to solemnize marriage according to its rites and usages;
- (c) that the religious body to which the person belongs is permanently established both as to the continuity of its existence and as to its rites and ceremonies; and
- (d) that the person is resident in Ontario or has his parish or pastoral charge in whole or in part in Ontario; provided that in the case of a person who is in Ontario temporarily and who, if resident in Ontario, might be registered under this section, the Minister may register him as authorized to solemnize marriage during a period to be fixed by the Minister.

Where no person authorized to solemnize marriage	(4) Notwithstanding subsection 1, where it appears to the Minister that the doctrines of a religious body described in clause <i>c</i> of subsection 3 do not recognize any person as authorized to solemnize marriage, the Minister may register a person duly designated by the governing authority of the religious body who shall, in respect of marriages performed according to the rites, usages and customs of the religious body, perform all the duties imposed by this Act upon a person solemnizing a marriage, other than solemnizing the marriage.
Idem	(5) Where a person registered under subsection 4 performs the duties imposed by subsection 4, every marriage solemnized according to the rites, usages and customs of the religious body is valid. R.S.O. 1970, c. 261, s. 22, <i>amended</i> .
Register	21. —(1) The Minister shall keep a register of the name of every person registered as a person authorized to solemnize marriage, the date of such registration, and such other particulars as he considers advisable.
Certificate of registration	(2) The Minister may issue a certificate of registration under this section in the prescribed form. R.S.O. 1970, c. 261, s. 23.
Cancellation of registration	22. —(1) Where it appears to the Minister that any person registered as authorized to solemnize marriage has ceased to possess the qualifications entitling him to be so registered, or for any other cause, the Minister may cancel such registration.
Notice of change	(2) Every religious body, members of which are registered under this Act, shall notify the Minister of the name of every such member so registered who has died or has ceased to reside in Ontario or has ceased to be associated with such religious body. R.S.O. 1970, c. 261, s. 24.
Publication of registration and cancellation	23. When a person is registered under this Act as authorized to solemnize marriage, and when any such registration is cancelled, the Minister shall publish notice thereof in <i>The Ontario Gazette</i> . R.S.O. 1970, c. 261, s. 25.
Civil marriage	24. —(1) A judge, a justice of the peace or any other person of a class designated by the regulations may solemnize marriages under the authority of a licence.
Time and place	(2) The solemnization of a marriage by a judge shall take place in the judge's office and shall be performed between the hours of 9 o'clock in the morning and 5 o'clock in the afternoon.
Form of ceremony	(3) No particular form of ceremony is required except that in some part of the ceremony, in the presence of the person

solemnizing the marriage and witnesses, each of the parties shall declare:

I do solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD,

and each of the parties shall say to the other:

I call upon these persons here present to witness that I, AB, do take you, CD, to be my lawful wedded wife (*or* husband),

after which the person solemnizing the marriage shall say:

I, EF, by virtue of the powers vested in me by *The Marriage Act, 1977*, do hereby pronounce you AB and CD to be husband and wife.

R.S.O. 1970, c. 261, s. 26, *amended*.

25. Every marriage shall be solemnized in the presence of the parties and at least two witnesses who shall affix their names as witnesses to the entry in the register made under section 28. R.S.O. 1970, c. 261, s. 20. Attendance of parties and witnesses

26. No marriage shall be solemnized under the authority of publication of banns unless proof of publication by the person or persons publishing the banns has been deposited with the person solemnizing the marriage. R.S.O. 1970, c. 261, s. 17. Proof of publication

27.—(1) A marriage shall not be solemnized under the authority of a licence earlier than the third day after the date of the issue of the licence, but the Minister in his absolute discretion may authorize the solemnization of the marriage earlier than such third day. R.S.O. 1970, c. 261, s. 14, *amended*. Waiting period: under licence

(2) A marriage shall not be solemnized under the authority of publication of banns, earlier than the fifth day after the date of the publication of banns. R.S.O. 1970, c. 261, s. 16, *amended*. Idem: under banns

(3) A marriage shall be solemnized only within the three months immediately following the issue of the licence or the publication of banns, as the case may be. R.S.O. 1970, c. 261, s. 19, *amended*. Time within which marriage to be solemnized

28.—(1) Every person shall immediately after he has solemnized a marriage, Entry in marriage register

(a) where the marriage was solemnized in a church, enter in the church register kept for the purpose; or

- (b) where the marriage was solemnized elsewhere than in the church, enter in a register kept by him for the purpose,

the particulars prescribed by the regulations, and the entry shall be authenticated by his signature and those of the parties and witnesses. R.S.O. 1970, c. 261, s. 27, *amended*.

Marriage certificate

(2) Every person who solemnizes a marriage shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage specifying the names of the parties, the date of the marriage, the names of the witnesses, and whether the marriage was solemnized under the authority of a licence or publication of banns. R.S.O. 1970, c. 261, s. 21, *amended*.

Supply of marriage registers

29.—(1) Every person or religious body authorized to solemnize marriages may apply to the Minister for a marriage register, and the Minister shall thereupon supply the register.

Property of Crown

(2) Every register supplied by the Minister is the property of the Crown. R.S.O. 1970, c. 261, s. 28, *amended*.

Protection of persons solemnizing marriage in good faith

30. No person who solemnizes or purports to solemnize a marriage is subject to any action or liability by reason of there having been any legal impediment to the marriage unless, at the time he performed the ceremony, he was aware of the impediment. R.S.O. 1970, c. 261, s. 44.

Marriages solemnized in good faith

31. If the parties to a marriage solemnized in good faith and intended to be in compliance with this Act are not under a legal disqualification to contract such marriage and after such solemnization have lived together and cohabited as man and wife, such marriage shall be deemed a valid marriage, notwithstanding that the person who solemnized the marriage was not authorized to solemnize marriage, and notwithstanding the absence of or any irregularity or insufficiency in the publication of banns or the issue of the licence. R.S.O. 1970, c. 261, s. 46.

Breach of promise of marriage abolished

32.—(1) No action shall be brought for a breach of a promise to marry or for any damages resulting therefrom.

Application of subs. 1

(2) Subsection 1 does not apply in respect of actions for breach of promise to marry or damages resulting therefrom commenced before the day on which this Act comes into force. *New*.

Recovery of gifts made in contemplation of marriage

33. Where one person makes a gift to another in contemplation of or conditional upon their marriage to each

other and the marriage fails to take place or is abandoned, the question of whether or not the failure or abandonment was caused by or was the fault of the donor shall not be considered in determining the right of the donor to recover the gift. *New.*

34. The Lieutenant Governor in Council may make regu- ^{Regulations}
lations,

- (a) prescribing forms for the purposes of this Act and providing for their use, and requiring any matter therein to be verified by affidavit;
- (b) prescribing any matter required by this Act to be prescribed by the regulations;
- (c) requiring the payment of fees in respect of any matter required or authorized to be done under this Act, and providing for the retention of fees or any portion thereof by issuers and persons solemnizing marriages or any class of them and for the commutation of such fees;
- (d) prescribing the duties of issuers;
- (e) requiring persons authorized to solemnize marriages to furnish such information and returns as are prescribed;
- (f) amending Form 1 to make it conform to the law for the time being;
- (g) designating classes of persons authorized to solemnize marriages under section 24. *New.*

35.—(1) Every person who knowingly makes any false ^{Penalty:}
statement in any document required under this Act, in addi- ^{false}
tion to any other penalty or punishment to which he may be ^{statements}
liable, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both.

(2) Every person who contravenes any provision of this ^{Idem:}
Act for which no other penalty is provided is guilty of an ^{general}
offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 261, ss. 47-52, *amended.*

36. The following are repealed:

^{Repeals}

1. *The Marriage Act*, being chapter 261 of the Revised Statutes of Ontario, 1970.

2. *The Marriage Amendment Act, 1972*, being chapter 32.
3. Section 55 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
4. Section 44 of *The Government Reorganization Act, 1972*, being chapter 1.

Commence-
ment

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

Short title

38. The short title of this Act is *The Marriage Act, 1977*.

FORM 1

(Section 19)

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage.

<p>A man may not marry his</p> <ol style="list-style-type: none"> 1. Grandmother 2. Grandfather's wife 3. Wife's grandmother 4. Aunt 5. Wife's aunt 6. Mother 7. Step mother 8. Wife's mother 9. Daughter 10. Wife's daughter 11. Son's wife 12. Sister 13. Granddaughter 14. Grandson's wife 15. Wife's granddaughter 16. Niece 17. Nephew's wife 	<p>A woman may not marry her</p> <ol style="list-style-type: none"> 1. Grandfather 2. Grandmother's husband 3. Husband's grandfather 4. Uncle 5. Husband's uncle 6. Father 7. Step father 8. Husband's father 9. Son 10. Husband's son 11. Daughter's husband 12. Brother 13. Grandson 14. Granddaughter's husband 15. Husband's grandson 16. Nephew 17. Niece's husband
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The relationships set forth in this table include all such relationships, whether by the whole or half blood.

R.S.O. 1970, c. 261, Form 10, *amended*.



BILL 02

An Act to revise The Marriage Act

1st Reading

October 17th, 1977

2nd Reading

October 18th, 1977

3rd Reading

THE HON. R. McMURTRY
Attorney General

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

BILL 62

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to revise The Marriage Act

THE HON. R. McMURTRY
Attorney General



BILL 62

1977

An Act to revise The Marriage Act

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

1.—(1) In this Act,

Interpre-
tation

- (a) “band” means a band as defined in the *Indian Act* (Canada); R.S.C. 1970.
c. I-6
- (b) “church” includes chapel, meeting-house or place set aside for religious worship;
- (c) “Indian” means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);
- (d) “issuer” means a person authorized under this Act to issue marriage licences;
- (e) “judge” means a provincial judge or a judge of a county or district court;
- (f) “licence” means a marriage licence issued under this Act;
- (g) “Minister” means the Minister of Consumer and Commercial Relations;
- (h) “prescribed” means prescribed by the regulations;
- (i) “regulations” means the regulations made under this Act;
- (j) “reserve” means a reserve as defined in the *Indian Act* (Canada). R.S.O. 1970, c. 261, s. 1; 1972, c. 1, s. 44 (1-3), *amended*.

Application
of Act to
subsequent
ceremonies

(2) This Act does not apply in respect of any ceremony or form of marriage gone through by two persons who are married to each other by a marriage previously solemnized in accordance with this Act or recognized as valid in Ontario.
New.

Administra-
tion

2. The administration of this Act is under the direction of the Minister.

Delegation
of powers
and duties

3. Where, under this Act, a power or duty is granted to or vested in the Minister, he may in writing, subject to the approval of the Lieutenant Governor in Council, delegate that power or duty to the Deputy Minister of Consumer and Commercial Relations, or to any officer or officers of the Ministry of Consumer and Commercial Relations, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation. 1972, c. 1, s. 44 (3), *amended*.

Authority
to marry

4. No marriage may be solemnized except under the authority of a licence issued in accordance with this Act or the publication of banns. R.S.O. 1970, c. 261, s. 4 (1), *amended*.

Who may
marry

5.—(1) Any person who is of the age of majority may obtain a licence or be married under authority of publication of banns, provided no lawful cause exists to hinder the solemnization. R.S.O. 1970, c. 261, s. 5 (1), *amended*.

Idem

(2) No person shall issue a licence to a minor, or solemnize the marriage of a minor under the authority of the publication of banns, except where the minor is of the age of sixteen years or more and has the consent in writing of both parents in the form prescribed by the regulations.

Giving of
consent

(3) The consent referred to in subsection 2 is not required in respect of a person who is a widow, widower or divorced.

Idem

(4) Where one of the parents of a minor is dead or both parents are living apart, the consent required by subsection 2 may be given by the parent having actual or legal custody of the minor.

Idem

1974, c. 2

(5) Where both parents of a minor are dead or are voluntary or involuntary patients in a psychiatric facility, or are residents of a facility under *The Developmental Services Act, 1974*, the consent required by subsection 2 may be given by a lawfully appointed guardian or an acknowledged guardian who has brought up or who for the three years immediately preceding the intended marriage has supported the minor.

(6) Where a minor is made a ward of someone other than ^{Idem} a parent by order of a court or under any Act, the consent required by subsection 2 may be given by the lawful guardian of the minor or person responsible for exercising the rights and duties of a guardian of the minor. R.S.O. 1970, c. 261, ss. 7, 8, *amended*.

6.—(1) Where a person whose consent is required by section 5 is not available or unreasonably or arbitrarily withholds his consent, the person in respect of whose marriage the consent is required may apply to a judge without the intervention of a next friend for an order dispensing with the consent. ^{Application to dispense with consent}

(2) The judge shall hear the application in a summary ^{Powers of judge} manner and may, in his discretion, make an order dispensing with the consent required by section 5. R.S.O. 1970, c. 261, s. 9, *amended*.

7. No person shall issue a licence to or solemnize the marriage of any person whom he knows or has reasonable grounds to believe lacks capacity to marry by reason of being mentally ill or mentally defective or under the influence of intoxicating liquor or drugs. ^{Persons mentally ill or under influence} R.S.O. 1970, c. 261, s. 6, *amended*.

8.—(1) An applicant for a licence who has been previously ^{Where dissolution of former marriage recognized in Ontario} married is entitled to be issued a licence if such marriage has been dissolved or annulled and such dissolution or annulment is recognized under the law of Ontario and the applicant otherwise complies with the requirements of this Act.

(2) Subject to subsection 6, no issuer shall issue a licence ^{Material to be filed with issuer where dissolution in Canada} to a person whose previous marriage has been dissolved or annulled in Canada unless such person deposits with the issuer,

(a) the final decree or judgment dissolving or annulling the marriage or a copy of the final decree or judgment or Act dissolving or annulling the marriage, certified by the proper officer; and

(b) such other material as the issuer may require.

(3) Subject to subsection 6, no issuer shall issue a licence ^{Where dissolution, etc., outside Canada} to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Minister is obtained upon the deposit of such material as he may require.

Review of
refusal to
issue
licence

1971, c. 48

(4) Where an issuer refuses to issue a licence, or the Minister refuses to issue an authorization under subsection 3, the applicant may apply to the Supreme Court for judicial review under *The Judicial Review Procedure Act, 1971* and for an order directing that a licence be issued to him and if the court finds that he is so entitled it may make such an order.

Parties

(5) The applicant, the Minister and such other persons as the court may order are parties to an application under subsection 4.

Issue of
licence
under court
order

(6) Where an applicant for a licence files with an issuer, together with his application, an order of the Supreme Court made on an application under subsection 4 directing that a licence be issued to him, the issuer shall issue the licence. 1971, c. 50, s. 55 (1).

Application
for presump-
tion of death

9.—(1) A married person whose spouse is missing and who alleges,

- (a) that his spouse has been continuously absent for at least seven years immediately preceding the application;
- (b) that his spouse has not been heard from or heard of during such period by the applicant or to the knowledge of the applicant by any other person; and
- (c) that the applicant has made reasonable inquiries and has no reason to believe that his spouse is living,

may apply to the judge of a county or district court for an order under this section.

Order

(2) Upon being satisfied as to the truth of the matters alleged, the judge may, in his discretion, make an order declaring that the spouse shall be presumed dead. R.S.O. 1970, c. 261, s. 11 (1, 2).

Remarriage
authorized

(3) Where an order has been obtained under this section, the person in whose favour the order was made may, subject to the provisions of this Act, obtain a licence or be married under the authority of publication of banns upon depositing a copy of the order with the person issuing the licence or solemnizing the marriage together with an affidavit in the prescribed form.

(4) The order has no effect for any purpose other than the issuance of a licence under subsection 3. R.S.O. 1970, c. 261, s. 11 (3, 4), *amended*. Effect of order

10. Notwithstanding anything in this Act, if the Minister considers that circumstances justify the issue of a licence in any particular case, he may, in his absolute discretion, authorize the issue of the licence. R.S.O. 1970, c. 261, s. 10, *amended*. Discretionary power of Minister

11.—(1) Marriage licences may be issued by the clerk of every city, town and village. Issuers

(2) Where it is considered expedient for the public convenience, the Lieutenant Governor in Council may appoint as an issuer the clerk of any township, or any person resident in a county, or in a township adjacent thereto, or in a provisional judicial district, or a member of a band upon the recommendation of the council of the band. R.S.O. 1970, c. 261, s. 30, *amended*. In townships and unorganized territory

(3) An issuer may, with the approval in writing of the Minister or of the head of the council of the municipality of which he is clerk, appoint in writing one or more deputies to act for him, and any such deputy while so acting has the power of the issuer appointing him. Deputy issuers

(4) The issuer shall, upon appointing a deputy, forthwith transmit to the Minister a notice of the appointment, and of the name and official position of the person by whom the appointment has been approved, and the Minister may at any time cancel the appointment. Notice of appointment of deputy

(5) The deputy shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner: Signature of licences by deputy

AB, Issuer of Marriage Licences, per CD, Deputy Issuer.

R.S.O. 1970, c. 261, s. 31.

12.—(1) An issuer or the Minister may require evidence to identify any applicant or to establish his status and may examine, under oath if required, any applicant or other person as to any matter pertaining to the issue of a licence. R.S.O. 1970, c. 261, s. 33, *amended*. Evidence on applications

(2) Where an issuer has reason to believe that any information set out in an application for a licence is untrue, he shall not issue the licence unless, on the production of such further evidence as he may require, he is satisfied as to the truth of the information. R.S.O. 1970, c. 261, s. 35, *amended*. Untrue information

Record of
licences

13.—(1) Every issuer shall keep in his office a record of the serial number and the date of issue of every licence issued by him, and the names and addresses of the parties to the intended marriage.

Searches

(2) Any person is entitled, upon application, to have a search made respecting any licence issued within three months immediately preceding the date of application. R.S.O. 1970, c. 261, s. 34.

Material to be
forwarded to
Registrar
General

14. Every issuer immediately upon issuing a licence and every person registered as authorized to solemnize marriage upon publishing banns shall forward to the Registrar General,

(a) any consent under section 5;

(b) any judge's order under section 6;

(c) any affidavit or judge's order under section 9;

(d) any documentary or other material filed on the application for a licence under section 8;

(e) any affidavit as to age;

(f) any documentary material obtained under section 12. R.S.O. 1970, c. 261, s. 36, *amended*.

Oaths

15. Issuers may administer oaths for the purposes of this Act. R.S.O. 1970, c. 261, s. 37.

Indians

16. Where both parties to an intended marriage are Indians ordinarily resident on a reserve in Ontario or on Crown lands in Ontario no fee shall be charged for the licence. R.S.O. 1970, c. 261, s. 39, *amended*.

Publication
of banns

17.—(1) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly in an audible voice during divine service,

(a) where the parties are in the habit of attending worship at the same church, being within Canada, at that church; or

(b) where the parties are in the habit of attending worship in different churches, being within Canada, in each such church.

Method and
time of
publication

(2) The banns shall be published according to the usage of the denomination, faith or creed of the church in which they are published and during divine Sunday service.

(3) Where the usage of any denomination, faith or creed ^{Exception} substitutes any other day as the usual and principal day of the week for the celebration of divine service, the banns shall be published on such other day.

(4) The person or persons who publish banns shall certify ^{Proof} proof thereof in the prescribed form. R.S.O. 1970, c. 261, s. 15, *amended*.

18. Banns shall not be published where either of the ^{Where banns not to be published} parties to the intended marriage has been married and the marriage has been dissolved or annulled. R.S.O. 1970, c. 261, s. 18, *amended*.

19. Form 1 respecting the prohibited degrees of affinity ^{Prohibited degrees to be endorsed} and consanguinity shall be endorsed on the licence and on the proof of publication of banns. R.S.O. 1970, c. 261, s. 45 (1), *amended*.

20.—(1) No person shall solemnize a marriage unless he ^{Who may solemnize marriage} is authorized by or under section 24 or is registered under this section as a person authorized to solemnize marriage.

(2) Upon application the Minister may, subject to subsec- ^{Application for registration} tion 3, register any person as a person authorized to solemnize marriage.

(3) No person shall be registered unless it appears to the ^{Who may be registered} Minister,

- (a) that the person has been ordained or appointed according to the rites and usages of the religious body to which he belongs, or is, by the rules of that religious body, deemed ordained or appointed;
- (b) that the person is duly recognized by the religious body to which he belongs as entitled to solemnize marriage according to its rites and usages;
- (c) that the religious body to which the person belongs is permanently established both as to the continuity of its existence and as to its rites and ceremonies; and
- (d) that the person is resident in Ontario or has his parish or pastoral charge in whole or in part in Ontario; provided that in the case of a person who is in Ontario temporarily and who, if resident in Ontario, might be registered under this section, the Minister may register him as authorized to solemnize marriage during a period to be fixed by the Minister.

Where no person authorized to solemnize marriage	(4) Notwithstanding subsection 1, where it appears to the Minister that the doctrines of a religious body described in clause c of subsection 3 do not recognize any person as authorized to solemnize marriage, the Minister may register a person duly designated by the governing authority of the religious body who shall, in respect of marriages performed according to the rites, usages and customs of the religious body, perform all the duties imposed by this Act upon a person solemnizing a marriage, other than solemnizing the marriage.
Idem	(5) Where a person registered under subsection 4 performs the duties imposed by subsection 4, every marriage solemnized according to the rites, usages and customs of the religious body is valid. R.S.O. 1970, c. 261, s. 22, <i>amended</i> .
Register	21. —(1) The Minister shall keep a register of the name of every person registered as a person authorized to solemnize marriage, the date of such registration, and such other particulars as he considers advisable.
Certificate of registration	(2) The Minister may issue a certificate of registration under this section in the prescribed form. R.S.O. 1970, c. 261, s. 23.
Cancellation of registration	22. —(1) Where it appears to the Minister that any person registered as authorized to solemnize marriage has ceased to possess the qualifications entitling him to be so registered, or for any other cause, the Minister may cancel such registration.
Notice of change	(2) Every religious body, members of which are registered under this Act, shall notify the Minister of the name of every such member so registered who has died or has ceased to reside in Ontario or has ceased to be associated with such religious body. R.S.O. 1970, c. 261, s. 24.
Publication of registration and cancellation	23. When a person is registered under this Act as authorized to solemnize marriage, and when any such registration is cancelled, the Minister shall publish notice thereof in <i>The Ontario Gazette</i> . R.S.O. 1970, c. 261, s. 25.
Civil marriage	24. —(1) A judge, a justice of the peace or any other person of a class designated by the regulations may solemnize marriages under the authority of a licence.
Time and place	(2) The solemnization of a marriage by a judge shall take place in the judge's office and shall be performed between the hours of 9 o'clock in the morning and 5 o'clock in the afternoon.
Form of ceremony	(3) No particular form of ceremony is required except that in some part of the ceremony, in the presence of the person

solemnizing the marriage and witnesses, each of the parties shall declare:

I do solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD,

and each of the parties shall say to the other:

I call upon these persons here present to witness that I, AB, do take you, CD, to be my lawful wedded wife (*or* husband),

after which the person solemnizing the marriage shall say:

I, EF, by virtue of the powers vested in me by *The Marriage Act, 1977*, do hereby pronounce you AB and CD to be husband and wife.

R.S.O. 1970, c. 261, s. 26, *amended*.

25. Every marriage shall be solemnized in the presence of the parties and at least two witnesses who shall affix their names as witnesses to the entry in the register made under section 28. R.S.O. 1970, c. 261, s. 20. Attendance of parties and witnesses

26. No marriage shall be solemnized under the authority of publication of banns unless proof of publication by the person or persons publishing the banns has been deposited with the person solemnizing the marriage. R.S.O. 1970, c. 261, s. 17. Proof of publication

27.—(1) A marriage shall not be solemnized under the authority of a licence earlier than the third day after the date of the issue of the licence, but the Minister in his absolute discretion may authorize the solemnization of the marriage earlier than such third day. R.S.O. 1970, c. 261, s. 14, *amended*. Waiting period: under licence

(2) A marriage shall not be solemnized under the authority of publication of banns, earlier than the fifth day after the date of the publication of banns. R.S.O. 1970, c. 261, s. 16, *amended*. Idem: under banns

(3) A marriage shall be solemnized only within the three months immediately following the issue of the licence or the publication of banns, as the case may be. R.S.O. 1970, c. 261, s. 19, *amended*. Time within which marriage to be solemnized

28.—(1) Every person shall immediately after he has solemnized a marriage, Entry in marriage register

(a) where the marriage was solemnized in a church, enter in the church register kept for the purpose; or

- (b) where the marriage was solemnized elsewhere than in the church, enter in a register kept by him for the purpose,

the particulars prescribed by the regulations, and the entry shall be authenticated by his signature and those of the parties and witnesses. R.S.O. 1970, c. 261, s. 27, *amended*.

Marriage certificate

(2) Every person who solemnizes a marriage shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage specifying the names of the parties, the date of the marriage, the names of the witnesses, and whether the marriage was solemnized under the authority of a licence or publication of banns. R.S.O. 1970, c. 261, s. 21, *amended*.

Supply of marriage registers

29.—(1) Every person or religious body authorized to solemnize marriages may apply to the Minister for a marriage register, and the Minister shall thereupon supply the register.

Property of Crown

(2) Every register supplied by the Minister is the property of the Crown. R.S.O. 1970, c. 261, s. 28, *amended*.

Protection of persons solemnizing marriage in good faith

30. No person who solemnizes or purports to solemnize a marriage is subject to any action or liability by reason of there having been any legal impediment to the marriage unless, at the time he performed the ceremony, he was aware of the impediment. R.S.O. 1970, c. 261, s. 44.

Marriages solemnized in good faith

31. If the parties to a marriage solemnized in good faith and intended to be in compliance with this Act are not under a legal disqualification to contract such marriage and after such solemnization have lived together and cohabited as man and wife, such marriage shall be deemed a valid marriage, notwithstanding that the person who solemnized the marriage was not authorized to solemnize marriage, and notwithstanding the absence of or any irregularity or insufficiency in the publication of banns or the issue of the licence. R.S.O. 1970, c. 261, s. 46.

Breach of promise of marriage abolished

32.—(1) No action shall be brought for a breach of a promise to marry or for any damages resulting therefrom.

Application of subs. 1

(2) Subsection 1 does not apply in respect of actions for breach of promise to marry or damages resulting therefrom commenced before the day on which this Act comes into force. *New*.

Recovery of gifts made in contemplation of marriage

33. Where one person makes a gift to another in contemplation of or conditional upon their marriage to each

other and the marriage fails to take place or is abandoned, the question of whether or not the failure or abandonment was caused by or was the fault of the donor shall not be considered in determining the right of the donor to recover the gift. *New.*

34. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms for the purposes of this Act and providing for their use, and requiring any matter therein to be verified by affidavit;
- (b) prescribing any matter required by this Act to be prescribed by the regulations;
- (c) requiring the payment of fees in respect of any matter required or authorized to be done under this Act, and providing for the retention of fees or any portion thereof by issuers and persons solemnizing marriages or any class of them and for the commutation of such fees;
- (d) prescribing the duties of issuers;
- (e) requiring persons authorized to solemnize marriages to furnish such information and returns as are prescribed;
- (f) amending Form 1 to make it conform to the law for the time being;
- (g) designating classes of persons authorized to solemnize marriages under section 24. *New.*

35.—(1) Every person who knowingly makes any false statement in any document required under this Act, in addition to any other penalty or punishment to which he may be liable, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. Penalty:
false
statements

(2) Every person who contravenes any provision of this Act for which no other penalty is provided is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 261, ss. 47-52, *amended*. Idem:
general

36. The following are repealed:

Repeals

1. *The Marriage Act*, being chapter 261 of the Revised Statutes of Ontario, 1970.

2. *The Marriage Amendment Act, 1972*, being chapter 32.
3. Section 55 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
4. Section 44 of *The Government Reorganization Act, 1972*, being chapter 1.

Commence-
ment

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

Short title

38. The short title of this Act is *The Marriage Act, 1977*.

FORM 1

(Section 19)

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his

1. Grandmother
2. Grandfather's wife
3. Wife's grandmother
4. Aunt
5. Wife's aunt
6. Mother
7. Step mother
8. Wife's mother
9. Daughter
10. Wife's daughter
11. Son's wife
12. Sister
13. Granddaughter
14. Grandson's wife
15. Wife's granddaughter
16. Niece
17. Nephew's wife

A woman may not marry her

1. Grandfather
2. Grandmother's husband
3. Husband's grandfather
4. Uncle
5. Husband's uncle
6. Father
7. Step father
8. Husband's father
9. Son
10. Husband's son
11. Daughter's husband
12. Brother
13. Grandson
14. Granddaughter's husband
15. Husband's grandson
16. Nephew
17. Niece's husband

The relationships set forth in this table include all such relationships, whether by the whole or half blood.

R.S.O. 1970, c. 261, Form 10, *amended*.



BILL 62

An Act to revise The Marriage Act

1st Reading

October 17th, 1977

2nd Reading

October 18th, 1977

3rd Reading

November 1st, 1977

THE HON. R. McMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act respecting
Motor Vehicle Access to Property by Private Road**

MR. MAECK

EXPLANATORY NOTE

The Bill is designed to protect the interests of a person who is dependent upon a single private road for motor vehicle access to his property. A person who wishes to close a private road may do so upon obtaining a court order or by meeting one of the other exceptions set out in the Bill. The Bill does not affect rights of ownership in land but contemplates that in the case of a dispute concerning property rights, the road will remain open until the rights of the parties are determined unless circumstances arise that justify the making of a closing order.

BILL 63

1977

An Act respecting Motor Vehicle Access to Property by Private Road

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) "judge" means a judge of a county or district court;
- (b) "private road" means a road, not dedicated or deemed at law to be a public highway, that is ordinarily used as a motor vehicle thoroughfare.

2.—(1) No person shall construct or place a barrier or other obstacle over a private road that, as a result, prevents road access to one or more parcels of land unless, Private road
may not be
closed

- (a) the person has obtained a court order referred to in section 3;
- (b) the closure is made with the consent of the persons immediately affected thereby;
- (c) the closure is of a temporary nature for the purposes of repair or maintenance of the road; or
- (d) the closure is in accordance with a final determination of the rights of the parties made by a court of law or arising from the settlement of an action.

(2) For the purposes of this Act, a person immediately affected by a road closure is an owner, tenant or other occupant of land served by a private road who would be deprived of motor vehicle access to the land if the road were closed. Idem

3.—(1) An application for an order closing a private road may be made to a judge in the county or district in which Closing
order

the proposed place of closure is located and the application shall include a description of the private road sought to be closed, the proposed place of closure, and the names of owners and tenants immediately affected thereby.

Notice (2) At least ten days notice of an application for a closing order shall be given to owners and tenants of land immediately affected by the proposed closure and the notice shall be served personally or sent by registered mail to the person's permanent residence.

When judge may grant order (3) A judge may grant a closing order upon being satisfied that the closure of the private road is reasonably necessary to prevent irreparable damage or injury to the interests of the applicant or is reasonably necessary for some purpose in the public interest.

Interim closing order (4) Where notice as required under subsection 2 is not given, the court may grant an interim closing order for a period not longer than thirty days upon being satisfied that the delay required to give notice would result in irreparable damage or injury to the interests of the applicant.

Idem (5) A judge may make a closing order or interim closing order on such terms and conditions and subject to section 4, for such duration as the judge deems proper in the circumstances.

Setting aside order (6) An owner or tenant entitled to notice at the time a closing order is made may apply to a judge to have the order set aside and the judge may so order where he deems it proper in the circumstances.

Saving 4. Nothing in this Act shall be construed to confer any right in respect of the ownership of land where the right does not otherwise exist at law.

Offence 5. Every person who knowingly contravenes section 2 of this Act is guilty of an offence and on summary conviction is liable to pay a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Commencement 6. This Act comes into force on the day it receives Royal Assent.

Short title 7. The short title of this Act is *The Private Road Access Act, 1977*.







SALES 30

An Act respecting Motor Vehicle Access
to Property by Private Road

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

MR. MAECK

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act respecting Small Business in Ontario

MR. EAKINS

EXPLANATORY NOTE

The purpose of this Bill is to provide for the preservation and expansion of small business enterprise in Ontario. The Bill provides for government efforts relating to tendering policy, subcontracting, research and development and small business co-operatives as a means of providing support for small business enterprise.

BILL 64

1977

An Act respecting Small Business in Ontario

WHEREAS the essence of Ontario's socio-economic system Preamble
is embodied in the principles of free enterprise, competition and diversity; and whereas the preservation and expansion of these principles is essential to the basic welfare and security of the people of the Province of Ontario, as well as to the growth of personal initiative; and whereas this Legislature wishes to grant formal recognition to, and give fair and equitable support for that sector of the economy that most effectively preserves and enhances free, competitive enterprise;

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

1.—(1) In this Act,

Interpre-
tation

(a) "Minister" means the Minister of Industry and Tourism;

(b) "small business" means a business that is independently owned and operated and is not dominant in its field of operation.

(2) The Minister may by regulation further define a small Minister may
determine
small
business
business having regard to other criteria including the number of employees and the dollar volume of business.

(3) Where the number of employees is used as one of the Idem
criteria referred to in subsection 2, the maximum number of employees stated in the definition may vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

- Objects **2.**—(1) The Government of Ontario shall aid, counsel, assist and protect, in so far as possible, the interests of small business.
- Government purchases from small businesses (2) In order to preserve free competitive enterprise, the Government of Ontario shall,
- (a) establish a target of 40 per cent of the total purchases and contracts or subcontracts for goods, services and real property purchased or made by the Government to be placed with small businesses within three years of the date this Act comes into force; and
- (b) ensure that a fair proportion of the total sales and leases of Government property be transacted with small businesses.
- Small business certificate **3.**—(1) There shall be a certificate known as the Small Business Certificate to designate a concern, firm, person, corporation, partnership, co-operative or other business enterprise that is a small business for the purpose of this Act that is determined to be in a sound financial and productive position.
- Minister issues certificate (2) Upon application, the Minister shall issue a certificate certifying a business as a small business that is in a sound financial and productive position.
- Revocation (3) A Small Business Certificate is subject to revocation by the Minister when the business covered thereby ceases to be a small business or is no longer determined to be in a sound financial and productive position.
- Notice in Ontario Gazette (4) Notice shall be published in *The Ontario Gazette* within thirty days of the issuance of a Small Business Certificate or of the giving of notice with respect to revoking such a certificate.
- Idem (5) A Small Business Certificate is deemed to be revoked within thirty days of publication in *The Ontario Gazette* of a notice to revoke, provided that such notice is also served on the small business prior to publication in *The Ontario Gazette*, and attestation of such service shall be given together with the notice to revoke when so published.
- Idem (6) Offices of the Government having procurement or lending powers, or engaging in the disposal of property or allocating materials or supplies, or promulgating regulations affecting the distribution of materials or supplies shall accept

as conclusive the Minister's determination as to which enterprises are to be designated as authorized and directed under this section.

(7) An appeal from the Minister's decision to revoke under ^{Appeal} this section involving questions of law or jurisdiction lies to the Supreme Court of Ontario.

(8) An appeal from the Minister's decision to revoke under ^{Idem} this section lies to the Lieutenant Governor in Council.

(9) Where the Minister revokes a Small Business Certificate, ^{Written reasons} he shall provide written reasons for his decision.

4.—(1) Where tenders are sought by the Government, ^{Government tenders} any of its ministries or agencies, including Crown Corporations, for the purchase by the Government of goods, services or real property, and in which tender is included the information that it holds a Small Business Certificate, if such tender is not higher than any other qualified tender, and it meets all specified minimum requirements to qualify as a valid tender, then such tender by the small business shall be accepted.

(2) The Minister shall be provided with notice of all pro- ^{Notice of procurements} posed procurement actions of value exceeding \$5,000 from any provincial ministry, establishment, or agency engaged in procurement of supplies and services in the Province of Ontario and he shall publicize such notices in *The Ontario Gazette*, immediately after the necessity for the procurement is established, except that nothing herein shall require publication of such notices with respect to those procurements,

- (a) that for security reasons are of a classified nature;
- (b) that involve perishable subsistence supplies;
- (c) that are for utility services and the procuring agency in accordance with applicable law has predetermined the utility concern to whom the award will be made;
- (d) that are of such unusual and compelling emergency that the Government would be seriously injured if bids or offers were permitted to be made more than fifteen days after the issuance of the invitation for bids or solicitation for proposals;
- (e) that are made by an order placed under an existing contract;

- (f) that are made from another Government ministry or agency, or a mandatory source of supply;
- (g) that are for personal or professional services;
- (h) that are for services from educational institutions;
- (i) in which only foreign sources are to be solicited; and
- (j) for which it is determined in writing by the procuring agency, with the concurrence of the Minister that advance publicity is not appropriate or reasonable.

Small
business sub-
contracting
program

5.—(1) The Minister shall develop forthwith a small business subcontracting program containing provisions,

- (a) to enable small businesses to be considered fairly as subcontractors and suppliers to contractors performing work or rendering services as prime contractors or subcontractors under Government procurement contracts; and
- (b) to enable the Ministry to obtain from any Government procurement agency such available or reasonably obtainable information and records concerning subcontracting by its prime contractors and their subcontractors as the Ministry may deem necessary.

Matters
not to be
dealt with
in program

(2) Subsection 1 shall not be construed to authorize the Minister,

- (a) to prescribe the extent to which any contractor or subcontractor shall subcontract;
- (b) to specify the businesses to which subcontracts shall be granted; or
- (c) to vest in the Minister authority respecting the administration of individual prime contracts or subcontracts.

Subcontract-
ing a
favourable
factor

(3) The program shall provide that in evaluating bids or in selecting contractors for negotiated contracts the extensive use of subcontractors by a proposed contractor shall be considered a favourable factor.

Small
business
loans officer

(4) The program shall provide that any firm awarded a government contract over \$500,000 shall employ a small

business liaison officer, who may already be a member of the firm, to be responsible for subcontracting portions of the work to small businesses, wherever possible.

(5) Every contract for goods, services or real property, ^{Required contractual provisions} including contracts for research and development, maintenance, repair and construction, but not including contracts to be performed entirely outside the Province of Ontario, in excess of \$500,000, made by a Government ministry or agency, that in the opinion of the procuring agency offers substantial subcontracting possibilities, shall require the contractor,

- (a) to conform to the small business subcontracting program; and
- (b) to insert in all subcontracts and purchase orders in excess of \$250,000 that offer substantial possibilities for further subcontracting a provision requiring the subcontractor or supplier to conform to the small business subcontracting program.

6.—(1) It shall be the duty of the Minister and he is ^{Research and development} hereby empowered,

- (a) to assist small businesses to obtain Government contracts for research and development;
- (b) to instruct Government agencies and ministries to contract out as much research and development work as possible;
- (c) to assist small business to benefit from research and development performed under Government contracts or at Government expense;
- (d) to provide technical assistance to small business and to simplify application procedures in order to accomplish the purposes of this section;
- (e) to give preference to Canadian owner-managed businesses in allocating research grants and loans; and
- (f) to publish information as to facilities available through small businesses for research and development.

(2) The Minister may consult and co-operate with all ^{Idem} Government agencies and make studies and recommendations

to such agencies, and such agencies shall co-operate with the Minister in order to carry out and accomplish the purposes of this section.

Co-operatives 7.—(1) The Minister may consult with any representative of one or more small businesses to encourage the formation of co-operatives formed and capitalized by a group of small businesses with resources provided by them for the provision of central services, or for the purpose of obtaining for the use of such small businesses raw materials, equipment, inventories, supplies or the benefits of research and development, or for establishing facilities to undertake and utilize applied research.

Co-operatives may be certified (2) The Minister may certify a co-operative as a member of a special class of small business and may issue the certificate referred to in section 3.

Idem (3) The Minister may provide advisory services regarding the mechanics of establishing co-operatives.

Powers of Minister

8. The Minister may,

- (a) enter into contracts with any provincial government or the Government of Canada and any ministry, agency, or officer thereof having procurement powers obligating the Minister to furnish articles, equipment, supplies or materials to Ontario, and in any case in which the Minister certifies to any officer of Ontario having procurement powers that the Ministry of Industry and Tourism is competent to perform any specific government procurement contract to be let by any such officer, such officer shall be authorized, in his discretion, to let such procurement contract to the Ministry of Industry and Tourism upon such terms and conditions as may be agreed upon between the Minister and the procurement officer;
- (b) arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Ministry of Industry and Tourism to perform such contracts;
- (c) provide technical and managerial aids to small business concerns, by advising and counselling on

matters in connection with Government procurement and property disposal and on policies, principles, and practices of good management, including but not limited to cost accounting, methods of financing business insurance, accident control, wage incentives, and methods engineering, by,

- (i) co-operating and advising with voluntary business, professional, educational, and other non-profit organizations, associations and institutions and with other governmental agencies,
 - (ii) maintaining a clearinghouse for information concerning the managing, financing and operation of small business enterprises,
 - (iii) disseminating such information, and
 - (iv) such other activities as are deemed appropriate by the Minister;
- (d) co-ordinate and ascertain the means by which the productive capacity of small businesses can be most effectively utilized;
- (e) consult and co-operate with officers of the Government having procurement or property disposal powers in order to utilize the potential productive capacity of plants operated by small businesses;
- (f) obtain information as to methods and practices that government prime contractors utilize in letting subcontracts by prime contractors to small businesses at prices and on conditions and terms which are fair and equitable;
- (g) determine within any industry the concerns, firms, persons, corporations, partnerships, co-operatives, or other business enterprises that may be designated as small businesses for the purposes of this Act;
- (h) serve as a focal point to receive complaints, criticisms and suggestions concerning the policies and activities of the Ministry of Industry and Tourism and any other government agency that affects small business;
- (i) represent the views and interests of small businesses before other agencies whose policies and activities may affect small businesses;

- (j) enlist the co-operation and assistance of public and private agencies, businesses and other organizations in disseminating information about the programs and services provided by the Government that are of benefit to small businesses and information concerning the manner in which small businesses can participate in or make use of such programs and services; and
- (k) receive reports from Government agencies and ministries concerning the progress in procurement and contracting to small business.

Standing
committee

9. There shall be a standing committee of the Assembly to be known as the Small Business Committee, that shall report annually to the Assembly if it is in session or, if not, at the next ensuing session, on all aspects meriting legislative attention with respect to small businesses, and that shall consider,

- (a) proposed legislation and legislative reform;
- (b) the state of governmental and private assistance available respecting training, manpower and management development, research, technical and scientific assistance;
- (c) the competitive strength of small business;
- (d) representations from small business groups;
- (e) the proposals for changes in the policies and activities of any agency of the Government that will better fulfill the purposes of this Act and communicate such proposals to the appropriate agencies; and
- (f) such other matters dealing with small businesses as the standing committee in its opinion considers appropriate.

Regulations

10.—(1) The Lieutenant Governor in Council shall make regulations prescribing the criteria for determining whether a small business is in a sound financial and productive position.

Idem

(2) The Lieutenant Governor in Council may prescribe regulations implementing the small business subcontracting program.

11. Nothing in this Act shall be construed to authorize any ministry or agency of the Government to disseminate technical data or processes developed by any business under this Act. ^{Confidentiality}

12. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

13. The short title of this Act is *The Small Business Act*, ^{Short title} 1977.

An Act respecting
Small Business in Ontario

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

MR. EAKINS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Surrogate Courts Act

THE HON. R. MCMURTRY
Attorney General

T O R O N T O

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The amendment codifies the present practice for the surrogate court clerk in the Judicial District of York to perform the duties of the Surrogate Clerk for Ontario.

SECTION 2. The designation of holidays on which surrogate court offices will be closed is rewritten to coincide with *The Public Service Act*. The wording is the same as in *The Registry Act* and *The Land Titles Act*.

SECTION 3. The amendment adopts the same language to refer to members of the armed forces on active service as is used in section 8 of the Bill to enact *The Succession Law Reform Act, 1977*. The provisions repealed and not re-enacted provide for true evaluation of the estate.

An Act to amend The Surrogate Courts Act

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

1. Section 12 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(3) The registrar for The Surrogate Court of the Judicial District of York is by virtue of his office the Surrogate Clerk for Ontario.

2. Subsection 1 of section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 59, section 2, is repealed and the following substituted therefor:

(1) In this section, "holiday" means,

Holiday
defined

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under *The Public Service Act*.

R.S.O. 1970.
c. 386

3. Subsections 3, 4, 5 and 6 of section 34 of the said Act are repealed and the following substituted therefor:

s. 34 (3),
re-enacted
s. 34 (4, 5, 6),
repealed

(3) In subsection 2, "members of the forces" means a member of a component of the Canadian Forces,

Interpre-
tation

(a) that is referred to in the *National Defence Act* (Canada) as a regular force; or

R.S.C. 1970.
c. N-4

(b) while placed on active service under the *National Defence Act* (Canada).

s. 56,
re-enacted

4. Section 56 of the said Act is repealed and the following substituted therefor:

Evaluation

56.—(1) The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true statement of the total value, verified by the oath of the applicant, of all the property that belonged to the deceased at the time of his death.

Evaluation
of
subsequently
discovered
property

(2) When after the grant of probate or letters of administration any property belonging to the deceased at the time of his death and not included in such statement of total value is discovered by the executor or administrator, he shall, within six months thereafter, deliver to the registrar a true statement of the total value, duly verified by oath, of such newly discovered property.

Evaluation
of limited
grant

(3) Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in the statement of value only the property and value thereof intended to be affected by such application or grant.

s. 60 (2) (a),
re-enacted

- 5.—(1) Clause *a* of subsection 2 of section 60 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 19, section 1, is repealed and the following substituted therefor:

1977. c.

(a) the net value of the estate as computed for the purposes of section 46 of *The Succession Law Reform Act, 1977* does not exceed \$75,000; and

Application
of subs. 1

- (2) Subsection 1 does not apply in respect of the administration of the estate of a person who died before this section comes into force.

s. 76 (1),
amended

- 6.—(1) Subsection 1 of section 76 of the said Act is amended by striking out "as to personal property" in the ninth and tenth lines.

s. 76 (3),
repealed

- (2) Subsection 3 of the said section 76 is repealed.

Commence-
ment

- 7.—(1) This Act, except sections 5 and 6, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 5 and 6 come into force on the day *The Succession Law Reform Act, 1977* comes into force.

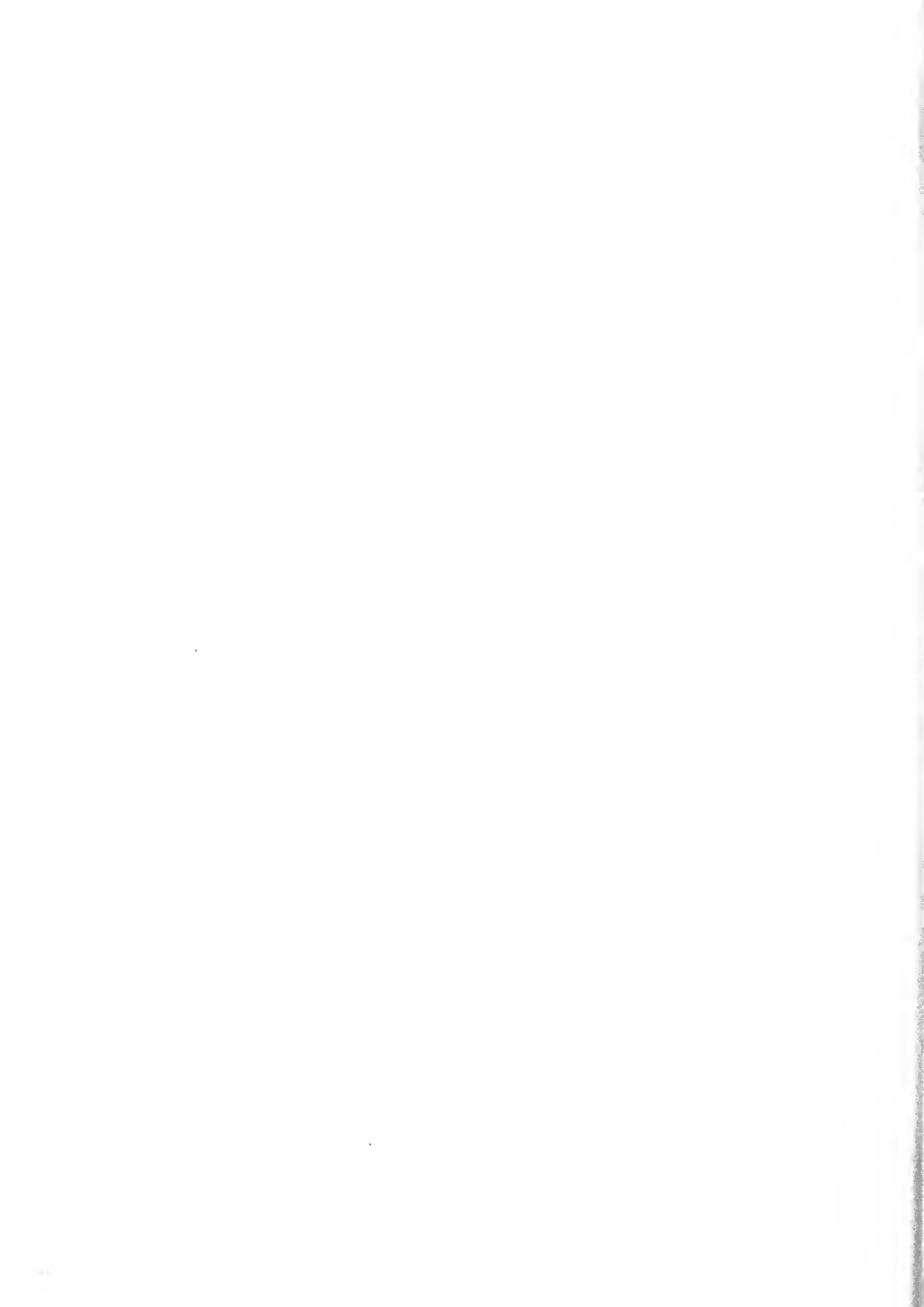
Short title

8. The short title of this Act is *The Surrogate Courts Amendment Act, 1977*.

SECTION 4. The amendment does away with the filing of detailed inventory upon an application for probate or letters of administration. The inventory is replaced by a statement of total value.

SECTION 5. The provision amended dispenses with a bond where the administrator is the surviving spouse of the deceased and the estate does not exceed the preferential share on an intestacy. The amendment brings the amount into line with the preferential share under the Bill to enact *The Succession Law Reform Act, 1977*.

SECTION 6. The section amended provides for resealing in Ontario of probate or letters of administration granted outside Ontario in Canada or the British Commonwealth. The amendments remove the distinction made between wills passing real property and personal property. The criteria for probating a foreign will is the same for both under section 37 of the Bill to enact *The Succession Law Reform Act, 1977*.





An Act to amend
The Surrogate Courts Act

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 65

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Surrogate Courts Act

THE HON. R. MCMURTRY
Attorney General

An Act to amend The Surrogate Courts Act

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

1. Section 12 of *The Surrogate Courts Act*, being chapter 451 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: s. 12,
amended

(3) The registrar for The Surrogate Court of the Judicial District of York is by virtue of his office the Surrogate Clerk for Ontario. Surrogate
clerk for
Ontario

2. Subsection 1 of section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 59, section 2, is repealed and the following substituted therefor: s. 16 (1),
re-enacted

(1) In this section, "holiday" means,

Holiday
defined

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under *The Public Service Act*. R.S.O. 1970,
c. 386

3. Subsections 3, 4, 5 and 6 of section 34 of the said Act are repealed and the following substituted therefor: s. 34 (3),
re-enacted
s. 34 (4, 5, 6),
repealed

(3) In subsection 2, "members of the forces" means a member of a component of the Canadian Forces, Interpre-
tation

(a) that is referred to in the *National Defence Act* (Canada) as a regular force; or R.S.C. 1970,
c. N-4

(b) while placed on active service under the *National Defence Act* (Canada).

s. 56,
re-enacted

4. Section 56 of the said Act is repealed and the following substituted therefor:

Evaluation

56.—(1) The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true statement of the total value, verified by the oath of the applicant, of all the property that belonged to the deceased at the time of his death.

Evaluation
of
subsequently
discovered
property

(2) When after the grant of probate or letters of administration any property belonging to the deceased at the time of his death and not included in such statement of total value is discovered by the executor or administrator, he shall, within six months thereafter, deliver to the registrar a true statement of the total value, duly verified by oath, of such newly discovered property.

Evaluation
of limited
grant

(3) Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in the statement of value only the property and value thereof intended to be affected by such application or grant.

s. 60 (2) (a),
re-enacted

- 5.—(1) Clause *a* of subsection 2 of section 60 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 19, section 1, is repealed and the following substituted therefor:

1977, c.

(a) the net value of the estate as computed for the purposes of section 46 of *The Succession Law Reform Act, 1977* does not exceed \$75,000; and

Application
of subs. 1

(2) Subsection 1 does not apply in respect of the administration of the estate of a person who died before this section comes into force.

s. 76 (1),
amended

- 6.—(1) Subsection 1 of section 76 of the said Act is amended by striking out "as to personal property" in the ninth and tenth lines.

s. 76 (3),
repealed

(2) Subsection 3 of the said section 76 is repealed.

Commence-
ment

- 7.—(1) This Act, except sections 5 and 6, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5 and 6 come into force on the day *The Succession Law Reform Act, 1977* comes into force.

Short title

8. The short title of this Act is *The Surrogate Courts Amendment Act, 1977*.





An Act to amend
The Surrogate Courts Act

1st Reading

October 17th, 1977

2nd Reading

October 18th, 1977

3rd Reading

November 1st, 1977

THE HON. R. MCMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Education Act, 1974

MR. STONG

EXPLANATORY NOTE

This Bill defines "compulsory school age" and "special education", guarantees every child of compulsory school age a right to an education and transfers the establishing of special education programs from the discretion to the duty of a school board.

BILL 66

1977

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. Subsection 1 of section 1 of *The Education Act, 1974*, being ^{s. 1 (1),} amended chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1, is further amended by adding thereto the following paragraphs:

6a. "compulsory school age" includes every child who attains the age of six years on or before the first school day in September in any year and continues until he attains the age of sixteen years;

62a. "special education" means a program which includes facilities adequate to instruct a child who exhibits a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written languages.

2. The said Act is amended by adding thereto the following ^{s. 19a,} enacted section:

19a. Every child of compulsory school age has a right to ^{Right to} an education. ^{an} ^{education}

3. Section 146 of the said Act, as amended by the Statutes of ^{s. 146,} amended Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph:

17. establish, subject to the regulations, special edu- ^{special} cation programs to provide special education ser- ^{education} vices for children who require such services. ^{programs}

4. Paragraph 40 of subsection 1 of section 147 of the said Act is ^{s. 147 (1),} ^{par. 40,} repealed. ^{repealed}

Commence-
ment

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

Short title

6. The short title of this Act is *The Education Amendment Act, 1977*.



An Act to amend
The Education Act, 1974

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

MR. STONG

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act

MR. STONG

EXPLANATORY NOTE

This Bill defines hospital pharmacists and establishes a bargaining unit of hospital pharmacists as an appropriate unit for collective bargaining.

BILL 67

1977

An Act to amend The Labour Relations 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 1 of *The Labour Relations Act*, being ^{s.1(1), amended} chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 1, is further amended by adding thereto the following clause:

(ha) "hospital pharmacist" means an employee who is licensed as a pharmacist under *The Health Disciplines Act, 1974* and employed in a hospital as defined in *The Hospital Labour Disputes Arbitration Act* in a professional capacity. ^{R.S.O. 1970, c. 208}
2. Section 6 of the said Act, as amended by the Statutes of ^{s.6, amended} Ontario, 1975, chapter 76, section 3, is further amended by adding thereto the following subsection:

(5) A bargaining unit consisting solely of hospital pharmacists shall be deemed by the Board to be a unit of employees appropriate for collective bargaining, but the Board may include hospital pharmacists in a bargaining unit with other employees if the Board is satisfied that a majority of such hospital pharmacists wish to be included in such bargaining unit. ^{Hospital pharmacists}
3. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
4. The short title of this Act is *The Labour Relations Amendment Act, 1977*. ^{Short title}

An Act to amend
The Labour Relations Act

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

MR. STONG

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act

MR. CASSIDY

EXPLANATORY NOTE

The Bill is designed to preserve the collective bargaining rights of employees of a business that is relocated. In addition to continuing bargaining rights and collective agreements after the relocation, the Bill provides for a sixty day period from the date of notice of the relocation during which an employee can choose to continue his employment at the new location. Once the relocation has taken place, the Ontario Labour Relations Board has authority to determine whether a new bargaining unit exists.

An Act to amend The Labour Relations Act

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

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 55a,
enacted

55a.—(1) Where an employer relocates his business, or a part thereof, the employer is bound by determinations, agreements and proceedings made under this Act before the date of the relocation until the Board otherwise declares, and the determinations, agreements and proceedings shall continue in effect as if no change had occurred except that the description of the bargaining unit contained in the certificate or collective agreement is deemed to be amended to include the new location. Relocation
rights

(2) An employer shall provide reasonable notice to his employees of any decision to relocate his business and the employer shall permit an employee affected thereby sixty days from the date of the notice of relocation to accept employment at the new location. Continuation
of
employment

(3) An employer is not required to continue the employment of an employee in accordance with subsection 2 where the employer no longer requires work of the same nature or similar skill requirements to work which the employee performed prior to the date of relocation. Exception

(4) Where a business has been relocated, the Board may, upon the application of any person, trade union or council of trade unions, Remedial
powers of
Board

- (a) determine whether the employees at the new location constitute a bargaining unit and certify a trade union or council of trade unions as the bargaining agent thereof; and

(b) amend, to such extent as the Board considers necessary, any certificate of a trade union or council of trade unions issued prior to the relocation.

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 Labour Relations Amendment Act, 1977*.

An Act to amend
The Labour Relations Act

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

MR. CASSIDY

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act

MR. BREAGH

EXPLANATORY NOTE

The purpose of this Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill.

An Act to amend The Labour Relations Act

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

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 59a,
enacted

59a.—(1) In this section,

Interpre-
tation

- (a) “employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;
- (b) “legal picket line” means a moving formation of two or more persons belonging to a certified bargaining unit who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless, Unlawful
employment

- (a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or
- (b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless, Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;
- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection 3 enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection 3 or who, upon gaining entry, performs work contrary to subsection 2, commits a trespass and is liable to proceedings under *The Petty Trespass Act*.

R.S.O. 1970,
c. 347

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 Labour Relations Amendment Act, 1977*.







An Act to amend
The Labour Relations Act

1st Reading

October 17th, 1977

2nd Reading

3rd Reading

MR. BREAUGH

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act respecting the
Occupational Health and Occupational Safety of Workers**

THE HON. B. STEPHENSON
Minister of Labour



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EXPLANATORY NOTE

The purpose of the Bill is to revise and consolidate into one Act, the Acts dealing with the health and safety of workers at work.

These Acts are:

The Mining Act, R.S.O. 1970, c. 274, Part IX

The Silicosis Act, R.S.O. 1970, c. 438

The Industrial Safety Act, 1971, c. 43

The Construction Safety Act, 1973, c. 47

The Employees' Health and Safety Act, 1976, c. 79

The Bill provides that the application of the Act may be extended to work places not presently dealt with by regulation.

The Bill provides for the establishment of an Advisory Council on Occupational Health and Occupational Safety to make recommendations to and advise the Minister on matters relating to occupational health and safety.

The Bill further provides for the regulation of the use of and exposure to substances which may endanger health in a work place, the monitoring of the levels of such substances in a work place and requiring medical examinations of workers.

BILL 70

1977

**An Act respecting the
Occupational Health and Occupational
Safety of Workers**

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

1. In this Act,

Interpre-
tation

1. "committee" means a joint health and safety committee established under this Act; 1976, c. 79, s. 1 (a), *amended*.
2. "competent person" means a person who is selected by his employer as being qualified because of his,
 - i. knowledge, training and experience to organize the work and its performance,
 - ii. familiarity with the provisions of this Act and the regulations that apply to the work, and
 - iii. knowledge of any potential or actual danger to health or safety in the work place; *New*.
3. "construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project; 1973, c. 47, s. 1 (d), *amended*.
4. "constructor" means a person or owner who undertakes a project; 1973, c. 47, s. 1 (e), *amended*.
5. "Deputy Minister" means the Deputy Minister of Labour; 1973, c. 47, s. 1 (f).

6. "designated substance" means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled;
7. "Director" means an inspector who is appointed under this Act as a Director of the Occupational Health and Safety Division of the Ministry; 1971, c. 43, s. 1 (*da*); 1972, c. 122, s. 1, *amended*.
8. "employer" means a person who employs one or more workers and includes, in relation to a part of a project, a contractor or subcontractor who performs work on the part of the project and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work on the part of the project; 1971, c. 43, s. 1 (*e*); 1973, c. 47, s. 1 (*h*), *amended*.
9. "factory" means,
 - i. a building or place other than a mine, mining plant or place where homework is carried on, where,
 - A. any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,
 - B. in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing, energy is,
 1. used to work any machinery or device, or
 2. modified in any manner,
 - C. any work is performed by way of trade or for the purposes of gain in or incidental to the making of any goods, substance, article or thing or part thereof,
 - D. any work is performed by way of trade or for the purposes of gain in or in-

cidental to the altering, demolishing, repairing, maintaining, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, or

E. aircraft, locomotives or vehicles used for private or public transport are maintained,

ii. a laundry including a laundry operated in conjunction with,

A. a public or private hospital,

B. a hotel, or

C. a public or private institution for religious, charitable or educational purposes, and

iii. a logging operation; 1971, c. 43, s. 1 (*h*), *amended*.

10. "health and safety representative" means a health and safety representative selected under this Act; 1976, c. 79, s. 1 (*d*), *amended*.

11. "homework" means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation; 1971, c. 43, s. 1 (*i*).

12. "industrial establishment" means an office building, factory, shop or office, and any land, buildings and structures appertaining thereto; 1971, c. 43, s. 1 (*j*); 1974, c. 104, s. 1 (*i*), *amended*.

13. "inspector" means an inspector appointed for the purposes of this Act and includes a Director; 1971, c. 43, s. 1 (*k*); 1973, c. 47, s. 1 (*i*), *amended*.

14. "logging" means the operation of felling or trimming trees for commercial or industrial purposes and includes the measuring, storing, transporting or floating of logs and any such activities for the clearing of land; 1971, c. 43, s. 1 (*kb*); 1974, c. 104, s. 1 (2), *amended*.

15. "mine" means any work or undertaking for the purpose of opening up, proving, removing or extracting any metallic or non-metallic mineral or mineral-bearing substance, rock, earth, clay, sand or gravel; R.S.O. 1970, c. 274, s. 169 (1) (d), *amended*.
16. "mining plant" means any roasting or smelting furnace, concentrator, mill or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance mentioned in paragraph 15; R.S.O. 1970, c. 274, s. 169 (1) (g), *amended*.
17. "Minister" means the Minister of Labour; 1971, c. 43, s. 1 (l); 1973, c. 47, s. 1 (j).
18. "Ministry" means the Ministry of Labour; *New*.
19. "owner" includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a work place, and a person who acts for or on behalf of an owner as his agent or delegate; R.S.O. 1970, c. 274, s. 1, par. 18; 1971, c. 43, s. 1 (n); 1973, c. 47, s. 1 (l), *amended*.
20. "prescribed" means prescribed by a regulation made under this Act; *New*.
21. "project" means the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof, public or private, including mine development or any work or undertaking, or any lands or appurtenances used in connection with construction; 1973, c. 47, s. 1 (n), *amended*.
22. "regulations" means the regulations made under this Act; 1971, c. 43, s. 1 (r); 1973, c. 47, s. 1 (o), *amended*.
23. "shop" means a building, booth or stall or a part of such building, booth or stall where goods are handled, exposed or offered for sale or where services are offered for sale; 1971, c. 43, s. 1 (s), *amended*.
24. "supervisor" means a foreman, superintendent or manager who has charge of a work place or authority over a worker; *New*.

25. "trade union" means a trade union as defined in *The Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a work place; 1976, c. 79, s. 1 (g), *amended*. R.S.O. 1970.
c. 232
26. "work place" includes any site, location, space, water, vehicle, aircraft, equipment, land, building, shop, structure whether movable or not, mine, mining plant, industrial establishment, project site, premises and area, public or private, or any part thereof, at, upon, in or near which a worker performs work; *New*.
27. "worker" includes a person who is in or on a work place for any purpose in connection therewith. 1973, c. 47, s. 1 (t), *amended*.

PART I

APPLICATION

2.—(1) This Act binds the Crown and applies to an employee in the service of the Crown or an agency, board, commission or corporation that exercises any function assigned or delegated to it by the Crown. 1971, c. 43, s. 3; 1973, c. 47, s. 2 (1), *amended*. Application
to Crown

(2) Notwithstanding anything in any general or special Act, the provisions of this Act and the regulations prevail. 1976, c. 79, s. 11. Application
of other
Acts

3.—(1) This Act applies to,

- (a) a project;
- (b) a mine;
- (c) a mining plant;
- (d) an industrial establishment; and
- (e) a work place designated generally or specifically by regulation.

Application
to work
places

(2) This Act does not apply to,

- (a) a project being done in person by the owner or occupants of a private residence in relation to such residence; and

Where Act
does not
apply

- (b) a work place that is exempted generally or specifically by regulation. 1971, c. 43, s. 2; 1973, c. 47, ss. 2 (1), 3, *amended*.

PART II

ADMINISTRATION

Delegation
of powers

4. Where under this Act or the regulations any power or duty is granted to or vested in the Minister or the Deputy Minister, the Minister or Deputy Minister may in writing delegate that power or duty from time to time to any officer or officers of the Ministry subject to such limitations, restrictions, conditions and requirements as the Minister or Deputy Minister may set out in the delegation. *New*.

Appoint-
ment of
inspectors
and
Directors

5.—(1) Such persons as may be necessary to administer and enforce this Act and the regulations may be appointed as inspectors by the Deputy Minister and the Deputy Minister may designate one or more of the inspectors as a Director or Directors. 1971, c. 43, s. 6 (1, 2); 1973, c. 47, s. 4 (1, 2), *amended*.

Director
may act as
inspector

(2) A Director may exercise any of the powers or perform any of the duties of an inspector under this Act or the regulations. *New*.

Certificate
of appoint-
ment

6.—(1) The Deputy Minister shall issue a certificate of appointment, bearing his signature or a facsimile thereof, to every inspector.

Production
of
certificate

(2) Every inspector, in the exercise of any of his powers or duties under this Act, shall produce his certificate of appointment upon request. 1971, c. 43, s. 7; 1973, c. 47, s. 5, *amended*.

Order
establi-
shing joint
health and
safety
committee

7.—(1) The Minister may, by order in writing, require an employer, a constructor or a group of employers to establish a joint health and safety committee or committees for a work place, or any part or parts thereof, and, in the order, may provide for the qualifications and the term of office of its members and its practice and procedures, and, from time to time, may give such directions as the Minister considers advisable concerning the carrying out of its functions.

What
Minister
shall
consider

(2) In exercising the power conferred by subsection 1, the Minister shall consider,

- (a) the nature of the work being done;
- (b) the number of workers engaged in the work;

- (c) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a work place;
- (d) the frequency of illness or injury in the work place or in the industry of which the constructor or employer is a part;
- (e) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and
- (f) such other matters as the Minister considers advisable.

(3) A committee shall consist of such number of persons as the Minister may prescribe, of whom half shall be workers who do not exercise managerial functions, to be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Composi-
tion of
committee

- (4) It is the function of a committee and it has power to,
- Powers of
committee
- (a) identify situations that may be a source of danger or hazard to workers;
 - (b) make recommendations to the constructor, employer or group of employers, as the case may be, and the workers for the improvement of the health and safety of workers;
 - (c) recommend to the constructor, employer or group of employers, as the case may be, and the workers, the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers; and
 - (d) obtain information from the constructor or employer respecting,
 - (i) the identification of potential or existing hazards of materials, processes or equipment, and
 - (ii) health and safety experience and work practices and standards in similar or other industries of which the employer has knowledge.
- 1976, c. 79, s. 4 (1-4), *amended*.

Minutes of
proceed-
ings

(5) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector. *New.*

Posting of
names and
work
locations

(6) The employer, constructor or group of employers required by the order of the Minister to establish a committee pursuant to subsection 1 shall post and keep posted at the work place the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

Meetings

(7) A committee shall meet at least once every three months at the work place and may be required to meet by order of the Minister.

Entitle-
ment to
time from
work

(8) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 4 (5-7), *amended.*

Effect of
order on
collective
agreement

(9) Where a committee is established under this Act, those provisions of a collective agreement providing for the creation of any committee of like nature are suspended and any committee formed under the collective agreement shall be superseded by the committee established under this Act.

Existing
health and
safety
committees
under
collective
agreements
continued

(10) Any committee of like nature to a committee that may be established under this Act, created under the provisions of a collective agreement and not superseded by a committee established under this Act, has, in addition to its functions and powers under the provisions of the collective agreement, the functions and powers conferred upon a committee by subsection 4.

Existing
rights and
liabilities,
etc.

(11) Subsection 9 does not affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred prior to the establishment of a committee under this Act. *New.*

Order
appointing
health and
safety
representa-
tives

8.—(1) The Minister may, by order in writing, require an employer, a constructor or a group of employers to cause the selection of one or more health and safety representatives for a work place or a part or parts thereof from among the workers employed at the work place or in the part or parts thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representative or representatives.

(2) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of the functions of a health and safety representative. 1976, c. 79, s. 5 (1), *amended*.

Idem

(3) In exercising the power conferred by subsection 1, the Minister shall consider the matters set out in subsection 2 of section 7, and in addition thereto, the Minister shall consider whether a committee has or has not been ordered to be established. *New*.

What
Minister
shall
consider

(4) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the work place, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Selection
of
representa-
tives

(5) A health and safety representative may inspect the work place or the part or parts thereof for which he has been selected, as the case may be, not more often than once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford the health and safety representative such information and assistance as may be required for the purpose of carrying out the inspection.

Powers of
representa-
tive

(6) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his findings thereon to the employer, workers, a trade union or trade unions representing workers and a joint health and safety committee, if any.

Idem

(7) Where a person is killed or critically injured at a work place from any cause, the health and safety representative may, subject to subsection 2 of section 23, inspect the place where the accident occurred and any machine, device or thing, and shall report his findings in writing to a Director and a committee, if any.

Notice of
accident,
inspection
by repre-
sentative

(8) A health and safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections 5 and 7 and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 5 (2-6), *amended*.

Entitle-
ment to
time from
work

(9) Where one or more health and safety representatives are selected under this Act, those provisions of a collective

Effect on
collective
agreement

agreement providing for the appointment of a health and safety representative or representatives of like nature are suspended, and a health and safety representative or representatives appointed under the collective agreement shall be superseded by the health and safety representative or representatives selected under this Act.

Existing rights and liabilities, etc.

(10) Subsection 9 does not affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred prior to the selection of a health and safety representative or representatives under this Act.

Additional power of existing health and safety representative

(11) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement and not superseded by a health and safety representative selected under this Act has, in addition to his functions and powers under the provisions of the collective agreement, the functions and powers conferred upon a health and safety representative by subsections 5, 6 and 7. *New.*

Summary to be furnished

9.—(1) The Workmen's Compensation Board, upon the request of an employer, a worker or a trade union, shall send to the employer, worker or trade union an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the number of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.

Posting of copy of summary

(2) Upon receipt of the annual summary, the employer shall cause a copy thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers. 1976, c. 79, s. 8, *amended.*

Advisory Council on Occupational Health and Occupational Safety

10.—(1) There shall be a council to be known as the Advisory Council on Occupational Health and Occupational Safety composed of not fewer than twelve and not more than twenty members appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

Term of office of members

(2) The members of the Advisory Council shall be appointed for such term as the Lieutenant Governor in Council determines and shall be representative of management, labour and technical or professional persons and the public who are concerned with and have knowledge of occupational health and occupational safety.

(3) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman of the Advisory Council from among the members appointed. Chairman and vice-chairman

(4) The Lieutenant Governor in Council may fill any vacancy that occurs in the membership of the Advisory Council. Vacancies

(5) The remuneration and expenses of the members of the Advisory Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature. Remuneration and expenses

(6) The Advisory Council, with the approval of the Minister, may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum, and the conduct of meetings. Powers of Advisory Council

(7) The function of the Advisory Council is and it has power, Idem

- (a) to make recommendations to the Minister relating to programs of the Ministry in occupational health and occupational safety; and
- (b) to advise the Minister on matters relating to occupational health and occupational safety which may be brought to its attention or be referred to it. *New.*

11.—(1) The Minister may appoint committees, which are not committees as defined in paragraph 1 of section 1, or persons to assist or advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable. Advisory committees

(2) Any person appointed under subsection 1 who is not an officer in the public service of the Province of Ontario may be paid such remuneration and expenses as may be from time to time fixed by the Lieutenant Governor in Council. *New.* Remuneration and expenses

12.—(1) The Lieutenant Governor in Council may, upon the recommendation of the Minister, fix an amount that shall be assessed and levied by the Workmen's Compensation Board upon the employers in Schedule 1 under *The Workmen's Compensation Act* engaged in projects, excluding mine development, or the construction of a mining plant, to defray the expenses of the administration of this Act and the regulations. Assessment to defray expenses
R.S.O. 1970, c. 505

Method of
collection
R.S.O. 1970,
c. 505

(2) The Workmen's Compensation Board shall add to the assessment and levy made under *The Workmen's Compensation Act* upon each employer in Schedule 1 under that Act engaged in projects, excluding mine development, or the construction of a mining plant, a sum which shall be calculated as a percentage of the said assessment and levy and which percentage shall be determined as the proportion that the amount fixed under subsection 1 bears to the total sum that the Workmen's Compensation Board fixes and determines to be assessed for payment by all employers in the said Schedule 1 engaged in projects, excluding mine development, or the construction of a mining plant, and *The Workmen's Compensation Act* applies to such sum and to the collection and payment thereof in the same manner as to an assessment and levy made under that Act.

Idem

(3) The Workmen's Compensation Board shall collect the assessment and levy imposed under this section and shall pay the amounts so collected to the Treasurer of Ontario. 1973, c. 47, s. 29, *amended*.

PART III

DUTIES OF A CONSTRUCTOR, EMPLOYER, SUPERVISOR, WORKER, OWNER AND SUPPLIER

Duties of
constructor

13.—(1) A constructor shall ensure that,

- (a) the measures and procedures required by this Act and the regulations are carried out on a project undertaken by the constructor; and
- (b) every employer and every worker performing work on a project undertaken by the constructor complies with this Act and the regulations. 1973, c. 47, s. 14 (3), *amended*.

Notice of
project

(2) Where so prescribed, a constructor shall, before commencing any work on a project, give to a Director notice in writing of the project containing such information as may be prescribed. *New*.

Duties of
employer

14.—(1) An employer shall ensure that,

- (a) the equipment, materials and protective devices as prescribed are provided;
- (b) the equipment, materials and protective devices provided by him are,

- (i) maintained in good condition, and
 - (ii) used as prescribed;
- (c) the measures and procedures prescribed are carried out in the work place; and
- (d) a floor, roof, wall, pillar, support or other part of a work place is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under *The Building Code Act*, 1974, c. 74, 1974.

(2) Without limiting the strict duty imposed by sub-section 1, an employer shall, Additional duties of employer

- (a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;
- (b) appoint one or more competent persons to be a supervisor or supervisors;
- (c) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;
- (d) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions;
- (e) only employ in or about a work place a person over such age as may be prescribed;
- (f) not knowingly permit a person who is under such age as may be prescribed to be in or about a work place; and
- (g) take every precaution reasonable in the circumstances for the protection of a worker.

(3) For the purposes of clause *b* of subsection 2, an employer ^{Idem} may appoint himself as a supervisor where the employer is qualified because he has the qualifications set out in subparagraphs *i*, *ii* and *iii* of paragraph 2 of section 1. 1971, c. 43, ss. 24 (1-3), *part*, 28 (1, 2); 1973, c. 47, s. 17 (1, 2), *amended*.

Idem

15. In addition to the duties imposed by section 14, an employer shall,

- (a) establish an occupational health service for workers at a work place as prescribed;
- (b) where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;
- (c) keep and maintain accurate records of the handling, storage, use and disposal of biological, chemical or physical agents as prescribed;
- (d) accurately keep and maintain such records of the exposure of a worker to biological, chemical or physical agents as may be prescribed;
- (e) notify a Director of the use or introduction into a work place of such biological, chemical or physical agents as may be prescribed;
- (f) monitor at such time or times or at such interval or intervals the levels of biological, chemical or physical agents in a work place and keep accurate records thereof as prescribed;
- (g) comply with a standard limiting the exposure of a worker to biological, chemical or physical agents as prescribed;
- (h) where so prescribed, only permit a worker to work or be in a work place who has undergone such medical examinations, tests or x-rays as prescribed and who is found to be physically fit to do the work in the work place; and
- (i) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker. *New.*

Duties of supervisor

16.—(1) A supervisor shall ensure that a worker,

- (a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and
- (b) uses or wears the equipment, protective devices or clothing that his employer requires to be used or worn.

(2) Without limiting the strict duty imposed by sub-section 1, a supervisor shall, Additional
duties of
supervisor

- (a) advise a worker of the existence of any potential, or actual danger to the health or safety of the worker of which the supervisor is aware;
- (b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and
- (c) take every precaution reasonable in the circumstances for the protection of a worker. R.S.O. 1970, c. 274, s. 177 (6); 1971, c. 43, s. 26; 1973, c. 47, s. 17 (1, 3), *amended*.

17.—(1) A worker shall, Duties of
workers

- (a) work in compliance with the provisions of this Act and the regulations;
- (b) use or wear the equipment, protective devices or clothing that his employer requires to be used or worn;
- (c) report to his employer or supervisor the absence of or defect in any equipment or protective device of which he is aware and which may endanger himself or another worker;
- (d) report to his employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he knows; and
- (e) where so prescribed, have, at the expense of the employer, such medical examinations, tests or x-rays, at such time or times and at such place or places as prescribed.

(2) No worker shall, Idem

- (a) remove or make ineffective any protective device required by the regulations or by his employer, without providing an adequate temporary protective device;
- (b) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself or any other worker; or

- (c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct. 1971, c. 43, ss. 27, 29, 31 (3); 1973, c. 47, ss. 18, 19, 20, *amended*.

Duties of
owners

18.—(1) The owner of a work place that is not a project shall,

(a) ensure that,

- (i) such facilities as may be prescribed are provided,
- (ii) any facilities prescribed to be provided are maintained as prescribed,
- (iii) the work place complies with the regulations, and
- (iv) no work place is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations; and

(b) where so prescribed, furnish to a Director any drawings, plans or specifications of any work place as prescribed. 1971, c. 43, s. 22.

Mine
plans

(2) The owner of a mine shall cause drawings, plans or specifications to be maintained and kept up to a date not more than six months last past on such scale and showing such matters or things as may be prescribed. R.S.O. 1970, c. 274, s. 617, *amended*.

Plans of
work
places

(3) Where so prescribed, an owner or employer shall,

- (a) not begin any construction, development, reconstruction, alteration, addition or installation to or in a work place until the drawings, layout and specifications thereof and any alterations thereto have been filed with the Ministry for review by an engineer for compliance with this Act and the regulations, and the same have been reviewed for such compliance; and
- (b) keep a copy of the drawings as reviewed in a convenient location at or near the work place and such drawings shall be produced by the owner or employer upon the request of an inspector for his examination and inspection. 1971, c. 43, s. 17 (1, 5), *amended*.

(4) An engineer may require the drawings, layout and specifications to be supplemented by the owner or employer with additional information. 1971, c. 43, s. 17 (3) (b), *amended*. Additional information

(5) Fees as prescribed for the filing and review of drawings, layout or specifications shall become due and payable by the owner or employer upon filing. 1971, c. 43, s. 17 (6), *amended*. Fees

(6) In subsections 3 and 4 and in section 34 "engineer" means a person employed by the Ministry who is registered as a professional engineer or licenced as a professional engineer under *The Professional Engineers Act*. *New*. Interpretation
R.S.O. 1970, c. 366

19. Every person who supplies any machine, device, tool or equipment under any rental, leasing or similar arrangement for use in or about a work place shall ensure, Duties of suppliers

- (a) that the machine, device, tool or equipment is in good condition;
- (b) that the machine, device, tool or equipment complies with this Act and the regulations; and
- (c) if it is his responsibility under the rental, leasing or similar arrangement to do so, that the machine, device, tool or equipment is maintained in good condition. 1971, c. 43, s. 30; 1973, c. 47, s. 24 (2), *amended*.

PART IV

TOXIC SUBSTANCES

20.—(1) Where a biological, chemical or physical agent or combination of such agents used or intended to be used in the work place, their presence in the work place or the manner of use is in the opinion of a Director likely to endanger the health of a worker, the Director may by notice in writing to the employer order that the use, intended use, presence or manner of use be, Orders of Director

- (a) prohibited;
- (b) limited or restricted in such manner as the Director specifies; or

- (c) subject to such conditions regarding administrative control, work practices, engineering control and time limits for compliance as the Director specifies.

Contents of
order

(2) Where a Director makes an order to an employer under subsection 1, the order shall,

- (a) identify the biological, chemical or physical agent, or combination of such agents, and the manner of use that is the subject-matter of the order; and
- (b) state the opinion of the Director as to the likelihood of the danger to the health of a worker, and his reasons in respect thereof, including the matters or causes which give rise to his opinion.

Posting of
order

(3) The employer shall cause a copy of an order made under subsection 1 to be posted in a conspicuous place in the work place where it is most likely to come to the attention of the workers who may be affected by the use, presence or intended use of the biological, chemical or physical agent or combination of agents.

Appeal to
Minister

(4) Where the employer, a worker or a trade union considers that he or it is aggrieved by an order made under subsection 1, the employer, worker or trade union may by notice in writing given within fourteen days of the making of the order appeal to the Minister.

Delegation

(5) The Minister may, having regard to the circumstances, direct that an appeal under subsection 4 be determined on his behalf by a person appointed by him for that purpose.

Procedure

(6) The Minister or, where a person has been appointed under subsection 5, the person so appointed, may give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed and shall have all the powers of a chairman of a board of arbitration under subsection 7 of section 37 of *The Labour Relations Act*.

R.S.O. 1970,
c. 232

Substitu-
tion of
findings

(7) On an appeal, the Minister or, where a person has been appointed under subsection 5, the person so appointed, may substitute his findings for those of the Director and may rescind or affirm the order appealed from or make a new order in substitution therefor and such order shall stand

in the place of and have the like effect under this Act and the regulations as the order of the Director, and such order shall be final and not subject to appeal under this section.

(8) In making a decision or order under subsection 1 or subsection 7, a Director, the Minister, or, where a person has been appointed under subsection 5, the person so appointed, shall consider as relevant factors,

Matters
to be
considered

- (a) the relation of the agent, combination of agents or by-product to a biological or chemical agent that is known to be a danger to health;
- (b) the quantities of the agent, combination of agents or by-product used or intended to be used or present;
- (c) the extent of exposure;
- (d) the availability of other processes, agents or equipment for use or intended use;
- (e) data regarding the effect of the process or agent on health; and
- (f) any criteria or guide with respect to the exposure of a worker to a biological, chemical or physical agent or combination of such agents that are adopted by a regulation related to exposure to a toxic or potentially toxic substance.

(9) On an appeal under subsection 4, the Minister or, where a person has been appointed under subsection 5, the person so appointed, may suspend the operation of the order appealed from pending the disposition of the appeal.

Suspension
of order by
Minister,
etc.,
pending
disposition
of appeal

(10) A person appointed under subsection 5 shall be paid remuneration and expenses at the same rate as is payable to a chairman of a conciliation board under *The Labour Relations Act*.

Remunera-
tion of
appointee
R.S.O. 1970,
c. 232

(11) This section does not apply to designated substances.

Applica-
tion

(12) A Director is not required to hold or afford to an employer or any other person an opportunity for a hearing before making an order under subsection 1. *New.*

No hearing
required
prior to
issuing
order

PART V

REFUSAL TO WORK WHERE HEALTH
OR SAFETY IN DANGER

Duty to
report
unsafe
conditions

21.—(1) Where a worker has cause to believe that,

(a) any equipment, machine, device or thing he is to use or operate is,

(i) in contravention of this Act or the regulations, and

(ii) is likely to endanger himself or another worker; or

(b) the work place or the part thereof in which he is to work is,

(i) in contravention of this Act or the regulations, and

(ii) likely to endanger himself,

the worker shall, before using or operating or continuing to use or operate the equipment, machine, device or thing, or working in the work place, report the same to his supervisor who shall investigate the matter and the worker shall remain in a safe place near his work station during the investigation. 1971, c. 43, s. 31 (1, 2); 1976, c. 79, s. 5 (1), *amended*.

Dispute of
super-
visor's
report

(2) Where upon the investigation the worker disputes the direction or finding of the supervisor, the supervisor shall cause the same to be further investigated in the presence of the worker and if there is such, in the presence of one of,

(a) a health and safety representative, if any;

(b) a committee member who represents workers, if any; or

(c) a worker, who because of his knowledge, experience and training, is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

and who is reasonably available and in the presence of the employer or a person other than the supervisor representing the employer.

(3) Where upon an investigation the employer or the person representing the employer disputes the report of the worker or takes steps to deal with the circumstances that caused the worker to make the report, the worker may refuse to work where the worker has reasonable grounds to believe that the equipment, machine, device or thing the worker is to use or operate or the work place in which the worker is to work comes within clause *a* or *b* of subsection 1. Refusal to work

(4) Where a worker refuses to work pursuant to subsection 3, the employer shall immediately cause an inspector to be notified thereof. Notice of refusal to work

(5) The worker who refuses to work pursuant to subsection 3 or, if there is such, the person mentioned in clause *a*, *b* or *c* of subsection 2, may cause an inspector to be notified of the refusal to work. Idem

(6) An inspector shall investigate the refusal to work in the presence of the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause *a*, *b* or *c* of subsection 2. Investigation by inspector

(7) The inspector shall, following the investigation referred to in subsection 6, decide whether the machine, device, thing or the work place or part thereof is in contravention of this Act or the regulations and is likely to endanger the worker or another worker. 1976, c. 79, s. 3 (2-4), *amended*. Decision of inspector

(8) The inspector shall give his decision, in writing, to the employer, the worker, and, if there is such, the person mentioned in clause *a*, *b* or *c* of subsection 2. Idem

(9) Pending the investigation and decision of the inspector, the worker shall remain at a safe place near his work station during his normal working hours unless the employer, subject to the provisions of a collective agreement, if any, Worker to remain at a safe place pending decision

(a) assigns the worker reasonable alternative work during such hours; or

(b) where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.

(10) The time spent by a person mentioned in clause *a*, *b* or *c* of subsection 2 in accompanying an inspector during his investigation, shall be deemed to be work time for which the person shall be paid by his employer at his regular or premium rate as may be proper. Entitlement to time from work

Refusal to
work
without
reasonable
grounds

(11) A worker who without reasonable grounds exercises a right conferred by this section may be subject to such discipline as his employer may impose under the terms or conditions of employment that apply to the worker. *New.*

PART VI

REPRISALS BY EMPLOYER PROHIBITED

No
discipline,
dismissal,
etc., by
employer

22.—(1) No employer shall,

- (a) dismiss or threaten to dismiss a worker;
- (b) discipline or suspend or threaten to discipline or suspend a worker;
- (c) impose any penalty upon a worker; or
- (d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder or has sought the enforcement of this Act or the regulations. 1971, c. 43, s. 24 (5); 1973, c. 47, s. 17 (4); 1976, c. 79, s. 9 (1), *amended.*

Arbitra-
tion

(2) Where a worker complains that an employer has contravened subsection 1, the worker may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint.

Inquiry
by Ontario
Labour
Relations
Board
R.S.O. 1970,
c. 232

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection 2, and section 79 of *The Labour Relations Act*, except subsection 4a, applies with all necessary modifications, as if such section, except subsection 4a, is enacted in and forms part of this Act.

Idem

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, sections 91, 92, 95, 97 and 98 of *The Labour Relations Act* apply, with all necessary modifications.

Onus of
proof

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, the burden of proof that an employer did not act contrary to subsection 1 lies upon the employer. 1976, c. 79, s. 9 (2-5), *amended.*

(6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection 1. Jurisdiction when complaint by Crown employee
New.

PART VII

NOTICES

23.—(1) Where a person is killed or critically injured from any cause at a work place, the constructor, if any, and the employer shall notify an inspector and a health and safety representative, if any, immediately of the occurrence by telephone, telegram or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations may prescribe. Notice of death or injury

(2) Where a person is killed or is critically injured at a work place no person shall, except for the purpose of, Preservation of wreckage

- (a) saving life or relieving human suffering;
- (b) maintaining an essential public utility service or a public transportation system; or
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. R.S.O. 1970, c. 274, s. 612; 1971, c. 43, s. 33; 1973, c. 47, s. 25, *amended*.

24.—(1) Where an accident, explosion or fire causes injury to a person at a work place whereby he is disabled from performing his usual work or requires medical attention, and such occurrence does not cause death or critical injury to any person, the employer shall give notice in writing, within four days of the occurrence, to a Director containing such information and particulars as may be prescribed. R.S.O. 1970, c. 274, s. 613; 1971, c. 43, s. 34; 1973, c. 47, s. 30, *amended*. Notice of accident, explosion or fire causing injury

(2) Where an employer is advised by a worker or by a person on behalf of the worker that the worker has an occupational disease, the employer shall give notice in writing, within four days of being so advised, to a Director Notice of occupational disease

containing such information and particulars as may be prescribed. 1971, c. 43, s. 34; *part, amended.*

Idem

(3) Subsection 2 applies, with all necessary modifications, where an employer is advised by a former worker of the employer or a person on behalf of such worker, that such worker has or had an occupational disease. *New.*

Accidents,
explosions,
etc., at a
project site
or mine

25. Where a notice or report is not required under section 23 or 24 and an accident, premature or unexpected explosion, fire, flood or inrush of water, failure of any equipment, machine, device, article or thing, cave-in, subsidence, rockburst, or other incident as prescribed occurs at a project site, mine or mining plant, notice in writing of the occurrence shall be given to a Director by the constructor of the project or the owner of the mine or mining plant, within two days of the occurrence containing such information and particulars as may be prescribed. R.S.O. 1970, c. 274, s. 614, *amended.*

PART VIII

ENFORCEMENT

Powers of
inspector

26.—(1) An inspector may, for the purposes of carrying out his duties and powers under this Act and the regulations,

- (a) subject to subsection 2, enter in or upon any work place at any time without warrant or notice;
- (b) take up or use any machine, device, article, thing, material or biological, chemical or physical agent or part thereof;
- (c) require the production of any drawings, specifications, licence, document, record or report, and inspect, examine and copy the same;
- (d) upon giving a receipt therefor, remove any drawings, specifications, licence, document, record or report inspected or examined for the purpose of making copies thereof or extracts therefrom, and upon making copies thereof or extracts therefrom, shall promptly return the same to the person who produced or furnished them;
- (e) conduct or take tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place and for

such purposes, take and carry away such samples as may be necessary;

- (f) in any inspection, examination, inquiry or test, be accompanied and assisted by or take with him any person or persons having special, expert or professional knowledge of any matter, take photographs, and take with him and use any equipment or materials required for such purpose;
- (g) make inquiries of any person who is or was in a work place either separate and apart from another person or in the presence of any other person that are or may be relevant to an inspection, examination, inquiry or test;
- (h) require that a work place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, investigation or test;
- (i) require that any equipment, machine, device, article, thing or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test;
- (j) require in writing an owner, constructor or employer to provide, at the expense of the owner, constructor or employer, a report bearing the seal and signature of a professional engineer stating,
 - (i) the load limits of a floor, roof or temporary work or part of a building, structure or temporary work,
 - (ii) that a floor, roof or temporary work is capable of supporting or withstanding the loads being applied to it or likely to be applied to it, or
 - (iii) that a floor, roof or temporary work, or part of a building, structure or temporary work is capable of supporting or withstanding all loads to which it may be subject without exceeding the allowable unit stresses for the materials used as provided under *The Building Code Act, 1974*. c. 74
- (k) require in writing an owner of a mine or part thereof to provide, at his expense, a report in writing

bearing the seal and signature of a professional engineer stating that the support, stability or rock mechanics of the mine or part thereof is such that a worker is not likely to be endangered; and R.S.O. 1970, c. 274, s. 618 (1) (a, b); 1971, c. 43 s. 8 (1); 1973, c. 47, s. 6 (1), *amended*.

(l) require in writing an employer to produce any record or information, or to provide, at the expense of the employer, a report or assessment made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the inspector of any process or biological, chemical or physical agents or combination of such agents used or intended to be used in a work place, and the manner of use including,

- (i) the ingredients thereof and their common or generic name or names,
- (ii) the composition and the properties thereof,
- (iii) the toxicological effect thereof,
- (iv) the effect of exposure thereto whether by contact, inhalation or ingestion,
- (v) the protective measures used or to be used in respect thereof,
- (vi) the emergency measures used or to be used to deal with exposure in respect thereof, and
- (vii) the effect of the use, transport and disposal thereof. *New*.

Entry to
dwellings

R.S.O. 1970,
c. 450

Repre-
sentative to
accompany
inspector

(2) An inspector shall only enter a work place or that part of a work place actually being used as a dwelling with the consent of the occupier or under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*. 1971, c. 43, s. 8 (4); 1973, c. 47, s. 6 (4).

(3) Where an inspector makes an inspection of a work place under the powers conferred upon him under subsection 1, the constructor, employer or group of employers shall allow a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, because of his knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected by the workers because of his knowledge, training

and experience to represent them, the opportunity to accompany the inspector during his physical inspection of a work place, or any part or parts thereof.

(4) Where there is no health and safety representative or worker selected under subsection 3, the inspector shall endeavour to consult during his physical inspection with a reasonable number of the workers concerning matters of health and safety at their work. Consultation with workers

(5) The time spent by a health and safety representative or a worker selected in accordance with subsection 3 in accompanying an inspector during his physical inspection, shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 6 (1-3), *amended*. Entitlement to time from work

27.—(1) Where an inspector finds that a provision of this Act or the regulations is being contravened, he may order, orally or in writing, the owner, constructor, employer, or person whom he believes to be in charge of a work place or the person whom he believes to be the contravener to comply with the provision and may require the order to be carried out forthwith or within such period of time as the inspector specifies. R.S.O. 1970, c. 274, s. 618 (1), (c); 1971, c. 43, s. 10 (1); 1973, c. 47, s. 11 (1), *amended*. Orders by inspectors where non-compliance

(2) Where an inspector makes an oral order under subsection 1, he shall confirm the order in writing before leaving the work place. 1971, c. 43, s. 10 (2), *amended*. Idem

(3) An order made under subsection 1 shall indicate generally the nature of the contravention and where appropriate the location of the contravention. 1973, c. 47, s. 11.(2), *amended*. Contents of order

(4) Where an inspector makes an order under subsection 1 and finds that the contravention of this Act or the regulations is a danger or hazard to the health or safety of a worker he may, Orders by inspector where worker endangered

(a) order that any place, equipment, machine, device, article or thing or any process or material shall not be used until the order is complied with;

(b) order that work at the work place as indicated in the order shall stop until the order is complied with, or until the order to stop work is withdrawn or cancelled by an inspector;

- (c) order that the work place where the contravention exists be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access thereto by a worker until the danger or hazard to the health or safety of a worker is removed. 1971, c. 43, s. 10 (3), *amended*; 1973, c. 47, s. 11 (3, 4), *amended*.

Posting of
notice

(5) Where an inspector makes an order under this section, he may affix to the work place, or to any equipment, machine, device, article or thing, a copy thereof or a notice in the prescribed form and no person, except an inspector, shall remove such copy or notice unless authorized to do so by an inspector. 1971, c. 43, s. 10 (4); 1973, c. 47, s. 11 (6), *amended*.

Idem

(6) Where an inspector makes an order in writing or issues a report of his inspection to an owner, constructor, employer or person in charge of the work place, the owner, constructor, employer or person in charge of the work place shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers and shall furnish a copy of such order or report to the health and safety representative and the committee, if any, and the inspector shall cause a copy thereof to be furnished to a person who has complained of a contravention of this Act or the regulations. 1976, c. 79, s. 7, *amended*.

No hearing
required
prior to
making
order

(7) An inspector is not required to hold or afford to an owner, constructor, employer or any other person an opportunity for a hearing before making an order. *New*.

Entry into
barricaded
area

28. Where an order is made under clause *c* of subsection 4 of section 27, no owner, constructor, employer or supervisor shall require or permit a worker to enter the work place except for the purpose of doing work that is necessary or required to remove the danger or hazard and only where the worker is protected from the danger or hazard. 1973, c. 47, s. 11 (4), *part*.

Injunction
proceed-
ings

29. In addition to any other remedy or penalty therefor, where an order made under subsection 4 of section 27 is contravened, such contravention may be restrained upon an *ex parte* application to the Supreme Court made at the instance of a Director. 1973, c. 47, s. 13 (2), *amended*.

Appeals
from order
of an
inspector

30.—(1) Any employer, constructor, owner, worker or trade union which considers himself or itself aggrieved by

any order made by an inspector under this Act or the regulations may, within fourteen days of the making thereof, appeal to a Director who shall hear and dispose of the appeal as promptly as is practicable.

(2) An appeal to a Director may be made in writing or orally or by telephone, but the Director may require the grounds for appeal to be specified in writing before the appeal is heard. Method

(3) The appellant, the inspector from whom the appeal is taken and such other persons as a Director may specify are parties to an appeal under this section. Parties

(4) On an appeal under this section, a Director may substitute his findings for those of the inspector who made the order appealed from and may rescind or affirm the order or make a new order in substitution therefor, and for such purpose has all the powers of an inspector and the order of the Director shall stand in the place of and have the like effect under this Act and the regulations as the order of the inspector. Powers of a Director

(5) In this section, an order of an inspector under this Act or the regulations includes any order or decision made or given or the imposition of any terms or conditions therein by an inspector under the authority of this Act or the regulations or the refusal to make an order or decision by an inspector. Order, extended meaning

(6) A decision of the Director under this section is final. 1971, c. 43, s. 11; 1973, c. 47, s. 12, *amended*. Decision of Director final

(7) On an appeal under subsection 1, a Director may suspend the operation of the order appealed from pending the disposition of the appeal. Suspension of order by Director pending disposition of appeal

(8) This section does not apply to the order of a Director made under section 20. *New*. Application

31.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations. Obstruction of inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector in the exercise of his powers or performance of his duties under this Act or the regulations. Assistance to inspector

False
informa-
tion, etc.

(3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act or the regulations. 1971, c. 43, s. 9; 1973, c. 47, s. 7, *amended*.

Monitoring
devices

(4) No person shall interfere with any monitoring equipment or device in a work place.

Obstruc-
tion of
committee,
etc.

(5) No person shall knowingly,

- (a) hinder or interfere with a committee, a committee member or a health and safety representative in the exercise of a power or performance of a duty under this Act;
- (b) furnish a committee, a committee member or a health and safety representative with false information in the exercise of a power or performance of a duty under this Act; or
- (c) hinder or interfere with a worker selected by a trade union or trade unions or a worker selected by the workers to represent them in the exercise of a power or performance of a duty under this Act. *New*.

Informa-
tion
confidential

32.—(1) Except for the purposes of this Act and the regulations or as required by law,

- (a) an inspector, a person accompanying an inspector or a person who, at the request of an inspector, makes an examination, test or inquiry, shall not publish, disclose or communicate to any person any information, material, statement, report or result of any examination, test or inquiry acquired, furnished, obtained, made or received under the powers conferred under this Act or the regulations; 1971, c. 43, s. 13 (1); 1973, c. 47, s. 8 (1), *amended*.
- (b) a committee member shall not publish, disclose or communicate to any person any secret manufacturing process or trade secret acquired, furnished, obtained, made or received under the provisions of this Act or the regulations; *New*.
- (c) no person to whom information is communicated under this Act and the regulations shall divulge the name of the informant to any person; and 1971, c. 43, s. 13 (5); 1973, c. 47, s. 8 (5), *amended*.

- (d) no person shall disclose any information obtained in any medical examination, test or x-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case.
New.

(2) An inspector or a person who, at the request of an inspector, accompanies an inspector, or a person who makes an examination, test, inquiry or takes samples at the request of an inspector is not a compellable witness in a civil suit or any proceeding respecting any information, material, statement or test acquired, furnished, obtained, made or received under this Act or the regulations. 1971, c. 43, s. 13 (3); 1973, c. 47, s. 8 (3), *amended*.

(3) A Director may communicate or allow to be communicated or disclosed information, material, statements or the result of a test acquired, furnished, obtained, made or received under this Act or the regulations. 1971, c. 43, s. 13 (4); 1973, c. 47, s. 8 (4), *amended*.

33. A Director may, upon receipt of a request in writing from the owner of a work place who has entered into an agreement to sell the same and upon payment of the fee or fees prescribed, furnish to the owner or a person designated by him copies of reports or orders of an inspector made under this Act in respect of the work place as to its compliance with subsection 1 of section 18. 1971, c. 43, s. 14, *amended*.

34.—(1) No action or other proceeding for damages, prohibition, or mandamus lies or shall be instituted against a Director, an inspector, an engineer, a health and safety representative, a committee member, a worker selected by a trade union or trade unions or a worker selected by the workers to represent them for an act or an omission done or omitted to be done by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

(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 Director, an inspector or an engineer 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. 1971, c. 43, s. 16; 1973, c. 47, s. 9, *amended*.

PART IX

OFFENCES AND PENALTIES

Penalties

35.—(1) Every person who contravenes or fails to comply with,

- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or a Director; or
- (c) an order of the Minister,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than twelve months, or to both.

Onus of proof

(2) On a prosecution for a failure to comply with clause *g* of subsection 2 of section 14 or clause *c* of subsection 2 of section 16, it shall be for the accused to prove that every precaution reasonable in the circumstances for the protection of a worker was taken. R.S.O. 1970, c. 274, s. 625; 1971, c. 43, s. 36; 1973, c. 47, s. 26, *amended*.

Certified copies of documents, etc., as evidence

36.—(1) In any proceeding or prosecution under this Act,

- (a) a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister or an inspector;
- (b) a document purporting to be a copy of a notice, drawing, record or other document, or any extract therefrom given or made under this Act or the regulations and purporting to be certified by an inspector;
- (c) a document purporting to certify the result of a test or an analysis of a sample of air and setting forth the concentration or amount of a biological, chemical or physical agent in a work place or part thereof and purporting to be certified by an inspector, or

is evidence of the order, decision, writing or document, and the facts appearing in the order, decision, writing or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof. 1971, c. 43, s. 41; 1973, c. 47, s. 27, *amended*.

(2) In any proceeding or prosecution under this Act, a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister, a Director or an inspector may be served, ^{Service of orders and decisions}

- (a) personally in the case of an individual or in case of a partnership upon a partner, and in the case of a corporation, upon the president, vice-president, secretary, treasurer or a director, or upon the manager or person in charge of the work place; or
- (b) by registered letter addressed to a person or corporation mentioned in clause *a* at his or its last known place of business,

and the same shall be deemed to be good and sufficient service thereof. *New.*

37. An information in respect of an offence under this Act may, at the election of the informant, be heard, tried and determined by a justice of the peace or a provincial court judge of the Provincial Court (Criminal Division) having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district. 1973, c. 47, s. 28. ^{Place of trial}

38. No prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred. 1971, c. 43, s. 37. ^{Limitation on prosecutions}

PART X

REGULATIONS

39.—(1) The Lieutenant Governor in Council may make such regulations as are advisable for the health or safety of persons in or about a work place. 1971, c. 43, s. 45 (1); 1973, c. 47, s. 31 (1), *amended*. ^{Regulations}

(2) Without limiting the generality of subsection 1, the Lieutenant Governor in Council may make regulations, ^{Idem}

- 1. defining any word or expression used in this Act or the regulations that is not defined in this Act for the purposes of the Act and the regulations;

2. designating or defining any industry, work place, employer or class of work places or employers for the purposes of this Act, a part of this Act, or the regulations or any provision thereof;
3. designating, either generally or specifically, work places, to which this Act and the regulations apply or do not apply;
4. prescribing forms and providing for their use;
5. providing for and prescribing fees and the payment or refund of fees;
6. requiring and prescribing notices that shall be posted in one or more languages;
7. prescribing the records that shall be made and kept by owners and employers;
8. requiring an owner, employer or constructor to transmit to a Director such notices, returns and reports and such information and particulars therein as are prescribed;
9. prescribing the kind of accident, explosion, fire, flood or inrush of water, failure of equipment, machine, device or thing, cave-in, subsidence, rock-burst or other incident of which notice is to be given under section 25;
10. requiring the submission of drawings, specifications, reports, details of procedures and other information as are prescribed and prescribing by whom such information shall be prepared or certified;
11. prescribing the qualifications of any person required to prepare or certify such information as may be required under a regulation made pursuant to paragraph 10;
12. regulating or prohibiting the installation or use of any machine, device or thing or any class thereof;
13. requiring that any equipment, machine, device, article or thing used bear the seal of approval of an organization designated by the regulations to test and approve the equipment, machine, device, article or thing and designating organizations for such purposes;

14. requiring and regulating equipment, materials and protective devices or clothing for workers;
15. requiring that a worker shall be a competent person;
16. prescribing measures and procedures to be carried out in a work place;
17. regulating or prohibiting the handling of, exposure to, use and disposal of any material, biological, chemical or physical agent or combination thereof or thing in a work place;
18. respecting medical examinations, tests or x-rays of workers and the reports to be made of such examinations;
19. respecting the reporting by physicians and others of workers affected by any biological, chemical or physical agents or combination thereof;
20. regulating or prohibiting atmospheric conditions, to which any worker may be exposed in a work place;
21. prescribing methods, standards or procedures for determining the amount, concentration or level of any atmospheric condition or any biological, chemical or physical agent, or combination thereof in a work place;
22. prescribing any biological, chemical or physical agent or combination thereof as a designated substance;
23. prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal of a designated substance;
24. requiring the maintenance and keeping of a record or records of biological, chemical or physical agents, the use thereof, the disposal thereof, and the exposure of workers thereto;
25. requiring and regulating the establishment of an occupational health service by an employer or person in charge of a work place and the maintenance thereof in accordance with standards as prescribed;

26. respecting the provision of suitable facilities for medical treatment in cases of accident or sickness and for the supervision of the general health of employees during working hours;
27. respecting the prevention or control of fire in a work place and protection therefrom;
28. respecting the provision and maintenance of any sanitary convenience or welfare provision in a work place;
29. respecting the provision of suitable facilities in a work place for handicapped persons;
30. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code and requiring compliance with any code that is so adopted;
31. requiring and providing for the registration of employers of workers;
32. prescribing the minimum age for a worker or person in any work place or class of work places;
33. requiring an employer or supervisor to provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker;
34. requiring a constructor to appoint a superintendent for a project as prescribed;
35. adopting by reference any criteria or guide in relation to the exposure of a worker to any biological, chemical or physical agent or combination thereof; and
36. enabling the Director by notice in writing to designate that any part of a project shall be an individual project for the purposes of this Act and the regulations and prescribing to whom notice shall be given. 1971, c. 43, s. 45 (2); 1973, c. 47, s. 31 (2), *amended*.

Repeals**40.** The following are repealed:

1. *The Construction Safety Act, 1973*, being chapter 47.

2. *The Industrial Safety Act, 1971*, being chapter 43.
3. *The Industrial Safety Amendment Act, 1972*, being chapter 122.
4. *The Industrial Safety Amendment Act, 1974*, being chapter 104.
5. Part IX of *The Mining Act*, except,
 - i. Subsection 1 of section 176,
 - ii. Clauses *d*, *e* and *f* of subsection 2 of section 176, and
 - iii. Sections 611 and 616,
 being chapter 274 of the Revised Statutes of Ontario, 1970.
6. *The Silicosis Act*, being chapter 438 of the Revised Statutes of Ontario, 1970.
7. Section 78 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
8. *The Employees' Health and Safety Act, 1976*, being chapter 79.
9. Section 10 of *The Ministry of Labour Act*, being chapter 117 of the Revised Statutes of Ontario, 1970.

41. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

42. The short title of this Act is *The Occupational Health and Safety Act, 1977*. Short title

An Act respecting the
Occupational Health and Occupational
Safety of Workers

1st Reading

October 18th, 1977

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Labour

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to relieve Persons from Liability in respect of
voluntary Emergency Medical and First Aid Services**

MR. HAGGERTY

EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

BILL 71

1977

**An Act to relieve Persons from
Liability in respect of voluntary
Emergency Medical and First Aid Services**

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) "physician" means a legally qualified medical practitioner;
 - (b) "registered nurse" has the same meaning as defined in section 69 of *The Health Disciplines Act, 1974*. 1974, c. 47

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other sudden emergency, Relief
from
liability
for
damages
 - (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and such services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
 - (b) a person other than a person mentioned in clause *a* voluntarily renders emergency first aid assistance and such assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his part in rendering the medical services or first aid assistance, unless such acts constitute wilful or wanton misconduct on his part.

Act does
not apply
to normal
medical
services

3. Nothing in section 2 shall be deemed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

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 Good Samaritan Act, 1977*.







An Act to relieve Persons from Liability
in respect of voluntary Emergency Medical
and First Aid Services

1st Reading

October 18th, 1977

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to preserve Topsoil in Ontario

THE HON. W. G. NEWMAN
Minister of Agriculture and Food

EXPLANATORY NOTE

The purpose of this Bill is to provide councils of municipalities with the power to preserve and protect topsoil within the municipality.

BILL 72

1977

An Act to preserve Topsoil in Ontario

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

1. In this Act,

Interpre-
tation

- (a) "lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision;
- (b) "topsoil" means that horizon in a soil profile, known as the "A" horizon, containing organic material.

2.—(1) Subject to subsections 2 and 3, by-laws may be passed by the councils of municipalities,

By-laws
regulating
or
prohibiting
removal of
topsoil

- (a) regulating or prohibiting the removal of topsoil in the municipality or in any area or areas thereof defined in the by-law;
- (b) providing for the issuing and renewing of permits for the removal of topsoil;
- (c) providing for the refusal to issue, refusal to renew and revocation of permits on such grounds as are prescribed in the by-law;
- (d) prohibiting any person from removing topsoil within the area or areas to which the by-law applies without a permit therefor;
- (e) requiring the rehabilitation of lands from which the topsoil has been removed;
- (f) prescribing standards of rehabilitation to be met for the purposes of clause *e*;

- (g) prescribing rehabilitation procedures to be followed for the purposes of clause e; and
- (h) exempting any land or any person or class of persons from any or all of the provisions of a by-law passed pursuant to this subsection.

Application

(2) A by-law passed under subsection 1 does not apply to,

(a) the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products;

1975, c. 79
1971, c. 37

(b) the removal of topsoil as an incidental part of drain construction under *The Drainage Act, 1975* or *The Tile Drainage Act, 1971*;

1971, c. 96

(c) the removal of topsoil as an incidental part of operations authorized under *The Pits and Quarries Control Act, 1971*;

R.S.O. 1970,
c. 274

(d) the removal of topsoil as an incidental part of operations authorized under *The Mining Act*;

(e) the removal of topsoil by a Crown agency or Ontario Hydro;

(f) in the case of a by-law passed by a local municipality, the removal of topsoil by a county or regional municipality;

R.S.O. 1970,
c. 312

(g) the removal of topsoil as an incidental part of any construction for which leave to construct has been granted pursuant to *The Ontario Energy Board Act*;

(h) the removal of topsoil as an incidental part of the construction of any form of underground services where the topsoil is removed and held for subsequent replacement;

(i) the removal of topsoil where the quantity of topsoil removed in any one lot does not, in any consecutive three-month period, exceed five cubic metres; and

(j) the removal of topsoil as an incidental part of the construction of a public highway.

Idem

(3) A by-law passed under subsection 1 does not apply to the extent that,

- (a) it is inconsistent with the terms of any approval or agreement under *The Planning Act*; or R.S.O. 1970,
c. 349
- (b) it would prevent the construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to,
- (i) a by-law passed by a municipality pursuant to section 35 of *The Planning Act*,
 - (ii) an order made by the Minister of Housing pursuant to section 32 of *The Planning Act*,
 - (iii) a land use regulation made by the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs pursuant to section 6 of *The Parkway Belt Planning and Development Act, 1973*, c. 53 or
 - (iv) a development permit issued by the Minister of Housing pursuant to *The Niagara Escarpment Planning and Development Act* or an exemption granted pursuant to clause *c* of section 22a of the said Act. 1973, c. 52

3. Part XXI of *The Municipal Act* applies *mutatis mutandis* to by-laws passed under this Act. Enforcement
R.S.O. 1970,
c. 284

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

5. The short title of this Act is *The Topsoil Preservation Act, 1977*. Short title





An Act to preserve
Topsoil in Ontario

1st Reading

October 20th, 1977

2nd Reading

3rd Reading

THE HON. W. G. NEWMAN
Minister of Agriculture and Food

(Government Bill)

BILL 72

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to preserve Topsoil in Ontario

THE HON. W. G. NEWMAN
Minister of Agriculture and Food



BILL 72

1977

An Act to preserve Topsoil in Ontario

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

1. In this Act,

Interpre-
tation

- (a) "lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision;
- (b) "topsoil" means that horizon in a soil profile, known as the "A" horizon, containing organic material.

2.—(1) Subject to subsections 2 and 3, by-laws may be passed by the councils of municipalities,

By-laws
regulating
or
prohibiting
removal of
topsoil

- (a) regulating or prohibiting the removal of topsoil in the municipality or in any area or areas thereof defined in the by-law;
- (b) providing for the issuing and renewing of permits for the removal of topsoil;
- (c) providing for the refusal to issue, refusal to renew and revocation of permits on such grounds as are prescribed in the by-law;
- (d) prohibiting any person from removing topsoil within the area or areas to which the by-law applies without a permit therefor;
- (e) requiring the rehabilitation of lands from which the topsoil has been removed;
- (f) prescribing standards of rehabilitation to be met for the purposes of clause *c*;

- (g) prescribing rehabilitation procedures to be followed for the purposes of clause e; and
- (h) exempting any land or any person or class of persons from any or all of the provisions of a by-law passed pursuant to this subsection.

Application

(2) A by-law passed under subsection 1 does not apply to,

- (a) the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products;
- (b) the removal of topsoil as an incidental part of drain construction under *The Drainage Act, 1975* or *The Tile Drainage Act, 1971*;
- (c) the removal of topsoil as an incidental part of operations authorized under *The Pits and Quarries Control Act, 1971*;
- (d) the removal of topsoil as an incidental part of operations authorized under *The Mining Act*;
- (e) the removal of topsoil by a Crown agency or Ontario Hydro;
- (f) in the case of a by-law passed by a local municipality, the removal of topsoil by a county or regional municipality;
- (g) the removal of topsoil as an incidental part of any construction for which leave to construct has been granted pursuant to *The Ontario Energy Board Act*;
- (h) the removal of topsoil as an incidental part of the construction of any form of underground services where the topsoil is removed and held for subsequent replacement;
- (i) the removal of topsoil where the quantity of topsoil removed in any one lot does not, in any consecutive three-month period, exceed five cubic metres; and
- (j) the removal of topsoil as an incidental part of the construction of a public highway.

Idem

(3) A by-law passed under subsection 1 does not apply to the extent that,

- (a) it is inconsistent with the terms of any approval or agreement under *The Planning Act*; or R.S.O. 1970, c. 349
- (b) it would prevent the construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to,
- (i) a by-law passed by a municipality pursuant to section 35 of *The Planning Act*,
 - (ii) an order made by the Minister of Housing pursuant to section 32 of *The Planning Act*,
 - (iii) a land use regulation made by the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs pursuant to section 6 of *The Parkway Belt Planning and Development Act, 1973*, c. 53, or
 - (iv) a development permit issued by the Minister of Housing pursuant to *The Niagara Escarpment Planning and Development Act* or an exemption granted pursuant to clause *c* of section 22a of the said Act. 1973, c. 52

3. Part XXI of *The Municipal Act* applies *mutatis mutandis* to by-laws passed under this Act. Enforcement R.S.O. 1970, c. 284

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

5. The short title of this Act is *The Topsoil Preservation Act, 1977*. Short title





An Act to preserve
Topsoil in Ontario

1st Reading

October 20th, 1977

2nd Reading

November 8th, 1977

3rd Reading

November 8th, 1977

THE HON. W. G. NEWMAN
Minister of Agriculture and Food

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Ontario Guaranteed Annual Income Act, 1974**

THE HON. MARGARET SCRIVENER
Minister of Revenue

EXPLANATORY NOTES

GENERAL

The amendments proposed in this Bill provide for the payment of a monthly benefit to those who, by reason of amendments to the *Old Age Security Act* (Canada) that took effect July 1, 1977, may become entitled to a monthly guaranteed income supplement under that Act and to a partial monthly pension if they have resided in Canada for less than forty years but for at least ten years.

The amount of the monthly benefit will be equivalent to the monthly increment that would be payable to such persons were they entitled to receive a full monthly pension under the federal Act. The monthly benefit is payable to those who are not eligible for an increment under the Act and who are over age sixty-five, are in receipt of a monthly supplement and a partial monthly pension under the *Old Age Security Act* (Canada), and who meet residency criteria modeled on those provided for in the *Old Age Security Act* (Canada).

The residency criteria are that an applicant must have resided in Ontario for one full year prior to his application for a monthly benefit, and must establish that he has, at the time his application is approved, resided in Canada after attaining eighteen years of age for at least 10 years and for not more than forty years. In lieu of the full year's residence in Ontario prior to the approval of an application, an applicant may establish that, after attaining eighteen years of age, he has resided in Ontario for an aggregate period of at least twenty years.

Other amendments are proposed in the Bill to reflect recent changes in the provisions of the *Old Age Security Act* (Canada), to add provisions to enable the Minister to investigate more fully the claims of an applicant for benefits under the Act, and to clarify the presentation of a number of formulae for calculating income contained in the Act.

SECTION 1.—Subsection 1. The sub-subclause re-enacted by the amendment will set out more clearly the calculation of "basic monthly income" for the class of cases covered by subclause vi. The change corrects an unintended interpretation that might otherwise arise in the application of the formula.

BILL 73

1977

**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.—(1) Sub-subclause C of subclause vi of clause *d* of section 1 of *The Ontario Guaranteed Annual Income Act, 1974*, being chapter 58, as re-enacted by the Statutes of Ontario, 1976, chapter 33, section 1, is repealed and the following substituted therefor:

- (C) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is equal to or greater than the sum of the amounts described in paragraph 1, 2 or 3 of sub-subclause B,

an amount equal to the sum of,

1. the amount equal to one-thirty-sixth of the result obtained by subtracting from the amount of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse the sum of the amounts described in paragraphs 1 and 2 of sub-subclause B and \$12.00,
2. the amount of the pension that is authorized to be paid in the month under the *Old Age Security Act* ^{R.S.C. 1970, c. O-6} (Canada), and
3. the maximum amount of the supplement that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person.

s. 1 (g),
amended

- (2) Clause *g* of the said section 1 is amended by striking out "a payment similar to a supplement or a pension" in the second and third lines and inserting in lieu thereof "a spouse's allowance, a payment similar to a supplement, pension or spouse's allowance".

s. 1 (k) (11),
re-enacted

- (3) Subclause ii of clause *k* of the said section 1, as amended by the Statutes of Ontario, 1976, chapter 33, section 1, is repealed and the following substituted therefor:

(ii) the amount of any pension, supplement, spouse's allowance, or allowance under the *Family Allowances Act, 1973* (Canada), and the amount of any similar payments made under a law of a province of Canada.

1973,
c. 211 (Can.)

s. 1 (k) (iv),
re-enacted

- (4) Subclause iv of clause *k* of the said section 1, as enacted by the Statutes of Ontario, 1976, chapter 33, section 1, is repealed and the following substituted therefor:

(iv) any amount required by paragraph *b* of subsection 1 of section 82 of the *Income Tax Act* (Canada) to be included in income, or any amount prescribed for the purpose of this subclause,

1970-71,
c. 63 (Can.)

s. 1,
amended

- (5) The said section 1 is amended by adding thereto the following clauses:

(sa) "spouse" in relation to a beneficiary includes a person of the opposite sex who has lived with the beneficiary for three or more years where there is a bar to their marriage or for at least one year where there is no such bar and the beneficiary and that person have publicly represented themselves as man and wife;

(sb) "spouse's allowance" means a monthly payment authorized to be paid under Part II.1 of the *Old Age Security Act* (Canada).

R.S.C. 1970,
c. O-6

s. 1a,
enacted

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

Eligibility
for
monthly
benefit

1a.—(1) Subject to this Act and the regulations, a monthly benefit may be paid for any month after the month of June, 1977 to every person who is not eligible on the 30th day of June, 1977 to be paid an increment and who,

Subsection 2. The amendment adds a reference to "spouse's allowance" to reflect changes in the *Old Age Security Act* (Canada).

Subsection 3. The amendment adds a reference to a "spouse's allowance" and to an allowance under the *Family Allowances Act, 1973* (Canada) to ensure that receipt of these payments by a beneficiary under the Act will not be taken into account in determining his income and the amount of the benefits payable to him under the Act.

Subsection 4. The amendment clarifies that the "gross-up" of dividends required by the *Income Tax Act* (Canada) to be included in taxable income will not affect the beneficiary's income for the purpose of determining the amount of the increment to which he is entitled under *The Ontario Guaranteed Annual Income Act, 1974*.

Subsection 5. The amendment adds definitions of "spouse" and "spouse's allowance" to correspond with those contained in the *Old Age Security Act* (Canada).

SECTION 2. The amendment adds section 1a to the Act to provide for the payment of monthly benefits to Ontario residents over sixty-five years of age who are not entitled to an increment under the Act (because of a residence of less than forty years in Canada), and who are entitled to receive a supplement and a partial monthly pension under the *Old Age Security Act* (Canada). In addition, an applicant must have resided in Ontario for either one full year before the approval of his application or for an aggregate period of twenty years after attaining eighteen years of age and prior to the approval of his application, and he must have resided in Canada for at least ten years and for not more than forty years after attaining eighteen years of age.

Subsection 3 of the new section 1a sets out the method of calculating the amount of a monthly benefit. The monthly benefit is equal to the amount of the increment paid to other beneficiaries under the Act who receive a supplement under the *Old Age Security Act* (Canada), but the amount of the monthly benefit is reduced to reflect the size of a recipient's private income other than amounts received under this Act and the *Old Age Security Act* (Canada). The reduction of the monthly benefit corresponds to the reduction of the monthly guaranteed income supplement paid under the *Old Age Security Act* (Canada). That supplement is reduced by \$1.00 a month for every \$24.00 of a person's annual private income. Thus, those who receive a partial monthly pension under the federal Act and a full monthly guaranteed income supplement under that Act will be entitled to the full amount of the monthly benefit under the provincial Act, while those whose private income is sufficient to reduce the supplement payable to them under the federal Act will also have the monthly benefit under the provincial Act reduced.

- (a) has attained sixty-five years of age or such lesser age as may be prescribed;
- (b) is actually resident in Ontario and is entitled to receive a partial monthly pension authorized to be paid under subsection 1.1 of section 3 of the *Old Age Security Act* (Canada) and to receive a supplement that is paid to him or to his credit through the Ontario regional office of the Income Security Branch of the Department of National Health and Welfare of the Government of Canada; R.S.C. 1970.
c. O-6
- (c) has resided in Canada, after attaining eighteen years of age and prior to the day on which his application is approved, for a period or periods the aggregate of which is not less than ten years and not more than forty years; and
- (d) has resided in Ontario for a period of one full year immediately prior to the date on which his application is approved or, after attaining eighteen years of age and prior to the date on which his application is approved, has resided in Ontario for a continuous period of, or for periods the aggregate of which is, at least twenty years.

(2) A person who is not entitled to an increment under ^{Idem} this Act on or before the 30th day of June, 1977 is eligible to be paid a monthly benefit under this section only when on or after the 1st day of July, 1977, he becomes entitled to receive a supplement and if, on the day preceding the day on which his application is approved, he is a Canadian citizen residing in Ontario or, if not a Canadian citizen, is then legally resident in Canada and is residing in Ontario.

(3) "monthly benefit" means the payment authorized by subsection 1 and is an amount equal to the maximum increment payable for the month under this Act to a person in receipt of a supplement, minus \$1.00, ^{Amount of monthly benefit}

- (a) for every full \$24.00 of the income for the base calendar year of the person to whom the monthly benefit is paid, if he is unmarried;
- (b) for every full \$48.00 of the aggregate of the incomes for the base calendar year of the person and his spouse, if the person to whom the monthly benefit is paid is married to a spouse who is entitled to receive in the month a monthly benefit or an increment under this Act; or

R.S.C. 1970,
c. O-6

- (c) for every full \$48.00 of the amount by which the aggregate of the incomes for the base calendar year of the person and his spouse exceeds the product of twelve times the maximum amount of pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person, if the person to whom the monthly benefit is paid is married either to a spouse who is not entitled to receive in the month an increment, a pension, a supplement or a monthly benefit, or to a spouse who is entitled to receive in the month a spouse's allowance.

Agreements
with
foreign
countries

(4) Notwithstanding subsections 1 to 3, where the result of an international agreement concluded in accordance with section 22.2 of the *Old Age Security Act* (Canada) is that a person resident in Ontario becomes entitled to receive a supplement, the Lieutenant Governor in Council may make regulations respecting the manner in which this Act shall apply to any such case or class of cases affected by the agreement, for adapting this Act thereto, and for determining such person's or class of persons' entitlement to, and the amount of, a monthly benefit under this Act, as appears to the Lieutenant Governor in Council to be necessary and advisable.

Interpre-
tation

(5) In clauses *a*, *b* and *e* of section 1 and in sections 2 to 16, "increment" shall, unless the context otherwise requires, include the monthly benefit authorized to be paid by this section.

Regulations

(6) The Lieutenant Governor in Council may make regulations respecting the meaning of legal residence for the purpose of this section.

s. 2 (2) (a),
re-enacted

3.—(1) Clause *a* of subsection 2 of section 2 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 33, section 2, is repealed and the following substituted therefor:

(a) subject to clause *d*, any month more than eleven months before the month in which the application is received.

s. 2 (6),
amended

(2) Subsection 6 of the said section 2 is amended by inserting after "a" where it appears the first time in the fourth line and where it appears the first time in the sixth line "full".

Subsection 4 of the new section 1*a* empowers the Lieutenant Governor in Council to make regulations to adapt the monthly benefit provisions of the Act to situations, as yet unknown, which may arise when agreements between Canada and other countries are made, as provided in section 22.2 of the *Old Age Security Act* (Canada), for the payment of old age security benefits.

Subsection 5 of the new section 1*a* makes the relevant provisions of the Act applicable to the application for, payment of and administration of the monthly benefit authorized by section 1*a* of the Act.

Subsection 6 of the new section 1*a* enables the Lieutenant Governor in Council to define "legal residence" for the purpose of section 1*a*.

SECTION 3.—Subsection 1. The amendment changes to eleven months the previous reference to twelve months, and is made to reflect changes in the *Old Age Security Act* (Canada).

Subsections 2 and 3. The addition of "full" before "pension" in the two subsections being amended reflects changes in the *Old Age Security Act* (Canada), which now provides for both a full and a partial pension.

SECTION 4. The amendment substitutes "eleven months" for the previous reference to "one year", and reflects changes in the *Old Age Security Act* (Canada).

SECTION 5. The several amendments proposed in this section will set out more clearly the calculation of income when a change of income occurs during the year. The changes correct an unintended interpretation that might otherwise arise in the application of the formulae in section 5 of the Act.

(3) Subsection 7 of the said section 2 is amended by inserting ^{s. 2 (7),} amended after "a" where it appears the second time in the first line and after "the" in the fourth line "full".

4. Subsection 1 of section 4 of the said Act, as re-enacted by ^{s. 4 (1),} amended the Statutes of Ontario, 1976, chapter 33, section 3, is amended by striking out "one year" in the fourth line and inserting in lieu thereof "eleven months".

5.—(1) Subsection 2 of section 5 of the said Act is amended by ^{s. 5 (2),} amended striking out all that part of the said subsection following "plus" in the twenty-third line and inserting in lieu thereof:

(b) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

(2) Subsection 3 of the said section 5 is amended by striking ^{s. 5 (3),} amended out all that part of the said subsection following "plus" in the twentieth line and inserting in lieu thereof:

(b) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered the loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

(3) Subsection 4 of the said section 5 is amended by striking ^{s. 5 (4),} amended out all that part of the said subsection following "plus" in the thirty-fifth line and inserting in lieu thereof:

(ii) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

s. 5 (5),
amended

- (4) Subsection 5 of the said section 5 is amended by striking out all that part of the said subsection following "plus" in the thirty-first line and inserting in lieu thereof:

- (ii) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered that loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

s. 7 (1) (b),
amended

6. Clause *b* of subsection 1 of section 7 of the said Act is amended by adding at the end thereof "except that no payment shall be made under this clause where the amount of such payment is less than \$5.00".

s. 8,
amended

7. Section 8 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 33, section 4, is further amended by adding thereto the following subsection:

Administra-
tion of oaths

(12) Any officer or employee in the Ministry of Community and Social Services who is authorized to administer oaths, take and receive affidavits, declarations and affirmations and any officer or employee in the Ministry of Revenue who is authorized by the Minister, may administer oaths, take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, with respect to any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

s. 14,
re-enacted

8. Section 14 of the said Act is repealed and the following substituted therefor:

Investigation

14.—(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 where anything is done in connection with any business or where any books or records are kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other docu-

SECTION 6. The amendment provides that, where an applicant has erroneously shown more income than he actually receives, his entitlement to any additional payment under the Act must exceed \$5.00.

Section 7. The new subsection added by the amendment provides for the taking of affidavits and declarations required for the administration of the Act.

SECTION 8. The amendment adds to the Act administrative provisions for investigating and obtaining information that are similar to those in other statutes administered by the Minister of Revenue.



ment that relates or may relate to the information that is or should be in the books or records or to the amount of an increment payable under this Act;

- (b) examine property described in any conveyance or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books or records or in such application, or the amount of any increment payable under this Act;
- (c) require any person on the premises 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, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine eligibility or possible eligibility for an increment under this Act.

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person

Production
of
documents
and
records to
Minister

Copies of
documents
and
records

thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Compliance

(4) No person shall hinder or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Offence

(5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$100 or \$25 for each day during which the default continues, whichever is the greater.

s. 15 (1) (d),
amended

9. Clause *d* of subsection 1 of section 15 of the said Act is amended by striking out "or 14".

ss. 17, 18,
repealed

10. Sections 17 and 18 of the said Act are repealed.

Commence-
ment

11.—(1) This Act, except sections 1 to 7, 9 and 10, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 7, and 9 and 10 shall be deemed to have come into force on the 1st day of July, 1977.

Short title

12. The short title of this Act is *The Ontario Guaranteed Annual Income Amendment Act, 1977*.

SECTION 9. The amendment is consequential on the amendment proposed in section 8 of the Bill.

SECTION 10. The sections repealed were required only during the initial months of the Act.





An Act to amend
The Ontario Guaranteed Annual
Income Act, 1974

1st Reading

October 20th, 1977

2nd Reading

3rd Reading

THE HON. MARGARET SCRIVENER
Minister of Revenue

(Government Bill)

BILL 73

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Ontario Guaranteed Annual Income Act, 1974**

THE HON. MARGARET SCRIVENER
Minister of Revenue

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.—(1) Sub-subclause C of subclause vi of clause *d* of section 1 of *The Ontario Guaranteed Annual Income Act, 1974*, being chapter 58, as re-enacted by the Statutes of Ontario, 1976, chapter 33, section 1, is repealed and the following substituted therefor:

- (C) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is equal to or greater than the sum of the amounts described in paragraph 1, 2 or 3 of sub-subclause B,

an amount equal to the sum of,

1. the amount equal to one-thirty-sixth of the result obtained by subtracting from the amount of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse the sum of the amounts described in paragraphs 1 and 2 of sub-subclause B and \$12.00,
2. the amount of the pension that is authorized to be paid in the month under the *Old Age Security Act* ^{R.S.C. 1970.} _{c. O-6} (Canada), and
3. the maximum amount of the supplement that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person.

s. 1 (g),
amended

- (2) Clause *g* of the said section 1 is amended by striking out "a payment similar to a supplement or a pension" in the second and third lines and inserting in lieu thereof "a spouse's allowance, a payment similar to a supplement, pension or spouse's allowance".

s. 1 (k) (ii),
re-enacted

- (3) Subclause ii of clause *k* of the said section 1, as amended by the Statutes of Ontario, 1976, chapter 33, section 1, is repealed and the following substituted therefor:

(ii) the amount of any pension, supplement, spouse's allowance, or allowance under the *Family Allowances Act, 1973* (Canada), and the amount of any similar payments made under a law of a province of Canada.

1973,
c. 211 (Can.)

s. 1 (k) (iv),
re-enacted

- (4) Subclause iv of clause *k* of the said section 1, as enacted by the Statutes of Ontario, 1976, chapter 33, section 1, is repealed and the following substituted therefor:

(iv) any amount required by paragraph *b* of subsection 1 of section 82 of the *Income Tax Act* (Canada) to be included in income, or any amount prescribed for the purpose of this subclause,

1970-71,
c. 63 (Can.)

s. 1,
amended

- (5) The said section 1 is amended by adding thereto the following clauses:

(sa) "spouse" in relation to a beneficiary includes a person of the opposite sex who has lived with the beneficiary for three or more years where there is a bar to their marriage or for at least one year where there is no such bar and the beneficiary and that person have publicly represented themselves as man and wife;

(sb) "spouse's allowance" means a monthly payment authorized to be paid under Part II.1 of the *Old Age Security Act* (Canada).

R.S.C. 1970,
c. O-6

s. 1a,
enacted

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

Eligibility
for
monthly
benefit

1a.—(1) Subject to this Act and the regulations, a monthly benefit may be paid for any month after the month of June, 1977 to every person who is not eligible on the 30th day of June, 1977 to be paid an increment and who,

- (a) has attained sixty-five years of age or such lesser age as may be prescribed;
- (b) is actually resident in Ontario and is entitled to receive a partial monthly pension authorized to be paid under subsection 1.1 of section 3 of the *Old Age Security Act* (Canada) and to receive a supplement that is paid to him or to his credit through the Ontario regional office of the Income Security Branch of the Department of National Health and Welfare of the Government of Canada; ^{R.S.C. 1970, c. O-6}
- (c) has resided in Canada, after attaining eighteen years of age and prior to the day on which his application is approved, for a period or periods the aggregate of which is not less than ten years and not more than forty years; and
- (d) has resided in Ontario for a period of one full year immediately prior to the date on which his application is approved or, after attaining eighteen years of age and prior to the date on which his application is approved, has resided in Ontario for a continuous period of, or for periods the aggregate of which is, at least twenty years.

(2) A person who is not entitled to an increment under this Act on or before the 30th day of June, 1977 is eligible to be paid a monthly benefit under this section only when on or after the 1st day of July, 1977, he becomes entitled to receive a supplement and if, on the day preceding the day on which his application is approved, he is a Canadian citizen residing in Ontario or, if not a Canadian citizen, is then legally resident in Canada and is residing in Ontario. ^{Idem}

(3) "monthly benefit" means the payment authorized by subsection 1 and is an amount equal to the maximum increment payable for the month under this Act to a person in receipt of a supplement, minus \$1.00, ^{Amount of monthly benefit}

- (a) for every full \$24.00 of the income for the base calendar year of the person to whom the monthly benefit is paid, if he is unmarried;
- (b) for every full \$48.00 of the aggregate of the incomes for the base calendar year of the person and his spouse, if the person to whom the monthly benefit is paid is married to a spouse who is entitled to receive in the month a monthly benefit or an increment under this Act; or

R.S.C. 1970,
c. O-6

(c) for every full \$48.00 of the amount by which the aggregate of the incomes for the base calendar year of the person and his spouse exceeds the product of twelve times the maximum amount of pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person, if the person to whom the monthly benefit is paid is married either to a spouse who is not entitled to receive in the month an increment, a pension, a supplement or a monthly benefit, or to a spouse who is entitled to receive in the month a spouse's allowance.

Agreements
with
foreign
countries

(4) Notwithstanding subsections 1 to 3, where the result of an international agreement concluded in accordance with section 22.2 of the *Old Age Security Act* (Canada) is that a person resident in Ontario becomes entitled to receive a supplement, the Lieutenant Governor in Council may make regulations respecting the manner in which this Act shall apply to any such case or class of cases affected by the agreement, for adapting this Act thereto, and for determining such person's or class of persons' entitlement to, and the amount of, a monthly benefit under this Act, as appears to the Lieutenant Governor in Council to be necessary and advisable.

Interpre-
tation

(5) In clauses *a*, *b* and *e* of section 1 and in sections 2 to 16, "increment" shall, unless the context otherwise requires, include the monthly benefit authorized to be paid by this section.

Regulations

(6) The Lieutenant Governor in Council may make regulations respecting the meaning of legal residence for the purpose of this section.

s. 2 (2) (a),
re-enacted

3.—(1) Clause *a* of subsection 2 of section 2 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 33, section 2, is repealed and the following substituted therefor:

(a) subject to clause *d*, any month more than eleven months before the month in which the application is received.

s. 2 (6),
amended

(2) Subsection 6 of the said section 2 is amended by inserting after "a" where it appears the first time in the fourth line and where it appears the first time in the sixth line "full".

(3) Subsection 7 of the said section 2 is amended by inserting ^{s. 2 (7),} amended after "a" where it appears the second time in the first line and after "the" in the fourth line "full".

4. Subsection 1 of section 4 of the said Act, as re-enacted by ^{s. 4 (1),} amended the Statutes of Ontario, 1976, chapter 33, section 3, is amended by striking out "one year" in the fourth line and inserting in lieu thereof "eleven months".

5.—(1) Subsection 2 of section 5 of the said Act is amended by ^{s. 5 (2),} amended striking out all that part of the said subsection following "plus" in the twenty-third line and inserting in lieu thereof:

(b) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

(2) Subsection 3 of the said section 5 is amended by striking ^{s. 5 (3),} amended out all that part of the said subsection following "plus" in the twentieth line and inserting in lieu thereof:

(b) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered the loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

(3) Subsection 4 of the said section 5 is amended by striking ^{s. 5 (4),} amended out all that part of the said subsection following "plus" in the thirty-fifth line and inserting in lieu thereof:

(ii) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

s. 5 (5),
amended

- (4) Subsection 5 of the said section 5 is amended by striking out all that part of the said subsection following "plus" in the thirty-first line and inserting in lieu thereof:

- (ii) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered that loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year.

s. 7 (1) (b),
amended

6. Clause *b* of subsection 1 of section 7 of the said Act is amended by adding at the end thereof "except that no payment shall be made under this clause where the amount of such payment is less than \$5.00".

s. 8,
amended

7. Section 8 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 33, section 4, is further amended by adding thereto the following subsection:

Administra-
tion of oaths

(12) Any officer or employee in the Ministry of Community and Social Services who is authorized to administer oaths, take and receive affidavits, declarations and affirmations and any officer or employee in the Ministry of Revenue who is authorized by the Minister, may administer oaths, take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, with respect to any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

s. 14,
re-enacted

8. Section 14 of the said Act is repealed and the following substituted therefor:

Investigation

14.—(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 where anything is done in connection with any business or where any books or records are kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other docu-

ment that relates or may relate to the information that is or should be in the books or records or to the amount of an increment payable under this Act;

- (b) examine property described in any conveyance or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books or records or in such application, or the amount of any increment payable under this Act;
- (c) require any person on the premises 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, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine eligibility or possible eligibility for an increment under this Act.

Production
of documents
and
records to
Minister

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person

Copies of
documents
and
records

thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Compliance

(4) No person shall hinder or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Offence

(5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$100 or \$25 for each day during which the default continues, whichever is the greater.

s. 15 (1) (d).
amended

9. Clause *d* of subsection 1 of section 15 of the said Act is amended by striking out "or 14".

ss. 17, 18.
repealed

10. Sections 17 and 18 of the said Act are repealed.

Commence-
ment

11.—(1) This Act, except sections 1 to 7, 9 and 10, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 7, and 9 and 10 shall be deemed to have come into force on the 1st day of July, 1977.

Short title

12. The short title of this Act is *The Ontario Guaranteed Annual Income Amendment Act, 1977*.



An Act to amend
The Ontario Guaranteed Annual
Income Act, 1974

1st Reading

October 20th, 1977

2nd Reading

November 8th, 1977

3rd Reading

November 8th, 1977

THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Legislative Assembly Act**

MR. WILLIAMS

EXPLANATORY NOTE

The amendment would require a person who holds office as a member of a council of a municipality and whose term of office is not yet three-quarters expired to resign his office on official nomination day if he wishes to be elected to the Assembly.

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 8a of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 131, section 1, is repealed and the following substituted therefor:

8a.—(1) In this section,

Interpre-
tation

(a) "nomination day" means the nomination day stated in the writ for election under section 7 of *The Election Act*;

s. 8a,
re-enacted
R.S.O. 1970,
c. 142

(b) "municipal office" means a position as a member of the council of any municipality, including a district, area, metropolitan or regional municipality, or of a local board, as defined in *The Municipal Affairs Act*, of a municipality.

R.S.O. 1970,
c. 118

(2) Subject to subsections 3 and 4, a person who is a candidate for election to or a member of the Assembly is not eligible to hold municipal office.

Candidate
member
ineligible to
hold muni-
cipal office

(3) Every person who holds a municipal office and is nominated as a candidate for election to the Assembly forfeits the municipal office on nomination day unless the term of the office is more than three-quarters complete on that day.

Where
candidate
ineligible
on nomina-
tion day

(4) A person who, while a candidate, continues to hold a municipal office and is elected a member of the Assembly forfeits the municipal office on the day that the return of the election of that person to the Assembly is published in *The Ontario Gazette* under section 127 of *The Election Act*.

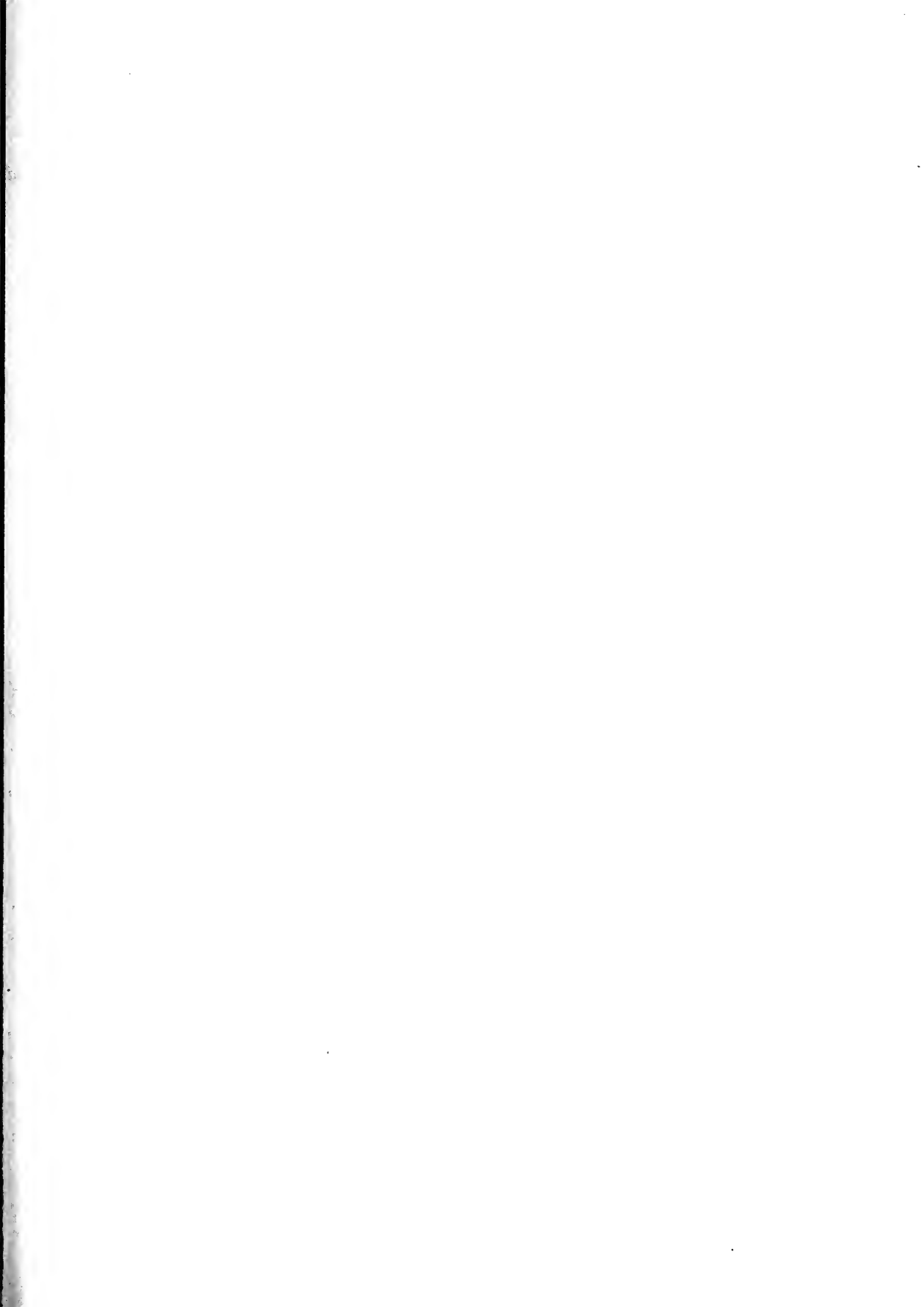
When
elected
candidate
ineligible

Commence-
ment

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

Short title

3. The short title of this Act is *The Legislative Assembly Amendment Act, 1977*.







An Act to amend
The Legislative Assembly Act

1st Reading

October 21st, 1977

2nd Reading

3rd Reading

MR. WILLIAMS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

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

MR. DAVISON

EXPLANATORY NOTE

The amendment requires the Minister of Consumer and Commercial Relations to submit an annual report to the Assembly.

BILL 75

1977

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

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

1. *The Ministry of Consumer and Commercial Relations Act*, ^{s. 13, enacted} being chapter 113 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

13. The Minister after the close of each year shall submit ^{Annual report} to the Lieutenant Governor in Council an annual report upon the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. The short title of this Act is *The Ministry of Consumer and Commercial Relations Amendment Act, 1977*. ^{Short title}

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

1st Reading

October 24th, 1977

2nd Reading

3rd Reading

MR. DAVISON

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Liquor Licence Act, 1975**

MR. MANCINI

EXPLANATORY NOTE

The purpose of the Bill is to increase the legal drinking age in Ontario from eighteen to nineteen years of age.

Section 45 as amended by this Bill, showing underlined the age references to be changed, is set out below:

45. —(1) *No person shall knowingly sell or supply liquor to a person under the age of nineteen years.*
- (2) *No liquor shall be sold or supplied to a person who is apparently under the age of nineteen years, and, in any prosecution for a contravention of this subsection, the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of nineteen years.*
- (3) *No person under the age of nineteen years shall have, consume, attempt to purchase, purchase or otherwise obtain liquor.*
- (4) *No person under the age of nineteen years shall enter or remain on premises in which the sale of liquor is authorized except those classes of premises that are prescribed by the regulations.*
- (5) *This section does not apply to the supplying of liquor to a person under the age of nineteen years by the parent or guardian of such person in a residence as defined in section 46 or to the consumption of liquor therein by such person.*
- (6) *A person who sells or supplies liquor to another person shall be deemed not to be in contravention of subsection 1 or 2 if, before he sells or supplies the liquor, a card in the form prescribed by the regulations is produced to him by the person to whom he sells or supplies the liquor, which purports to be issued by the Board to the person producing it and if there is no apparent inconsistency on the face of the card or between the card and the person producing it.*
- (7) *Any person who is or who becomes eighteen years of age on the day immediately preceding the day The Liquor Licence Amendment Act, 1977, comes into force shall continue to have the rights and privileges he had under The Liquor Licence Act, 1975 as it existed on that day and while such a person is of the actual age of eighteen years he shall for the purposes of this section be deemed to be nineteen years of age.*

BILL 76

1977

**An Act to amend
The Liquor Licence Act, 1975**

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 45 of *The Liquor Licence Act, 1975*, being chapter 40, is amended by striking out “eighteen” in the second line and inserting in lieu thereof “nineteen”. <sup>s. 45 (1),
amended</sup>
- (2) Subsection 2 of the said section 45 is amended by striking out “eighteen” in the second line and in the sixth line and inserting in lieu thereof in each instance “nineteen”. <sup>s. 45 (2),
amended</sup>
- (3) Subsection 3 of the said section 45 is amended by striking out “eighteen” in the first line and inserting in lieu thereof “nineteen”. <sup>s. 45 (3),
amended</sup>
- (4) Subsection 4 of the said section 45 is amended by striking out “eighteen” in the first line and inserting in lieu thereof “nineteen”. <sup>s. 45 (4),
amended</sup>
- (5) Subsection 5 of the said section 45 is amended by striking out “eighteen” in the second line and inserting in lieu thereof “nineteen”. <sup>s. 45 (5),
amended</sup>
- (6) Section 45 of the said Act is amended by adding thereto the following subsection: <sup>s. 45,
amended</sup>
- (7) Any person who is or who becomes eighteen years of age on the day immediately preceding the day *The Liquor Licence Amendment Act, 1977* comes into force shall continue to have the rights and privileges he had under *The Liquor Licence Act, 1975* as it existed on that day and while such a person is of the actual age of eighteen years he shall for the purposes of this section be deemed to be nineteen years of age. ^{Transition}

Commence-
ment

2. This Act comes into force on the 1st day of March, 1978.

Short title

3. The short title of this Act is *The Liquor Licence Amendment Act, 1977*.







An Act to amend
The Liquor Licence Act, 1975

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

MR. MANCINI

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Judicature Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

SECTION 1. Subsection 1. The clause repealed provides for appeals from decisions under *The Judicial Review Procedure Act, 1971*. The appeals are provided for by section 6 (4) of that Act, as re-enacted by the Statutes of Ontario, 1976, chapter 45, section 1.

Subsection 2. Complementary to section 12 of this Bill.

SECTION 2. Complementary to section 12 of this Bill.

SECTION 3. Provision is made for the awarding of prejudgment interest.

BILL 77

1977

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.—(1) Clause *c* of subsection 1 of section 17 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 1, is repealed. s. 17 (1) (c).
repealed
- (2) Clause *d* of subsection 1 of the said section 17 is amended by striking out “in court or in chambers” in the second and third lines. s. 17 (1) (d).
amended
2. Clause *a* of subsection 1 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 3, is amended by striking out “in court or in chambers” in the second line. s. 29 (1) (a).
amended
- 3.—(1) Sections 38 and 39 of the said Act are repealed and the following substituted therefor: s. 38.
re-enacted.
s. 39.
repealed
- 38.—(1) In this section, “prime rate” means the lowest rate of interest quoted by chartered banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada. Prime rate
defined
- (2) For the purposes of establishing the prime rate, the periodic publication entitled the Bank of Canada Review purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime rate as set out therein, without further proof of the authenticity of the publication. Idem
- (3) Subject to subsection 6, a person who is entitled to a judgment for the payment of money is entitled to claim and have included in the judgment an award of interest thereon, Prejudgment
interest

- (a) at the prime rate existing for the month preceding the month on which the action was commenced; and
- (b) calculated,

- (i) where the judgment is given upon a liquidated claim, from the date the cause of action arose to the date of judgment, or
- (ii) where the judgment is given upon an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.

Special
damages

(4) Where the judgment includes an amount for special damages, the interest calculated under subsection 3 shall be calculated on the balance of special damages incurred as totalled at the end of each six month period following the notice in writing referred to in subclause ii of clause *b* of subsection 3 and at the date of the judgment.

Exclusions

- (5) Interest under this section shall not be awarded,
 - (a) on exemplary or punitive damages;
 - (b) on interest accruing under this section;
 - (c) on an award of costs in the action;
 - (d) on that part of the judgment that represents pecuniary loss arising after the date of the judgment and that is identified by a finding of the court;
 - (e) except by consent of the judgment debtor where the judgment is given on consent;
 - (f) where interest is payable by a right other than under this section.

Discretion
of judge

- (6) The judge may, where he considers it to be just to do so in all the circumstances,
 - (a) disallow interest under this section;
 - (b) fix a rate of interest higher or lower than the prime rate;
 - (c) allow interest under this section for a period other than that provided,



SECTIONS 4 AND 5 The amendments are to the provisions for the obtaining and registering of certificates of *lis pendens* and cautions arising from them. The principal changes are:

1. Persons who make spurious claims for the purpose of registering a *lis pendens* are subject to liability for damages;
2. Applications to vacate a *lis pendens* in the High Court may be dealt with by a local judge;
3. The judge granting an order vacating a *lis pendens* may order a stay on registration for the purposes of an appeal.

in respect of the whole or any part of the amount for which judgment is given.

- (2) This section applies to the payment of money under judgments delivered after this section comes into force, but no interest shall be awarded under this section for a period before this section comes into force. ^{Application of subs. 1}

- 4.—(1) Section 41 of the said Act is amended by adding thereto the following subsections: ^{s. 41, amended}

(4) Any person who registers a certificate or caution referred to in subsection 1 without a reasonable claim to title to or interest in the land is liable for any damages sustained by any person as a result of its registration. ^{Liability for unsubstantiated claim}

(5) The liability for damages under subsection 4 and the amount thereof may be determined in an action commenced therefor in the court in which the certificate is issued or by application in the proceeding for an order to vacate the caution or certificate or in the action or proceeding in which the question of title to or interest in the land is determined. ^{Recovery of damages}

- (2) This section does not apply in respect of cautions or certificates registered before this section comes into force. ^{Application}

- 5.—(1) Subsection 2 of section 42 of the said Act is amended by striking out "High Court" in the eighth and ninth lines and inserting in lieu thereof "court in which the action or proceeding was commenced". ^{s. 42 (2), amended}

- (2) Subsection 3 of the said section 42 is amended by striking out "High Court" in the first line and inserting in lieu thereof "court in which the action or proceeding was commenced". ^{s. 42 (3), amended}

- (3) Subsection 5 of the said section 42 is repealed and the following substituted therefor: ^{s. 42 (5), re-enacted}

(5) The order vacating a caution or certificate is subject to appeal according to the practice in like cases and may be registered in the same manner as a judgment affecting land, except that the judge granting the order may order a stay of the registration for the purposes of the appeal. ^{Appeal}

- (4) The said section 42, as amended by the Statutes of Ontario, 1974, chapter 81, section 2, is further amended by adding thereto the following subsection: ^{s. 42, amended}

Jurisdiction
of local
judge

(7) The jurisdiction of a judge of the High Court under this section and section 41 may be exercised by a local judge of the High Court.

s. 69 (6),
amended

6. Subsection 6 of section 69 of the said Act is amended by striking out "sitting in chambers" in the second line.

s. 94 (1),
re-enacted

7. Subsection 1 of section 94 of the said Act is repealed and the following substituted therefor:

Holiday
defined

(1) In this section, "holiday" means,

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under *The Public Service Act*.

R.S.O. 1970,
c. 386

s. 114 (10) (f),
amended

8.—(1) Clause *f* of subsection 10 of section 114 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 30, section 6, is further amended by striking out "in chambers" in the tenth and eleventh lines.

s. 114 (10),
amended

(2) Subsection 10 of the said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4 and 1975, chapter 30, section 6, is further amended by adding thereto the following clause:

(*fa*) providing for the hearing of motions in private.

s. 115 (2),
amended

9. Subsection 2 of section 115 of the said Act is amended by striking out "Lieutenant Governor" in the first line and inserting in lieu thereof "Attorney General".

s. 116 (3),
repealed

10. Subsection 3 of section 116 of the said Act is repealed.

s. 125,
amended

11. Section 125 of the said Act is amended by striking out "or in chambers" in the first and second lines.

Motions in
chambers
deemed
in court

12. Where, by any Act, provision is made for a proceeding to be taken before a judge or court by motion in chambers, such provision shall be deemed to provide that the proceeding be by motion in court.

Application
of ss. 1 (2), 2, 6,
8, 11, 12

13. Subsection 2 of section 1 and sections 2, 6, 8, 11 and 12 do not apply in respect of motions commenced before those sections come into force.

SECTION 6. Complementary to section 12 of this Bill.

SECTION 7. The definition of holiday is made to accord with the wording used in respect of other public offices.

SECTION 8. Complementary to section 12 of this Bill.

SECTION 9. The amendment requires the Council of Judges to report to the Attorney General instead of the Lieutenant Governor.

SECTION 10. The provision deleted would prohibit the judges from delegating to a committee the duty of meeting as a Council of Judges. The deletion will permit a committee to perform the duties of the Council.

SECTION 11. Complementary to section 12 of this Bill.

SECTION 12. The Ontario Law Reform Commission recommended in chapter 6 of Part I of its Report on the Administration of Justice that chambers motions be abolished and all motions be in open court. In the implementation of this recommendation this provision would convert references to motions in chambers where they occur in the statutes, to motions in court.



- 14.**—(1) This Act, except subsection 2 of section 1, and sections 6, ^{Commence-}8, 11 and 12, comes into force on the day it receives ^{ment}Royal Assent.
- (2) Subsection 2 of section 1 and sections 6, 8, 11 and 12 ^{Idem} come into force on a day to be named by proclamation of the Lieutenant Governor.
- 15.** The short title of this Act is *The Judicature Amendment Act*, ^{Short title}1977.

An Act to amend
The Judicature Act

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Judicature Act

THE HON. R. MCMURTRY
Attorney General

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

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The clause repealed provides for appeals from decisions under *The Judicial Review Procedure Act, 1971*. The appeals are provided for by section 6 (4) of that Act, as re-enacted by the Statutes of Ontario, 1976, chapter 45, section 1.

Subsection 2. Complementary to section 12 of this Bill.

SECTION 2. Complementary to section 12 of this Bill.

SECTION 3. Provision is made for the awarding of prejudgment interest.

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.—(1) Clause *c* of subsection 1 of section 17 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 1, is repealed. s. 17 (1) (c).
repealed
- (2) Clause *d* of subsection 1 of the said section 17 is amended by striking out “in court or in chambers” in the second and third lines. s. 17 (1) (d).
amended
2. Clause *a* of subsection 1 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 3, is amended by striking out “in court or in chambers” in the second line. s. 29 (1) (a).
amended
- 3.—(1) Sections 38 and 39 of the said Act are repealed and the following substituted therefor: s. 38.
re-enacted.
s. 39.
repealed
 - 38.—(1) In this section, “prime rate” means the lowest rate of interest quoted by chartered banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada. Prime rate
defined
 - (2) For the purposes of establishing the prime rate, the periodic publication entitled the Bank of Canada Review purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime rate as set out therein, without further proof of the authenticity of the publication. Idem
 - (3) Subject to subsection 6, a person who is entitled to a judgment for the payment of money is entitled to claim and have included in the judgment an award of interest thereon, Prejudgment
interest

- (a) at the prime rate existing for the month preceding the month on which the action was commenced; and
- (b) calculated,
 - (i) where the judgment is given upon a liquidated claim, from the date the cause of action arose to the date of judgment, or
 - (ii) where the judgment is given upon an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.

Special
damages

(4) Where the judgment includes an amount for special damages, the interest calculated under subsection 3 shall be calculated on the balance of special damages incurred as totalled at the end of each six month period following the notice in writing referred to in subclause ii of clause *b* of subsection 3 and at the date of the judgment.

Exclusions

- (5) Interest under this section shall not be awarded,
 - (a) on exemplary or punitive damages;
 - (b) on interest accruing under this section;
 - (c) on an award of costs in the action;
 - (d) on that part of the judgment that represents pecuniary loss arising after the date of the judgment and that is identified by a finding of the court;
 - (e) except by consent of the judgment debtor where the judgment is given on consent;
 - (f) where interest is payable by a right other than under this section.

Discretion
of judge

- (6) The judge may, where he considers it to be just to do so in all the circumstances,
 - (a) disallow interest under this section;
 - (b) fix a rate of interest higher or lower than the prime rate;
 - (c) allow interest under this section for a period other than that provided,



SECTIONS 4 AND 5. The amendments are to the provisions for the obtaining and registering of certificates of *lis pendens* and cautions arising from them. The principal changes are:

1. Persons who make spurious claims for the purpose of registering a *lis pendens* are subject to liability for damages;
2. Applications to vacate a *lis pendens* in the High Court may be dealt with by a local judge;
3. The judge granting an order vacating a *lis pendens* may order a stay on registration for the purposes of an appeal.

in respect of the whole or any part of the amount for which judgment is given.

- (2) This section applies to the payment of money under judgments delivered after this section comes into force, but no interest shall be awarded under this section for a period before this section comes into force. ^{Application of subs. 1}

- 4.—(1) Section 41 of the said Act is amended by adding thereto the following subsections: ^{s. 41, amended}

(4) Any person who registers a certificate or caution referred to in subsection 1 without a reasonable claim to title to or interest in the land is liable for any damages sustained by any person as a result of its registration. ^{Liability for unsubstantiated claim}

(5) The liability for damages under subsection 4 and the amount thereof may be determined in an action commenced therefor in the court in which the certificate is issued or by application in the proceeding for an order to vacate the caution or certificate or in the action or proceeding in which the question of title to or interest in the land is determined. ^{Recovery of damages}

- (2) This section does not apply in respect of cautions or certificates registered before this section comes into force. ^{Application}

- 5.—(1) Subsection 2 of section 42 of the said Act is amended by striking out "High Court" in the eighth and ninth lines and inserting in lieu thereof "court in which the action or proceeding was commenced". ^{s. 42 (2), amended}

- (2) Subsection 3 of the said section 42 is amended by striking out "High Court" in the first line and inserting in lieu thereof "court in which the action or proceeding was commenced". ^{s. 42 (3), amended}

- (3) Subsection 5 of the said section 42 is repealed and the following substituted therefor: ^{s. 42 (5), re-enacted}

(5) The order vacating a caution or certificate is subject to appeal according to the practice in like cases and may be registered in the same manner as a judgment affecting land, except that the judge granting the order may order a stay of the registration for the purposes of the appeal. ^{Appeal}

- (4) The said section 42, as amended by the Statutes of Ontario, 1974, chapter 81, section 2, is further amended by adding thereto the following subsection: ^{s. 42, amended}

Jurisdiction
of local
judge

(7) The jurisdiction of a judge of the High Court under this section and section 41 may be exercised by a local judge of the High Court.

s. 69 (6),
amended

6. Subsection 6 of section 69 of the said Act is amended by striking out "sitting in chambers" in the second line.

s. 94 (1),
re-enacted

7. Subsection 1 of section 94 of the said Act is repealed and the following substituted therefor:

Holiday
defined

(1) In this section, "holiday" means,

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under *The Public Service Act*.

R.S.O. 1970,
c. 386

s. 114 (10) (f),
amended

8.—(1) Clause *f* of subsection 10 of section 114 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 30, section 6, is further amended by striking out "in chambers" in the tenth and eleventh lines.

s. 114 (10),
amended

(2) Subsection 10 of the said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4 and 1975, chapter 30, section 6, is further amended by adding thereto the following clause:

(fa) prescribing motions that need not be heard in open court.

s. 114a,
enacted

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

Motions in
open court

114a. Notwithstanding the provisions of this or any other Act or regulation, all motions and applications shall be heard in open court, except as provided by the rules.

s. 115 (2),
amended

10. Subsection 2 of section 115 of the said Act is amended by striking out "Lieutenant Governor" in the first line and inserting in lieu thereof "Attorney General".

s. 116 (3),
repealed

11. Subsection 3 of section 116 of the said Act is repealed.

s. 123,
amended

12. Section 123 of the said Act is amended by inserting after "82" in the fourth line "114a".

SECTION 6. Complementary to section 12 of this Bill.

SECTION 7. The definition of holiday is made to accord with the wording used in respect of other public offices.

SECTION 8. Complementary to section 12 of this Bill.

SECTION 9. The Ontario Law Reform Commission recommended in chapter 6 of Part I of its Report on the Administration of Justice that chambers motions be abolished and all motions be in open court. In the implementation of this recommendation, this provision would convert references to motions in chambers where they occur in the statutes, to motions in court.

SECTION 10. The amendment requires the Council of Judges to report to the Attorney General instead of the Lieutenant Governor.

SECTION 11. The provision deleted would prohibit the judges from delegating to a committee the duty of meeting as a Council of Judges. The deletion will permit a committee to perform the duties of the Council.

SECTION 13. Complementary to section 9 of this Bill.

- 13.** Section 125 of the said Act is amended by striking out “or in chambers” in the first and second lines. ^{s. 125, amended}
- 14.** Subsection 2 of section 1 and sections 2, 6, 8, 9, 12 and 13 do not apply in respect of motions commenced before those sections come into force. ^{Application of ss. 1 (2), 2, 6, 8, 11, 12}
- 15.**—(1) This Act, except subsection 2 of section 1, and sections 2, 6, 8, 9, 12 and 13, comes into force on the day it receives Royal Assent. ^{Commencement}
- (2) Subsection 2 of section 1 and sections 2, 6, 8, 9, 12 and 13 come into force on a day to be named by proclamation of the Lieutenant Governor. ^{Idem}
- 16.** The short title of this Act is *The Judicature Amendment Act, 1977*. ^{Short title}

An Act to amend
The Judicature Act

1st Reading

October 25th, 1977

2nd Reading

November 1st, 1977

3rd Reading

THE HON. R. McMURTRY
Attorney General

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

BILL 77

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Judicature Act

THE HON. R. MCMURTRY
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



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.—(1) Clause *c* of subsection 1 of section 17 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 1, is repealed. s. 17 (1) (c).
repealed
- (2) Clause *d* of subsection 1 of the said section 17 is amended by striking out “in court or in chambers” in the second and third lines. s. 17 (1) (d).
amended
2. Clause *a* of subsection 1 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 3, is amended by striking out “in court or in chambers” in the second line. s. 29 (1) (a).
amended
- 3.—(1) Sections 38 and 39 of the said Act are repealed and the following substituted therefor: s. 38.
re-enacted.
s. 39.
repealed
- 38.—(1) In this section, “prime rate” means the lowest rate of interest quoted by chartered banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada. Prime rate
defined
- (2) For the purposes of establishing the prime rate, the periodic publication entitled the Bank of Canada Review purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime rate as set out therein, without further proof of the authenticity of the publication. Idem
- (3) Subject to subsection 6, a person who is entitled to a judgment for the payment of money is entitled to claim and have included in the judgment an award of interest thereon, Prejudgment
interest

- (a) at the prime rate existing for the month preceding the month on which the action was commenced; and
- (b) calculated,

- (i) where the judgment is given upon a liquidated claim, from the date the cause of action arose to the date of judgment, or

- (ii) where the judgment is given upon an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.

Special
damages

(4) Where the judgment includes an amount for special damages, the interest calculated under subsection 3 shall be calculated on the balance of special damages incurred as totalled at the end of each six month period following the notice in writing referred to in subclause ii of clause *b* of subsection 3 and at the date of the judgment.

Exclusions

(5) Interest under this section shall not be awarded,

- (a) on exemplary or punitive damages;

- (b) on interest accruing under this section;

- (c) on an award of costs in the action;

- (d) on that part of the judgment that represents pecuniary loss arising after the date of the judgment and that is identified by a finding of the court;

- (e) except by consent of the judgment debtor where the judgment is given on consent;

- (f) where interest is payable by a right other than under this section.

Discretion
of judge

(6) The judge may, where he considers it to be just to do so in all the circumstances,

- (a) disallow interest under this section;

- (b) fix a rate of interest higher or lower than the prime rate;

- (c) allow interest under this section for a period other than that provided,

in respect of the whole or any part of the amount for which judgment is given.

- (2) This section applies to the payment of money under judgments delivered after this section comes into force, but no interest shall be awarded under this section for a period before this section comes into force. ^{Application of subs. 1}

- 4.—(1) Section 41 of the said Act is amended by adding thereto ^{s. 41. amended} the following subsections:

(4) Any person who registers a certificate or caution referred to in subsection 1 without a reasonable claim to title to or interest in the land is liable for any damages sustained by any person as a result of its registration. ^{Liability for unsubstantiated claim}

(5) The liability for damages under subsection 4 and the amount thereof may be determined in an action commenced therefor in the court in which the certificate is issued or by application in the proceeding for an order to vacate the caution or certificate or in the action or proceeding in which the question of title to or interest in the land is determined. ^{Recovery of damages}

- (2) This section does not apply in respect of cautions or certificates registered before this section comes into force. ^{Application}

- 5.—(1) Subsection 2 of section 42 of the said Act is amended by striking out "High Court" in the eighth and ninth lines and inserting in lieu thereof "court in which the action or proceeding was commenced". ^{s. 42 (2). amended}

- (2) Subsection 3 of the said section 42 is amended by striking out "High Court" in the first line and inserting in lieu thereof "court in which the action or proceeding was commenced". ^{s. 42 (3). amended}

- (3) Subsection 5 of the said section 42 is repealed and the following substituted therefor: ^{s. 42 (5). re-enacted}

(5) The order vacating a caution or certificate is subject to appeal according to the practice in like cases and may be registered in the same manner as a judgment affecting land, except that the judge granting the order may order a stay of the registration for the purposes of the appeal. ^{Appeal}

- (4) The said section 42, as amended by the Statutes of Ontario, 1974, chapter 81, section 2, is further amended by adding thereto the following subsection: ^{s. 42. amended}

- Jurisdiction of local judge
- (7) The jurisdiction of a judge of the High Court under this section and section 41 may be exercised by a local judge of the High Court.
- s. 69 (6), amended
6. Subsection 6 of section 69 of the said Act is amended by striking out "sitting in chambers" in the second line.
- s. 94 (1), re-enacted
7. Subsection 1 of section 94 of the said Act is repealed and the following substituted therefor:
- Holiday defined
- (1) In this section, "holiday" means,
- (a) Saturday;
- (b) Sunday;
- (c) a day that is a holiday for civil servants as prescribed by the regulations under *The Public Service Act*.
- R.S.O. 1970, c. 386
- 8.—(1) Clause *f* of subsection 10 of section 114 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 30, section 6, is further amended by striking out "in chambers" in the tenth and eleventh lines.
- s. 114 (10) (*f*), amended
- (2) Subsection 10 of the said section 114, as amended by the Statutes of Ontario, 1971, chapter 57, section 4 and 1975, chapter 30, section 6, is further amended by adding thereto the following clause:
- (*fa*) prescribing motions that need not be heard in open court.
- s. 114a, enacted
9. The said Act is amended by adding thereto the following section:
- Motions in open court
- 114a. Notwithstanding the provisions of this or any other Act or regulation, all motions and applications shall be heard in open court, except as provided by the rules.
- s. 115 (2), amended
10. Subsection 2 of section 115 of the said Act is amended by striking out "Lieutenant Governor" in the first line and inserting in lieu thereof "Attorney General".
- s. 116 (3), repealed
11. Subsection 3 of section 116 of the said Act is repealed.
- s. 123, amended
12. Section 123 of the said Act is amended by inserting after "82" in the fourth line "114a".

13. Section 125 of the said Act is amended by striking out "or in chambers" in the first and second lines. ^{s. 125, amended}
14. Subsection 2 of section 1 and sections 2, 6, 8, 9, 12 and 13 do not apply in respect of motions commenced before those sections come into force. ^{Application of ss. 1 (2), 2, 6, 8, 11, 12}
- 15.—(1) This Act, except subsection 2 of section 1, and sections 2, 6, 8, 9, 12 and 13, comes into force on the day it receives Royal Assent. ^{Commencement}
- (2) Subsection 2 of section 1 and sections 2, 6, 8, 9, 12 and 13 come into force on a day to be named by proclamation of the Lieutenant Governor. ^{Idem}
16. The short title of this Act is *The Judicature Amendment Act, 1977*. ^{Short title 1977.}

An Act to amend
The Judicature Act

1st Reading

October 25th, 1977

2nd Reading

November 1st, 1977

3rd Reading

November 8th, 1977

THE HON. R. MCMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The County Judges Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The amendments make provision for an Associate Chief Judge of the County and District Courts.

An Act to amend The County Judges 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 County Judges Act*, being chapter 95 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: ^{s. 1, re-enacted}

1. In addition to the judges otherwise provided for in this Act, a Chief Judge of the County and District Courts, herein referred to as the chief judge, and an Associate Chief Judge of the County and District Courts may be appointed, and they shall have all the powers of a judge throughout Ontario. ^{Chief Judge and Associate Chief Judge}

2. Subsection 2 of section 5 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 15, section 2, is repealed and the following substituted therefor: ^{s. 5(2), re-enacted}

(2) The chief judge has rank and precedence over all other judges and, after the associate chief judge, the judges, junior judges and supernumerary judges have rank and precedence among themselves according to seniority of appointment. ^{Rank and precedence}

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 County Judges Amendment Act, 1977*. ^{Short title}

An Act to amend
The County Judges Act

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 78

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The County Judges Act

THE HON. R. MCMURTRY
Attorney General



An Act to amend The County Judges 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 County Judges Act*, being chapter 95 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1,
re-enacted

1. In addition to the judges otherwise provided for in this Act, a Chief Judge of the County and District Courts, herein referred to as the chief judge, and an Associate Chief Judge of the County and District Courts may be appointed, and they shall have all the powers of a judge throughout Ontario. Chief
Judge and
Associate
Chief Judge

2. Subsection 2 of section 5 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 15, section 2, is repealed and the following substituted therefor: s. 5 (2),
re-enacted

(2) The chief judge has rank and precedence over all other judges and, after the associate chief judge, the judges, junior judges and supernumerary judges have rank and precedence among themselves according to seniority of appointment. Rank and
precedence

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 County Judges Amendment Act, 1977*. Short title

An Act to amend
The County Judges Act

1st Reading

October 25th, 1977

2nd Reading

November 1st, 1977

3rd Reading

November 1st, 1977

THE HON. R. McMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Judicature Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The offices of Associate Chief Justice of Ontario and Associate Chief Justice of the High Court are established. The addition of the Associate Chief Justice of Ontario adds one justice to the Court of Appeal and the number of judges of the High Court is increased from a total of thirty-eight to a total of forty-two.

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.—(1) Subsection 1 of section 4 of *The Judicature Act*, being ^{s. 4(1),} amended chapter 228 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1974, chapter 81, section 1, is further amended by inserting after "Ontario" in the third line "an Associate Chief Justice of Ontario".

(2) Subsection 2 of the said section 4 is repealed and the ^{s. 4(2),} re-enacted following substituted therefor:

(2) Where the Chief Justice of Ontario is absent from ^{Absence of} the Judicial District of York or where he is for any reason ^{Chief} unable to act, his powers and duties as president of the Court of Appeal shall be exercised and performed by the Associate Chief Justice of Ontario in his stead or, where both are absent or unable to act by the senior justice of appeal who is able to act. ^{Justice}

2.—(1) Subsection 1 of section 5 of the said Act, as amended ^{s. 5(1),} amended by the Statutes of Ontario, 1976, chapter 86, section 1, is further amended by striking out "and thirty-seven other judges" in the third line and in the amendment of 1976 and inserting in lieu thereof "an Associate Chief Justice of the High Court, and forty other judges".

(2) Subsection 2 of the said section 5 is repealed and the ^{s. 5(2),} re-enacted following substituted therefor:

(2) Where the Chief Justice of the High Court is absent ^{Absence of} from Ontario or where he is for any reason unable to act, ^{Chief Justice} his powers shall be exercised and his duties performed by the Associate Chief Justice of the High Court in his stead or, where both are absent or unable to act, by the senior judge of the High Court who is able to act. ^{of the} ^{High Court}

s. 8.
amended

3.—(1) Section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 159, section 3, is further amended by adding thereto the following subsection:

Idem

(2a) The Associate Chief Justice of Ontario has rank and precedence next after the Chief Justice of the High Court and the Associate Chief Justice of the High Court has rank and precedence next after the Associate Chief Justice of Ontario.

s. 8(3),
amended

(2) Subsection 3 of the said section 8, as amended by the Statutes of Ontario, 1972, chapter 159, section 3, is further amended by inserting after “the” where it occurs the first time in the second line “Associate”.

Commence-
ment

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

Short title

5. The short title of this Act is *The Judicature Amendment Act, 1977*.







An Act to amend
The Judicature Act

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

THE HON. R. McMURRY
Attorney General

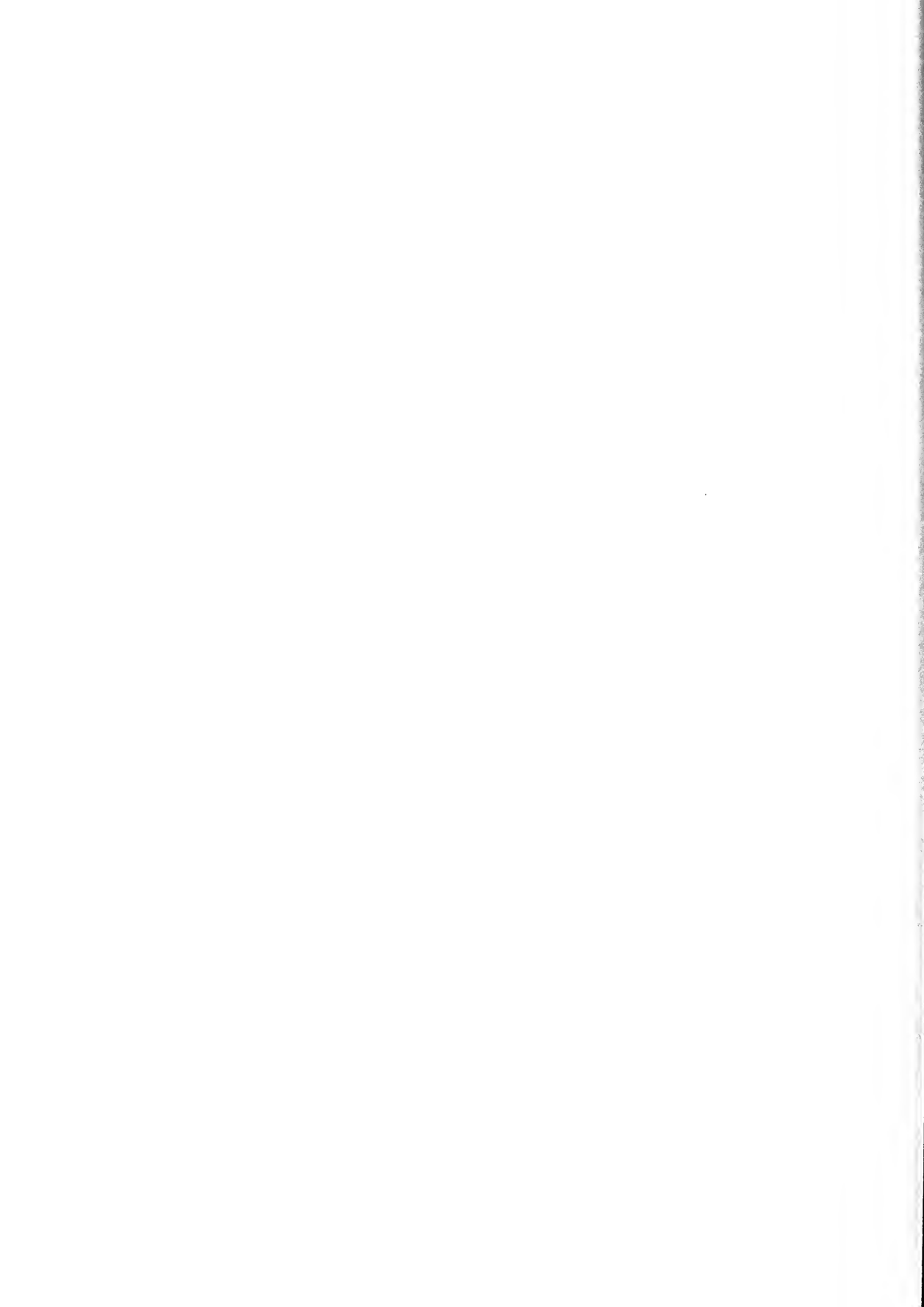
(Government Bill)

BILL 79

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Judicature Act

THE HON. R. MCMURTRY
Attorney General



BILL 79

1977

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.—(1) Subsection 1 of section 4 of *The Judicature Act*, being ^{s. 4(1),} amended chapter 228 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1974, chapter 81, section 1, is further amended by inserting after "Ontario" in the third line "an Associate Chief Justice of Ontario".

(2) Subsection 2 of the said section 4 is repealed and the ^{s. 4(2),} re-enacted following substituted therefor:

(2) Where the Chief Justice of Ontario is absent from ^{Absence of} the Judicial District of York or where he is for any reason ^{Chief} unable to act, his powers and duties as president of the Court of Appeal shall be exercised and performed by the Associate Chief Justice of Ontario in his stead or, where both are absent or unable to act by the senior justice of appeal who is able to act. ^{Justice}

2.—(1) Subsection 1 of section 5 of the said Act, as amended ^{s. 5(1),} amended by the Statutes of Ontario, 1976, chapter 86, section 1, is further amended by striking out "and thirty-seven other judges" in the third line and in the amendment of 1976 and inserting in lieu thereof "an Associate Chief Justice of the High Court, and forty other judges".

(2) Subsection 2 of the said section 5 is repealed and the ^{s. 5(2),} re-enacted following substituted therefor:

(2) Where the Chief Justice of the High Court is absent ^{Absence of} from Ontario or where he is for any reason unable to act, ^{Chief Justice} his powers shall be exercised and his duties performed by the Associate Chief Justice of the High Court in his stead or, where both are absent or unable to act, by the senior judge of the High Court who is able to act. ^{of the} ^{High Court}

- s. 8,
amended **3.**—(1) Section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 159, section 3, is further amended by adding thereto the following subsection:
- Idem (2a) The Associate Chief Justice of Ontario has rank and precedence next after the Chief Justice of the High Court and the Associate Chief Justice of the High Court has rank and precedence next after the Associate Chief Justice of Ontario.
- s. 8(3),
amended (2) Subsection 3 of the said section 8, as amended by the Statutes of Ontario, 1972, chapter 159, section 3, is further amended by inserting after “the” where it occurs the first time in the second line “Associate”.
- Commence-
ment **4.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **5.** The short title of this Act is *The Judicature Amendment Act, 1977*.





An Act to amend
The Judicature Act

1st Reading

October 25th, 1977

2nd Reading

November 1st, 1977

3rd Reading

November 1st, 1977

THE HON. R. MCMURTRY
Attorney General

BILL 80

Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Provincial Courts Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

SECTION 1. The amendment would provide for an associate chief judge in each division of the provincial courts.

SECTION 2. Provision is made for the awarding of costs in the provincial courts (family division).

BILL 80

1977

An Act to amend The Provincial Courts Act

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

1. Subsection 2 of section 10 of *The Provincial Courts Act*, being ^{s. 10 (2),} chapter 369 of the Revised Statutes of Ontario, 1970, is repealed ^{re-enacted} and the following substituted therefor:
 - (2) The Lieutenant Governor in Council may appoint a ^{Associate} judge as associate chief judge of the provincial courts (criminal ^{chief judges} division) and a judge as associate chief judge of the provincial courts (family division).
- 2.—(1) Subsection 3 of section 26 of the said Act is amended by ^{s. 26 (3),} adding thereto the following clause: ^{amended}
 - (ba) providing for the taxation of costs and prescribing tariffs therefor.
 - (2) The said section 26 is amended by adding thereto the ^{s. 26,} following subsection: ^{amended}
 - (5) Section 82 of *The Judicature Act* applies to the provincial court (family division) and to judges presiding in the ^{Costs} court. ^{R.S.O. 1970,} ^{c. 228}
3. This Act comes into force on the day it receives Royal Assent. ^{Commence-} ^{ment}
4. The short title of this Act is *The Provincial Courts Amendment Act, 1977*. ^{Short title}

An Act to amend
The Provincial Courts Act

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 80

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Provincial Courts Act

THE HON. R. MCMURTRY
Attorney General



BILL 80

1977

An Act to amend The Provincial Courts Act

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

1. Subsection 2 of section 10 of *The Provincial Courts Act*, being ^{s. 10 (2),} chapter 369 of the Revised Statutes of Ontario, 1970, is repealed ^{re-enacted} and the following substituted therefor:
 - (2) The Lieutenant Governor in Council may appoint a ^{Associate} judge as associate chief judge of the provincial courts (criminal ^{chief judges} division) and a judge as associate chief judge of the provincial courts (family division).
- 2.—(1) Subsection 3 of section 26 of the said Act is amended by ^{s. 26 (3),} adding thereto the following clause:
 - (ba) providing for the taxation of costs and prescribing tariffs therefor.
- (2) The said section 26 is amended by adding thereto the ^{s. 26,} following subsection:
 - (5) Section 82 of *The Judicature Act* applies to the pro- ^{Costs} vincial court (family division) and to judges presiding in the ^{R.S.O. 1970,} court. ^{c. 228}
3. This Act comes into force on the day it receives Royal Assent. ^{Commence-}ment
4. The short title of this Act is *The Provincial Courts Amendment* ^{Short title} Act, 1977.

An Act to amend
The Provincial Courts Act

1st Reading

October 25th, 1977

2nd Reading

November 1st, 1977

3rd Reading

November 1st, 1977

THE HON. R. MCMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Small Claims Courts Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

SECTION 1. Certified mail that has been delivered is included in instances where service by registered mail is authorized.

SECTION 2. Provision is made for the appointment, tenure and removal from office of small claims court judges, similar to the provisions applicable to provincial judges, including extending the jurisdiction of the Judicial Council for Provincial Judges to small claims court judges.

An Act to amend The Small Claims Courts 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 1 of *The Small Claims Courts Act*, ^{s. 1 (1), amended} being chapter 439 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clause:

(la) "registered mail" includes certified mail where evidence of delivery is returned to the sender.

- 2. Section 11 of the said Act is repealed and the following substituted therefor: ^{s. 11, re-enacted}

11.—(1) The Lieutenant Governor in Council on the recommendation of the Attorney General may appoint such small claims court judges as are considered necessary. ^{Appointment of judges}

(2) Every judge appointed under this section shall take and subscribe the following oath before the Chief Judge of the County and District Courts or a judge designated by him: ^{Oath}

I,
do swear that I will truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of the Small Claims Courts, so help me God.

and also the oath of allegiance as required by *The Public Officers Act*. ^{R.S.O. 1970, c. 382}

(3) The oath of office and oath of allegiance shall be transmitted forthwith to the Inspector of Legal Offices and shall be filed in his office. ^{Filing of oaths}

(4) A judge appointed under this section may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if, ^{Removal for cause}

- (a) the circumstances respecting the misbehaviour or inability are first inquired into; and
- (b) the judge is given reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

Inquiry

1971, c. 49

(5) For the purpose of making an inquiry under subsection 4, the Lieutenant Governor in Council may appoint one or more judges of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed 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.

Order for removal

(6) An order removing a judge from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

Retirement

11a.—(1) Every judge appointed under section 11 shall retire upon attaining the age of sixty-five years.

Reappointment

(2) Upon attaining an age for retirement under subsection 1, a judge may be reappointed to hold office during pleasure but shall not hold office after attaining the age of seventy-five years.

Resignation

(3) A judge may at any time resign his office in writing, signed by him and delivered to the Attorney General.

Judicial Council

R.S.O. 1970, c. 369

11b. The Judicial Council for Provincial Judges has the same powers and shall perform the same duties in respect of small claims court judges appointed under section 11 as it has and performs under *The Provincial Courts Act* in respect of provincial judges.

s. 18, amended

3. Section 18 of the said Act is amended by adding thereto the following subsection:

Referees

(2) The Lieutenant Governor may appoint a referee for each small claims court who shall hold office during pleasure.

SECTION 3. The amendment provides for the appointment of referees who get their powers and duties by regulation provided for in section 20 of this Bill.

SECTION 4. The amendment raises the monetary jurisdiction of small claims courts from \$400 to \$1,000.

SECTION 5. The new provision provides for the awarding of prejudgment interest.

4. Clauses *a* and *b* of section 54 of the said Act are repealed ^{s. 54 (a, b), re-enacted} and the following substituted therefor:

- (a) any action where the amount claimed does not exceed \$1,000 exclusive of interest;
- (b) any action of replevin where the value of property distrained, taken or detained does not exceed \$1,000; and

5.—(1) The said Act is amended by adding thereto the following ^{s. 54a, enacted} section:

54a.—(1) In this section, “prime rate” means the lowest ^{Prime rate defined} rate of interest quoted by chartered banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada.

(2) For the purposes of establishing the prime rate, the ^{Idem} periodic publication entitled the Bank of Canada Review purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime rate as set out therein, without further proof of the authenticity of the publication.

(3) Subject to subsection 6, a person who is entitled to a ^{Prejudgment interest} judgment for the payment of money is entitled to claim and have included in the judgment an award of interest thereon,

(a) at the prime rate existing for the month preceding the month on which the action was commenced; and

(b) calculated,

(i) where the judgment is given upon a liquidated claim, from the date the cause of action arose to the date of judgment, or

(ii) where the judgment is given upon an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.

(4) Where the judgment includes an amount for special ^{Special damages} damages, the interest calculated under subsection 3 shall be calculated on the balance of special damages incurred as totalled at the end of each six month period following the

notice in writing referred to in subclause ii of clause *b* of subsection 3 and at the date of the judgment.

Exclusions

- (5) Interest under this section shall not be awarded,
- (a) on exemplary or punitive damages;
 - (b) on interest accruing under this section;
 - (c) on an award of costs in the action;
 - (d) on that part of the judgment that represents pecuniary loss arising after the date of the judgment and that is identified by a finding of the court;
 - (e) except by consent of the judgment debtor where the judgment is given on consent;
 - (f) where interest is payable by a right other than under this section.

Discretion of judge

- (6) The judge may, where he considers it to be just to do so in all the circumstances,
- (a) disallow interest under this section;
 - (b) fix a rate of interest higher or lower than the prime rate;
 - (c) allow interest under this section for a period other than that provided,

in respect of the whole or any part of the amount for which judgment is given.

Application of subs. 1

- (2) This section applies to the payment of money under judgments delivered after this section comes into force, but no interest shall be awarded under this section for a period before this section comes into force.

s. 69, repealed

- 6.—(1) Section 69 of the said Act is repealed.

Application of subs. 1

- (2) Subsection 1 does not apply in respect of actions commenced before subsection 1 comes into force.

s. 96a, enacted

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

What is admissible in evidence at a hearing

96a.—(1) Subject to subsections 2 and 3, the judge may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in the Supreme Court,

SECTION 6. The section repealed permits a creditor to sue in the court where the place of payment is situate. The repeal will require the action to be brought in the division where the cause of action arose or where the defendant resides.

SECTION 7. The provision added permits a judge to adopt less technical procedures in a small claims court. The provision is similar to that provided for by *The Statutory Powers Procedure Act, 1971*.

SECTION 8. The repealed section 98 permits books of account to be admitted in evidence within certain limits.

The repealed section 99 provides for the authorization of affidavit evidence by an unavailable witness.

Both provisions are replaced by the wider latitude as to admissible evidence permitted under section 96a as set out in section 7 of this Bill.

SECTION 9. The amendments permit an award of costs for counsel fee where the party was represented by an articulated student.

SECTION 10. The amendment raises the monetary limit for non-appealable cases from under \$200 to under \$500.

SECTION 11. The amendment permits the Chief Justice to direct an appeal from a small claims court to be heard by a single judge of Divisional Court.

- (a) any oral testimony; and
- (b) any document or other thing,

relevant to the subject-matter of the proceedings and may act on such evidence, but the judge may exclude anything unduly repetitious.

- (2) Nothing is admissible in evidence at a hearing, What is inadmissible in evidence at a hearing
 - (a) that would be inadmissible by reason of any privilege under the law of evidence; or
 - (b) that is inadmissible by any statute.

(3) Nothing in subsection 1 overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings. Conflicts

(4) Where the judge is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing. Copies

8. Sections 98 and 99 of the said Act are repealed. ss. 98, 99, repealed

9.—(1) Subsection 1 of section 104 of the said Act is amended by inserting after “solicitor” in the third line “or student articulated to the solicitor”. s. 104 (1), amended

(2) Subsection 2 of the said section 104 is amended by inserting after “solicitor” in the third line “or student articulated to the solicitor”. s. 104 (2), amended

10. Clauses *a* and *b* of subsection 1 of section 108 of the said Act are repealed and the following substituted therefor: s. 108 (1) (a, b), re-enacted

- (a) in an action or garnishee proceeding where the sum in dispute exceeds \$500, exclusive of costs;
- (b) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$500, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$300.

11. Subsection 1 of section 112 of the said Act, as amended by the Revised Statutes of Ontario, 1970, chapter 439, section 112, subsection 3, is repealed and the following substituted therefor: s. 112 (1), re-enacted

Appeal

(1) The appeal shall be made in the time and manner prescribed by the rules of court and the Chief Justice of the High Court may, after the appeal is perfected and where it appears to him that no issue of general interest is raised and that expedition and the interests of the parties would be thereby best served, order that the appeal be heard by a single judge of the Divisional Court and a decision of the judge shall be deemed to be a decision of the Divisional Court.

s. 116,
amended

- 12.** Section 116 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 107, section 4, is further amended by adding thereto the following subsection:

Rate of
interest
after
judgment

(2a) The interest payable under subsection 2 shall be at the same rate as may be levied under a writ of execution issued out of the Supreme Court, but a judge may order that no interest is payable in respect of moneys owing under a consolidation order that is not in default.

s. 131 (5),
amended

- 13.**—(1) Subsection 5 of section 131 of the said Act is amended by inserting after “served” in the first line “by mail or, if directed by the judge,”.

s. 131 (7),
re-enacted

(2) Subsection 7 of the said section 131 is repealed and the following substituted therefor:

Place of
examination

(7) The examination shall not be held in open court unless the judge is satisfied there is good reason to hold it in public.

s. 132 (2),
amended

- 14.** Subsection 2 of section 132 of the said Act is amended by inserting after “served” in the first line “by mail or, if directed by the judge,”.

s. 135 (1),
amended

- 15.** Subsection 1 of section 135 of the said Act is amended by striking out “registered mail” in the sixth line and inserting in lieu thereof “mail or served personally as directed by the judge”.

s. 151,
repealed

- 16.**—(1) Section 151 of the said Act is repealed.

Application
of subs. 1

(2) Subsection 1 does not apply in respect of garnishees issued before this section comes into force.

s. 184,
re-enacted

- 17.** Section 184 of the said Act is repealed and the following substituted therefor:

Destruction
of documents

184. Where books, documents or papers have been preserved in a small claims court for so long that it appears that they need not be preserved any longer, the Chief Judge

SECTION 12. The amendment confines the interest payable after judgment to be the same as currently payable in the Supreme Court. By rule 548, this is now 5 per cent.

SECTION 13.—Subsection 1. The amendment permits service of a summons to a judgment debtor to be by mail while permitting the judge to require service to be personal.

Subsection 2. At present, a judge may direct a judgment debtor examination to be held in public. The amendment requires the judge to have good reason.

SECTION 14. Service of a show cause summons to a judgment debtor is in the same manner as provided for the judgment summons.

SECTION 15. The amendment permits a judge to order personal service of a notice to explain contempt before committed.

SECTION 16. The section repealed permits a garnishee to be issued before judgment.

SECTION 17. The amendment gives the Chief Judge of County and District Courts the responsibility for authorizing destruction of court documents rather than the judge of the court and permits disposition other than destruction.

SECTION 18. The provision repealed permits Supreme Court practice to be applied in small claims courts proceedings. The repeal is complementary to section 7 of this Bill.

SECTION 19. The provision repealed prohibits affidavits for use in court from being sworn before, or in the office of, the agent of a party to the action.

SECTION 20. The amendments authorize regulations setting out the duties, responsibilities and functions of referees. The authority to make regulations for the payment of fees and for employing court officials under *The Public Service Act* is extended to apply to referees in the same way as to court clerks. Provision is also made for the remuneration and benefits of small claims court judges to be fixed by regulation in the same manner as for provincial judges.

SECTION 21. The Part repealed provides for extended monetary jurisdiction in the districts. The repeal permits the present extended jurisdiction of \$1,000 to continue, being the new limit enacted in section 4 of this Bill.

of the County and District Courts may make an order authorizing the Inspector to cause their destruction or other disposition.

- 18.** Subsection 1 of section 190 of the said Act is repealed. s. 190 (1),
repealed
- 19.** Subsection 2 of section 193 of the said Act is repealed. s. 193 (2),
repealed
- 20.**—(1) Clause *aa* of subsection 1 of section 195 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 107, section 7, is amended by inserting after “clerks” in the first line “referees”. s. 195 (1) (aa),
amended
- (2) Clause *b* of subsection 1 of the said section 195 is amended by inserting after “clerks” in the first line “referees”. s. 195 (1) (b),
amended
- (3) Subsection 1 of the said section 195, as amended by the Statutes of Ontario, 1972, chapter 107, section 7, is further amended by adding thereto the following clauses: s. 195 (1),
amended
- (da) prescribing the duties, responsibilities and functions of referees;
- (db) fixing the remuneration of judges appointed under section 11 and providing for the benefits to which such judges are entitled, including,
- (i) leave of absence and vacations,
- (ii) sick leave credits and payments in respect of such credits,
- (iii) pension benefits for judges and their widows and surviving children,
- and for the transfer or other disposition of benefits in respect thereof to which persons appointed as judges under section 11 were entitled under *The Public Service Act* or *The Public Service Superannuation Act* at the time of their appointment under section 11. R.S.O. 1970,
cc. 386, 387
- 21.** Part II of the said Act, as amended by the Revised Statutes of Ontario, 1970, chapter 439, section 197, subsection 3, is repealed. Part II
(ss. 196-198),
repealed
- 22.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 23.** The short title of this Act is *The Small Claims Courts Amendment Act, 1977*. Short title

An Act to amend
The Small Claims Courts Act

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 81

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Small Claims Courts Act

THE HON. R. MCMURTRY
Attorney General



An Act to amend The Small Claims Courts 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 1 of *The Small Claims Courts Act*, ^{s. 1 (1), amended} being chapter 439 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clause:

(la) "registered mail" includes certified mail where evidence of delivery is returned to the sender.

- 2. Section 11 of the said Act is repealed and the following substituted therefor: ^{s. 11, re-enacted}

11.—(1) The Lieutenant Governor in Council on the recommendation of the Attorney General may ^{Appointment of judges} appoint such small claims court judges as are considered necessary.

(2) Every judge appointed under this section shall take ^{Oath} and subscribe the following oath before the Chief Judge of the County and District Courts or a judge designated by him:

I,
do swear that I will truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of the Small Claims Courts, so help me God.

and also the oath of allegiance as required by *The Public Officers Act*. ^{R.S.O. 1970, c. 382}

(3) The oath of office and oath of allegiance shall be ^{Filing of oaths} transmitted forthwith to the Inspector of Legal Offices and shall be filed in his office.

(4) A judge appointed under this section may be removed ^{Removal for cause} from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if,

(a) the circumstances respecting the misbehaviour or inability are first inquired into; and

(b) the judge is given reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

Inquiry

(5) For the purpose of making an inquiry under subsection 4, the Lieutenant Governor in Council may appoint one or more judges of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed 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

Order for removal

(6) An order removing a judge from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

Retirement

11a.—(1) Every judge appointed under section 11 shall retire upon attaining the age of sixty-five years.

Reappointment

(2) Upon attaining an age for retirement under subsection 1, a judge may be reappointed to hold office during pleasure but shall not hold office after attaining the age of seventy-five years.

Resignation

(3) A judge may at any time resign his office in writing, signed by him and delivered to the Attorney General.

Judicial Council

11b. The Judicial Council for Provincial Judges has the same powers and shall perform the same duties in respect of small claims court judges appointed under section 11 as it has and performs under *The Provincial Courts Act* in respect of provincial judges.

R.S.O. 1970,
c. 369

s. 18,
amended

3. Section 18 of the said Act is amended by adding thereto the following subsection:

Referees

(2) The Lieutenant Governor may appoint a referee for each small claims court who shall hold office during pleasure.

4. Clauses *a* and *b* of section 54 of the said Act are repealed ^{s. 54 (a, b),} re-enacted and the following substituted therefor:

- (a) any action where the amount claimed does not exceed \$1,000 exclusive of interest;
- (b) any action of replevin where the value of property distrained, taken or detained does not exceed \$1,000; and

5.—(1) The said Act is amended by adding thereto the following ^{s. 54a,} section: ^{enacted}

54a.—(1) In this section, “prime rate” means the lowest ^{Prime rate defined} rate of interest quoted by chartered banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada.

(2) For the purposes of establishing the prime rate, the ^{Idem} periodic publication entitled the Bank of Canada Review purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime rate as set out therein, without further proof of the authenticity of the publication.

(3) Subject to subsection 6, a person who is entitled to a ^{Prejudgment interest} judgment for the payment of money is entitled to claim and have included in the judgment an award of interest thereon,

(a) at the prime rate existing for the month preceding the month on which the action was commenced; and

(b) calculated,

(i) where the judgment is given upon a liquidated claim, from the date the cause of action arose to the date of judgment, or

(ii) where the judgment is given upon an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.

(4) Where the judgment includes an amount for special ^{Special damages} damages, the interest calculated under subsection 3 shall be calculated on the balance of special damages incurred as totalled at the end of each six month period following the

notice in writing referred to in subclause ii of clause *b* of subsection 3 and at the date of the judgment.

Exclusions

- (5) Interest under this section shall not be awarded,
- (a) on exemplary or punitive damages;
 - (b) on interest accruing under this section;
 - (c) on an award of costs in the action;
 - (d) on that part of the judgment that represents pecuniary loss arising after the date of the judgment and that is identified by a finding of the court;
 - (e) except by consent of the judgment debtor where the judgment is given on consent;
 - (f) where interest is payable by a right other than under this section.

Discretion of judge

- (6) The judge may, where he considers it to be just to do so in all the circumstances,
- (a) disallow interest under this section;
 - (b) fix a rate of interest higher or lower than the prime rate;
 - (c) allow interest under this section for a period other than that provided,

in respect of the whole or any part of the amount for which judgment is given.

Application of subs. 1

- (2) This section applies to the payment of money under judgments delivered after this section comes into force, but no interest shall be awarded under this section for a period before this section comes into force.

s. 69, repealed

6.—(1) Section 69 of the said Act is repealed.

Application of subs. 1

- (2) Subsection 1 does not apply in respect of actions commenced before subsection 1 comes into force.

s. 96a, enacted

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

What is admissible in evidence at a hearing

96a.—(1) Subject to subsections 2 and 3, the judge may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in the Supreme Court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceedings and may act on such evidence, but the judge may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing,

What is
inadmissible
in evidence
at a
hearing

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any statute.

(3) Nothing in subsection 1 overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.

Conflicts

(4) Where the judge is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

Copies

8. Sections 98 and 99 of the said Act are repealed.

ss. 98, 99,
repealed

9.—(1) Subsection 1 of section 104 of the said Act is amended by inserting after “solicitor” in the third line “or student articulated to the solicitor”.

s. 104 (1),
amended

(2) Subsection 2 of the said section 104 is amended by inserting after “solicitor” in the third line “or student articulated to the solicitor”.

s. 104 (2),
amended

10. Clauses *a* and *b* of subsection 1 of section 108 of the said Act are repealed and the following substituted therefor:

s. 108 (1) (a, b),
re-enacted

(a) in an action or garnishee proceeding where the sum in dispute exceeds \$500, exclusive of costs;

(b) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$500, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$300.

11. Subsection 1 of section 112 of the said Act, as amended by the Revised Statutes of Ontario, 1970, chapter 439, section 112, subsection 3, is repealed and the following substituted therefor:

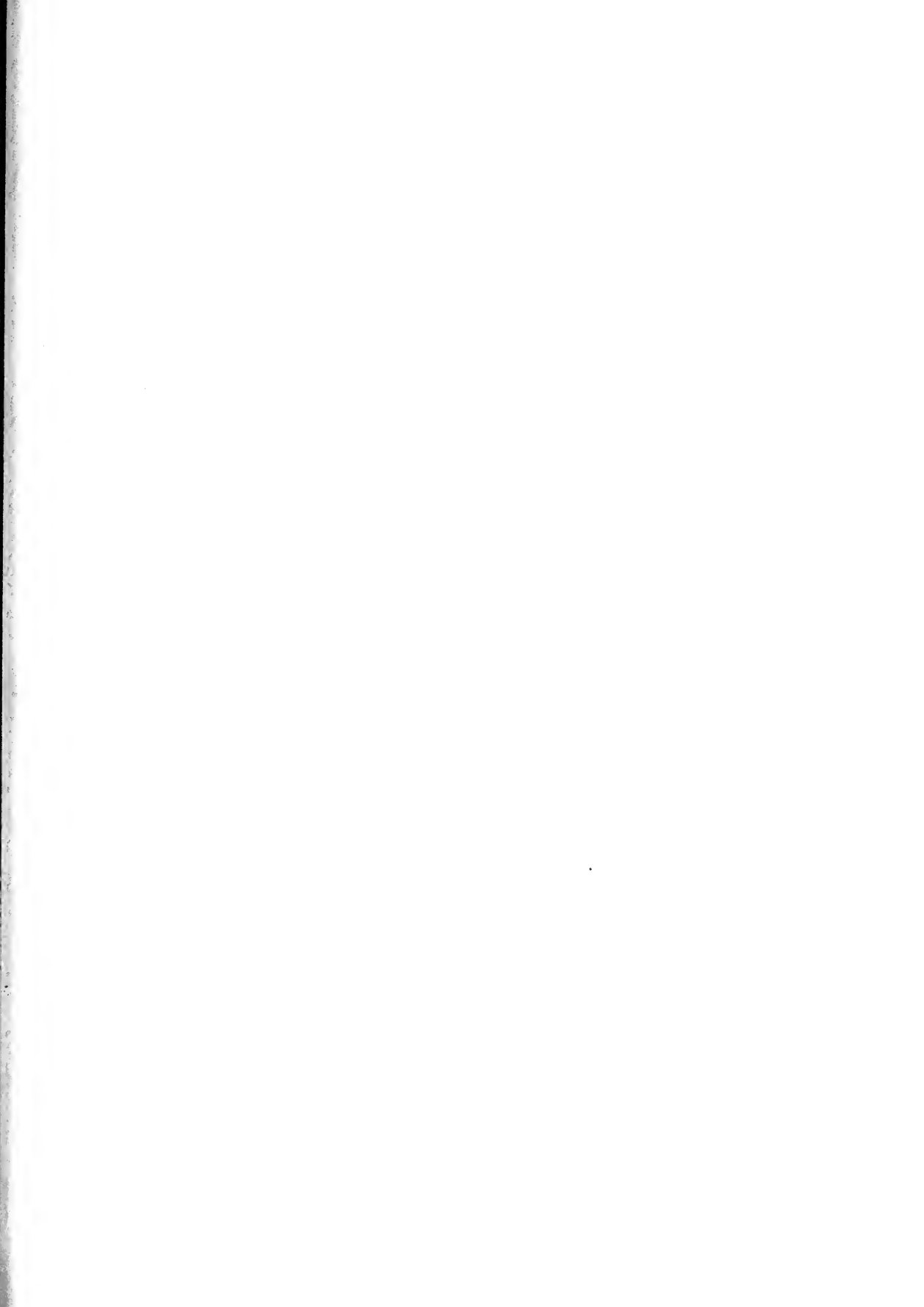
s. 112 (1),
re-enacted

- Appeal (1) The appeal shall be made in the time and manner prescribed by the rules of court and the Chief Justice of the High Court may, after the appeal is perfected and where it appears to him that no issue of general interest is raised and that expedition and the interests of the parties would be thereby best served, order that the appeal be heard by a single judge of the Divisional Court and a decision of the judge shall be deemed to be a decision of the Divisional Court.
- s. 116, amended **12.** Section 116 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 107, section 4, is further amended by adding thereto the following subsection:
- Rate of interest after judgment (2a) The interest payable under subsection 2 shall be at the same rate as may be levied under a writ of execution issued out of the Supreme Court, but a judge may order that no interest is payable in respect of moneys owing under a consolidation order that is not in default.
- s. 131 (5), amended **13.**—(1) Subsection 5 of section 131 of the said Act is amended by inserting after “served” in the first line “by mail or, if directed by the judge,”.
- s. 131 (7), re-enacted (2) Subsection 7 of the said section 131 is repealed and the following substituted therefor:
- Place of examination (7) The examination shall not be held in open court unless the judge is satisfied there is good reason to hold it in public.
- s. 132 (2), amended **14.** Subsection 2 of section 132 of the said Act is amended by inserting after “served” in the first line “by mail or, if directed by the judge,”.
- s. 135 (1), amended **15.** Subsection 1 of section 135 of the said Act is amended by striking out “registered mail” in the sixth line and inserting in lieu thereof “mail or served personally as directed by the judge”.
- s. 151, repealed **16.**—(1) Section 151 of the said Act is repealed.
- Application of subs. 1 (2) Subsection 1 does not apply in respect of garnishees issued before this section comes into force.
- s. 184, re-enacted **17.** Section 184 of the said Act is repealed and the following substituted therefor:
- Destruction of documents 184. Where books, documents or papers have been preserved in a small claims court for so long that it appears that they need not be preserved any longer, the Chief Judge

of the County and District Courts may make an order authorizing the Inspector to cause their destruction or other disposition.

- 18.** Subsection 1 of section 190 of the said Act is repealed. s. 190 (1),
repealed
- 19.** Subsection 2 of section 193 of the said Act is repealed. s. 193 (2),
repealed
- 20.**—(1) Clause *aa* of subsection 1 of section 195 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 107, section 7, is amended by inserting after “clerks” in the first line “referees”. s. 195 (1) (aa),
amended
- (2) Clause *b* of subsection 1 of the said section 195 is amended by inserting after “clerks” in the first line “referees”. s. 195 (1) (b),
amended
- (3) Subsection 1 of the said section 195, as amended by the Statutes of Ontario, 1972, chapter 107, section 7, is further amended by adding thereto the following clauses: s. 195 (1),
amended
- (*da*) prescribing the duties, responsibilities and functions of referees;
- (*db*) fixing the remuneration of judges appointed under section 11 and providing for the benefits to which such judges are entitled, including,
- (i) leave of absence and vacations,
- (ii) sick leave credits and payments in respect of such credits,
- (iii) pension benefits for judges and their widows and surviving children,
- and for the transfer or other disposition of benefits in respect thereof to which persons appointed as judges under section 11 were entitled under *The Public Service Act* or *The Public Service Superannuation Act* at the time of their appointment under section 11. R.S.O. 1970.
cc. 386, 387
- 21.** Part II of the said Act, as amended by the Revised Statutes of Ontario, 1970, chapter 439, section 197, subsection 3, is repealed. Part II
(ss. 196-198),
repealed
- 22.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 23.** The short title of this Act is *The Small Claims Courts Amendment Act, 1977*. Short title





An Act to amend
The Small Claims Courts Act

1st Reading

October 25th, 1977

2nd Reading

November 1st, 1977

3rd Reading

November 8th, 1977

THE HON. R. McMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Ontario Food Terminal Act**

MR. POPE

EXPLANATORY NOTE

The purpose of this Bill is to authorize the Ontario Food Terminal Board to establish a branch operation in the Territorial District of Cochrane.

BILL 82

1977

**An Act to amend
The Ontario Food Terminal Act**

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

1. Clause *g* of section 1 of *The Ontario Food Terminal Act*, being chapter 313 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (g),
re-enacted

(g) "Terminal" means the Ontario Food Terminal and includes all branches thereof.

2. Clause *a* of subsection 1 of section 4 of the said Act is repealed and the following substituted therefor: s. 4 (1) (a),
re-enacted

(a) to acquire, construct, equip and operate a wholesale fruit and produce market to be known as the Ontario Food Terminal and to operate branches thereof in The Municipality of Metropolitan Toronto or Regional Municipality of York and the Territorial District of Cochrane and to acquire and operate such facilities for the transportation and handling of fruit and produce as may be necessary for the purposes of the Terminal; and

3. Subsection 2 of section 12 of the said Act is repealed and the following substituted therefor: s. 12 (2),
re-enacted

(2) No person shall establish or operate within the Territorial District of Cochrane any market for the sale by wholesale of fruit and vegetables except with the approval of the Board, but this section does not apply to any such market that was being regularly and continuously operated on the day *The Ontario Food Terminal Amendment Act, 1977*, comes into force so long as it is not extended or enlarged. Markets
in
Cochrane

Interpre-
tation

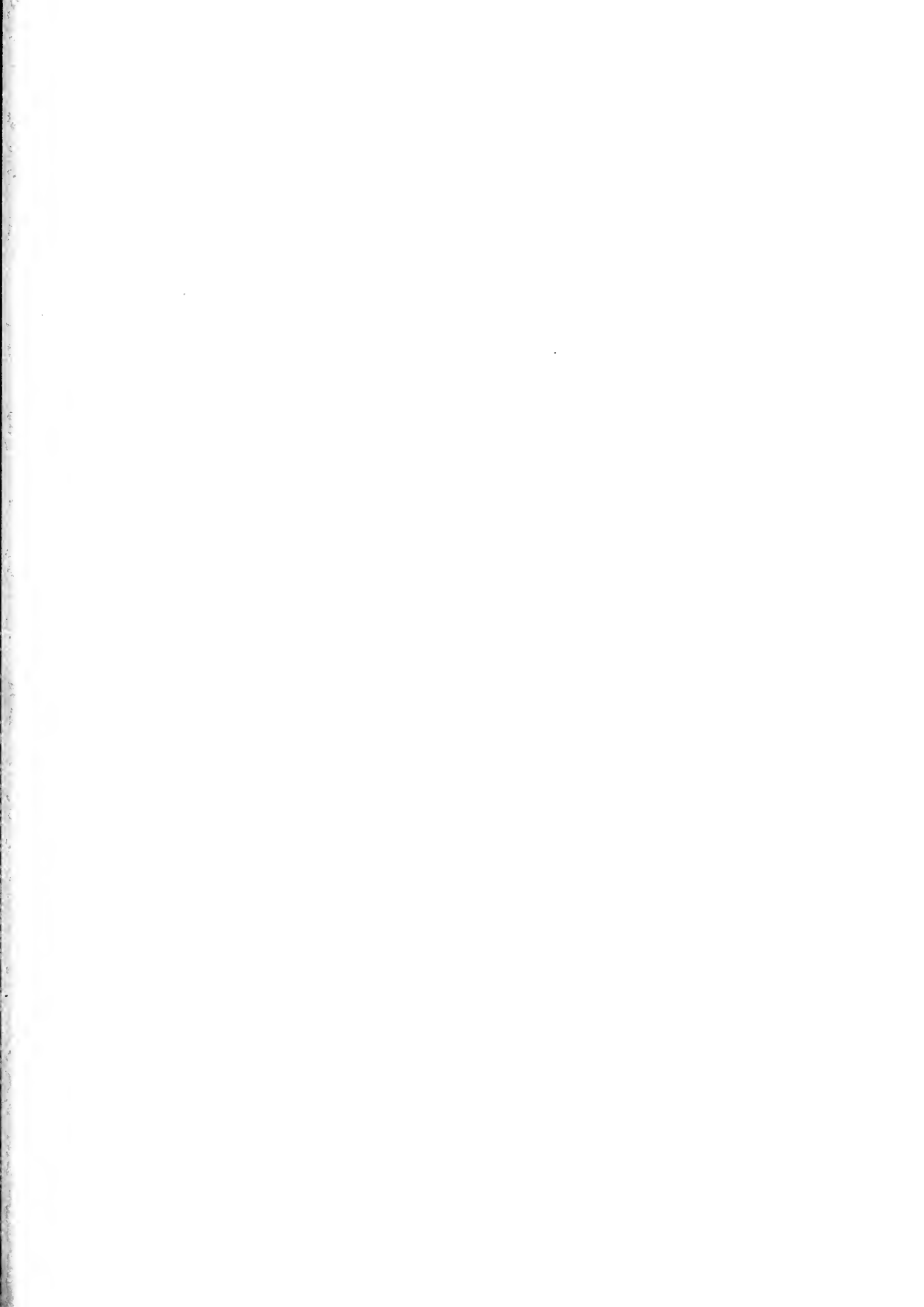
(3) In subsections 1 and 2, the expression "any market for the sale by wholesale of fruit and vegetables" includes any premises at which fruit or vegetables are purchased for resale.

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 Ontario Food Terminal Amendment Act, 1977*.







An Act to amend
The Ontario Food Terminal Act

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

MR. POPE

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Employment Standards Act, 1974**

MR. BREUGH

EXPLANATORY NOTE

The purpose of the Bill is to extend the protection for accrued wages, overtime pay and termination pay under *The Employment Standards Act, 1974*.

BILL 83

1977

**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. Section 14 of *The Employment Standards Act, 1974*, being ^{s. 14,} chapter 112, is repealed. _{repealed}
2. Section 15 of the said Act is repealed and the following sub- ^{s. 15,} stituted therefor: _{re-enacted}

15.—(1) Every employer shall be deemed to hold wages, ^{Wages, etc.,} vacation pay and termination pay accruing due to an ^{deemed} employee in trust for the employee and all such amounts ^{to be held} shall be kept by the employer separate and apart from his ^{in trust} own moneys.

(2) Where an employer contravenes subsection 1 and the ^{idem} amounts deemed to be held in trust for an employee are not kept separate and apart by the employer, the amounts have priority to the claims or rights of all secured, preferred and ordinary or general creditors of the employer including the claims or rights of the Crown.

3. This Act comes into force on the day it receives Royal Assent. ^{Commence-} _{ment}
4. The short title of this Act is *The Employment Standards* ^{Short title} *Amendment Act, 1977*.

An Act to amend
The Employment Standards Act, 1974

1st Reading

October 25th, 1977

2nd Reading

3rd Reading

MR. BREAUGH

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend The Public Transportation and
Highway Improvement Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTES

SECTION 1. Section 20 of the Act, as recast, reads as follows:

- (20) *The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement for the preparation of a report on the whole or any part of the transportation or highway system required to meet the needs of the municipality and the Minister may direct payment out of moncys appropriated therefor by the Legislaturc of a sum not exceeding 75 per cent of the cost of the report.*

The words underlined have been added to make clear that any reports made pursuant to the section may deal with highway systems.

Subsection 2 has been added to section 20 of the Act to authorize the Minister and municipalities to enter into agreements in respect of experimental projects and it also permits payment of 75 per cent of the cost by the Crown.

SECTION 2. Section 22 (1) of the Act presently reads as follows:

- (1) *Where the Minister or a person authorized by him considers it advisable to change the grade or make other alterations upon a highway intersecting or affording access to the King's Highway or giving access to private property, the cost of the changes so made shall be deemed to be part of the cost of the construction of the King's Highway.*

The provision, as recast, permits the Minister to relocate or alter a road giving access to a highway with the consent of the authority or person having jurisdiction over the road. The cost of any changes would be deemed to be a cost of construction of the King's Highway.

Section 30 of the Act provides that the Ministry is responsible for the maintenance and repair of the King's Highway and also deals with Ministry liability in the event of damage caused by negligence.

An Act to amend The Public Transportation and Highway Improvement Act

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

1. Section 20 of *The Public Transportation and Highway Improvement Act*, being chapter 201 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 20,
re-enacted

20.—(1) The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement for the preparation of a report on the whole or any part of the transportation or highway system required to meet the needs of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report. Trans-
portation
needs study
report

(2) The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement to provide all or any part of an experimental or demonstration project related to the transportation or highway system of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the project. Trans-
portation
experimental
project

2. Subsection 1 of section 22 of the said Act is repealed and the following substituted therefor: s. 22 (1),
re-enacted

(1) The Minister, with the consent of the authority or person having jurisdiction and control over the road, may relocate, alter or divert any public or private road entering or touching upon or giving access to a highway under the jurisdiction and control of the Minister. Relocation,
etc., of
approaches
to highway

(1a) The cost of the changes made pursuant to subsection 1 shall be deemed to be part of the cost of the con- During
repairs road
deemed to
be King's
Highway

struction of the King's Highway and during the period when the changes are being made that portion of the road being relocated, altered or diverted shall be deemed to be a King's Highway for the purposes of section 30.

s. 24,
amended

3. Section 24 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 67, section 9, is further amended by adding thereto the following subsection:

Agreement
for road
construction

(1a) The Minister may enter into agreements to construct and maintain roads for and on behalf of a Minister of the Crown, an agency of the Crown or Ontario Hydro.

s. 30 (9),
re-enacted

4. Subsection 9 of section 30 of the said Act is repealed and the following substituted therefor:

Action to
be tried
without jury

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred unless otherwise ordered upon an application by any party.

s. 41 (1),
amended

5. Subsection 1 of section 41 of the said Act is amended by inserting after "roads" in the fifth line "between the county and a region,".

s. 86 (1),
re-enacted

6. Subsection 1 of section 86 of the said Act is repealed and the following substituted therefor:

Arrange-
ments for
construction
or
maintenance

(1) The Minister may arrange with,

(a) the Government of Canada;

R.S.O. 1970,
c. 256

(b) the local roads board elected under *The Local Roads Boards Act*;

R.S.O. 1970,
c. 445

(c) the roads commissioners elected under *The Statute Labour Act*; or

(d) a person who is the owner of land,

for the construction or maintenance of a road in territory without municipal organization, and the Minister may direct payment out of moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he considers requisite.

s. 91a (2),
amended

- 7.—(1) Subsection 2 of section 91a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 67, section 22,

SECTION 3. The provision is self-explanatory.

SECTION 4. The provision presently provides that all actions commenced pursuant to section 30 shall take place in the county in which the accident occurred. The provision as recast permits any party to the action to apply for an order changing the venue.

SECTION 5. The provision, as amended, reads as follows:

(1) *A county may by by-law adopt a plan of county road construction and maintenance and establish a county road system by designating the roads in any municipality in the county that are to form the system and may include in the system such boundary-line roads between the county and a region, between the county and any other county or between the county and a city or separated town as are agreed upon by the municipalities interested.*

The words underlined are the words being added.

SECTION 6. The provision, as recast, includes the Government of Canada as a party with whom the Minister may arrange for construction or maintenance of roads in territory without municipal organization.

The provision has been slightly reworded to make clear that it applies only in territories without municipal organization.

SECTION 7.—Subsection 1. The provision as amended would read as follows:

(2) *The Minister and a municipality or other person may enter into an agreement to establish, acquire, construct, operate and maintain ferries and to acquire lands, equipment and machinery necessary and incidental thereto.*

The words underlined are the ones being added.

Subsection 2. The provision presently reads as follows :

- (3) *The Minister may pay to a municipality the whole or part of expenditures by the municipality to establish, acquire, construct, operate and maintain ferries and to acquire lands, equipment and machinery necessary and incidental thereto.*

The words underlined are the ones being deleted.

The amendments are complementary and serve to permit the Minister to enter into agreements to establish and operate ferry services with authorities other than municipalities.

is amended by inserting after "municipality" in the first line "or other person".

- (2) Subsection 3 of the said section 91a is amended by ^{s. 91a (3),} striking out "to a municipality" in the first line and by _{amended} striking out "by the municipality" in the second line.
8. This Act comes into force on the day it receives Royal Assent. ^{Commence-}_{ment}
9. The short title of this Act is *The Public Transportation and* ^{Short title} *Highway Improvement Amendment Act, 1977.*

An Act to amend
The Public Transportation and
Highway Improvement Act

1st Reading

October 27th, 1977

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend The Public Transportation and
Highway Improvement Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications

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

EXPLANATORY NOTES

SECTION 1. Section 20 of the Act, as recast, reads as follows:

- (20) *The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement for the preparation of a report on the whole or any part of the transportation or highway system required to meet the needs of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report.*

The words underlined have been added to make clear that any reports made pursuant to the section may deal with highway systems.

Subsection 2 has been added to section 20 of the Act to authorize the Minister and municipalities to enter into agreements in respect of experimental projects and it also permits payment of 75 per cent of the cost by the Crown.

SECTION 2. Section 22 (1) of the Act presently reads as follows:

- (1) *Where the Minister or a person authorized by him considers it advisable to change the grade or make other alterations upon a highway intersecting or affording access to the King's Highway or giving access to private property, the cost of the changes so made shall be deemed to be part of the cost of the construction of the King's Highway.*

The provision, as recast, permits the Minister to relocate or alter a road giving access to a highway with the consent of the authority or person having jurisdiction over the road. The cost of any changes would be deemed to be a cost of construction of the King's Highway.

Section 30 of the Act provides that the Ministry is responsible for the maintenance and repair of the King's Highway and also deals with Ministry liability in the event of damage caused by negligence.

An Act to amend The Public Transportation and Highway Improvement Act

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

1. Section 20 of *The Public Transportation and Highway Improvement Act*, being chapter 201 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 20.
re-enacted

20.—(1) The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement for the preparation of a report on the whole or any part of the transportation or highway system required to meet the needs of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report. Trans-
portation
needs study
report

(2) The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement to provide all or any part of an experimental or demonstration project related to the transportation or highway system of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the project. Trans-
portation
experimental
project

2. Subsection 1 of section 22 of the said Act is repealed and the following substituted therefor: s. 22 (1).
re-enacted

(1) The Minister, with the consent of the authority or person having jurisdiction and control over the road, may relocate, alter or divert any public or private road entering or touching upon or giving access to a highway under the jurisdiction and control of the Minister. Relocation,
etc., of
approaches
to highway

(1a) The cost of the changes made pursuant to subsection 1 shall be deemed to be part of the cost of the con- During
repairs road
deemed to
be King's
Highway

struction of the King's Highway and during the period when the changes are being made that portion of the road being relocated, altered or diverted shall be deemed to be a King's Highway for the purposes of section 30.

s. 24,
amended

3. Section 24 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 67, section 9, is further amended by adding thereto the following subsection:

Agreement
for road
construction

(1a) The Minister may enter into agreements to construct and maintain roads for and on behalf of a Minister of the Crown, an agency of the Crown or Ontario Hydro.

s. 30 (9),
re-enacted

4. Subsection 9 of section 30 of the said Act is repealed and the following substituted therefor:

Action to
be tried
without jury

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred unless otherwise ordered upon an application by any party.

s. 41 (1),
amended

5. Subsection 1 of section 41 of the said Act is amended by inserting after "roads" in the fifth line "between the county and a region,".

s. 86 (1),
re-enacted

6. Subsection 1 of section 86 of the said Act is repealed and the following substituted therefor:

Arrange-
ments for
construction
or
maintenance

(1) The Minister may arrange with,

(a) the Government of Canada;

(b) the local roads board elected under *The Local Roads Boards Act*;

(c) the roads commissioners elected under *The Statute Labour Act*; or

(d) a person who is the owner of land,

for the construction or maintenance of a road in territory without municipal organization, and the Minister may direct payment out of moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he considers requisite.

s. 91a (2),
amended

- 7.—(1) Subsection 2 of section 91a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 67, section 22,

SECTION 3. The provision is self-explanatory.

SECTION 4. The provision presently provides that all actions commenced pursuant to section 30 shall take place in the county in which the accident occurred. The provision as recast permits any party to the action to apply for an order changing the venue.

SECTION 5. The provision, as amended, reads as follows:

(1) A county may by by-law adopt a plan of county road construction and maintenance and establish a county road system by designating the roads in any municipality in the county that are to form the system and may include in the system such boundary-line roads between the county and a region, between the county and any other county or between the county and a city or separated town as are agreed upon by the municipalities interested.

The words underlined are the words being added.

SECTION 6. The provision, as recast, includes the Government of Canada as a party with whom the Minister may arrange for construction or maintenance of roads in territory without municipal organization.

The provision has been slightly reworded to make clear that it applies only in territories without municipal organization.

SECTION 7.—Subsection 1. The provision as amended would read as follows:

(2) The Minister and a municipality or other person may enter into an agreement to establish, acquire, construct, operate and maintain ferries and to acquire lands, equipment and machinery necessary and incidental thereto.

The words underlined are the ones being added.

Subsection 2. The provision presently reads as follows :

- (3) *The Minister may pay to a municipality the whole or part of expenditures by the municipality to establish, acquire, construct, operate and maintain ferries and to acquire lands, equipment and machinery necessary and incidental thereto.*

The amendments are complementary and serve to permit the Minister to enter into agreements to establish and operate ferry services with authorities other than municipalities.

is amended by inserting after "municipality" in the first line "or other person".

- (2) Subsection 3 of the said section 91a is amended by striking ^{s. 91a (3),} out "to a municipality" in the first line and by striking out ^{amended} "by the municipality" in the second line and inserting in lieu thereof "pursuant to an agreement under subsection 2".
8. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
^{ment}
9. The short title of this Act is *The Public Transportation and Highway Improvement Amendment Act, 1977*. ^{Short title}

An Act to amend
The Public Transportation and
Highway Improvement Act

1st Reading

October 27th, 1977

2nd Reading

November 8th, 1977

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

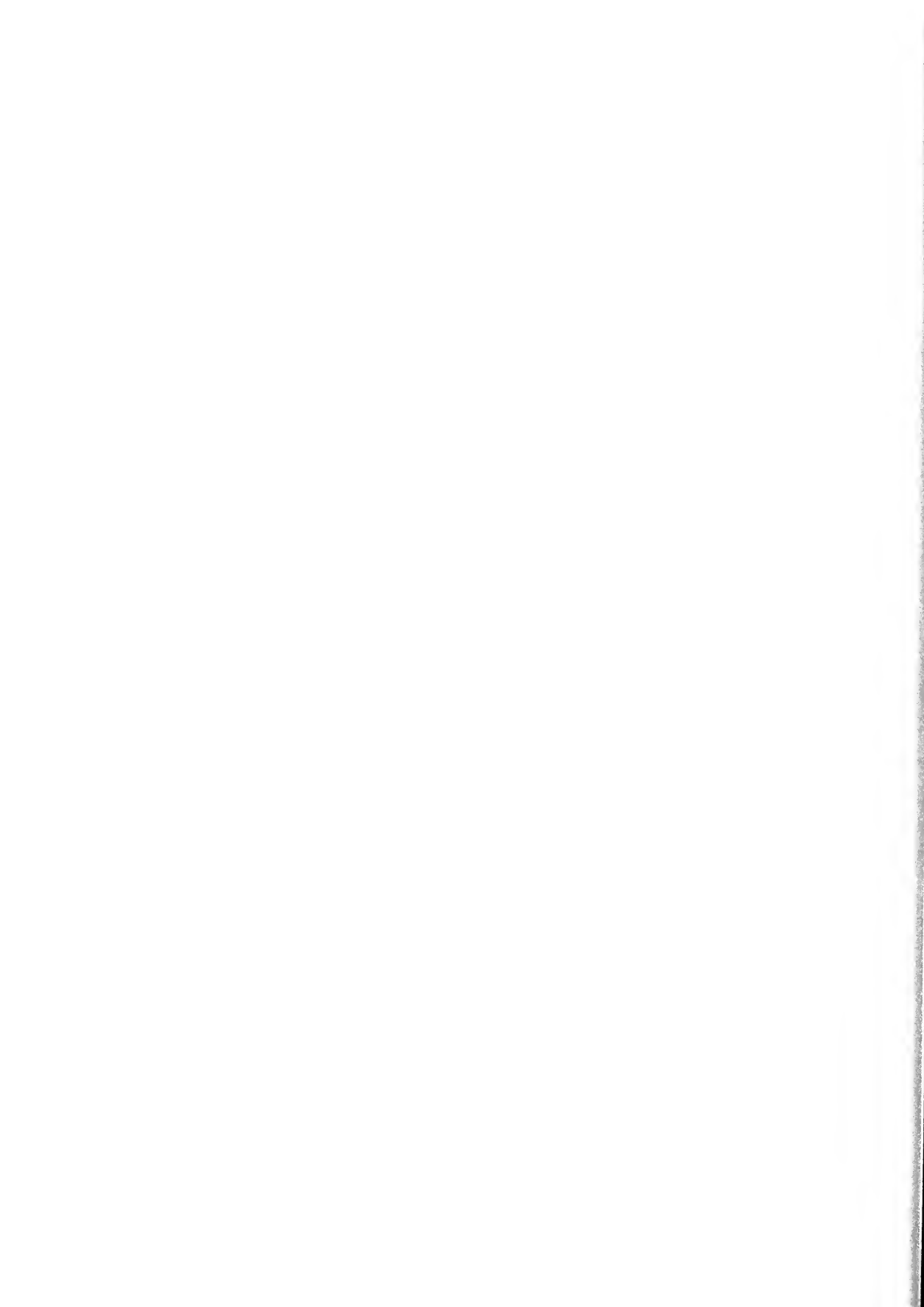
*(Reprinted as amended by the
Committee of the Whole House)*

BILL 84

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend The Public Transportation and
Highway Improvement Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



An Act to amend The Public Transportation and Highway Improvement Act

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

1. Section 20 of *The Public Transportation and Highway Improvement Act*, being chapter 201 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 20.
re-enacted

20.—(1) The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement for the preparation of a report on the whole or any part of the transportation or highway system required to meet the needs of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report. Trans-
portation
needs study
report

(2) The Minister and any municipality, including a district, metropolitan or regional municipality, may enter into an agreement to provide all or any part of an experimental or demonstration project related to the transportation or highway system of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the project. Trans-
portation
experimental
project

2. Subsection 1 of section 22 of the said Act is repealed and the following substituted therefor: s. 22 (1).
re-enacted

(1) The Minister, with the consent of the authority or person having jurisdiction and control over the road, may relocate, alter or divert any public or private road entering or touching upon or giving access to a highway under the jurisdiction and control of the Minister. Relocation,
etc., of
approaches
to highway

(1a) The cost of the changes made pursuant to subsection 1 shall be deemed to be part of the cost of the con- During
repairs road
deemed to
be King's
Highway

struction of the King's Highway and during the period when the changes are being made that portion of the road being relocated, altered or diverted shall be deemed to be a King's Highway for the purposes of section 30.

s. 24,
amended

3. Section 24 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 67, section 9, is further amended by adding thereto the following subsection:

Agreement
for road
construction

(1a) The Minister may enter into agreements to construct and maintain roads for and on behalf of a Minister of the Crown, an agency of the Crown or Ontario Hydro.

s. 30 (9),
re-enacted

4. Subsection 9 of section 30 of the said Act is repealed and the following substituted therefor:

Action to
be tried
without jury

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred unless otherwise ordered upon an application by any party.

s. 41 (1),
amended

5. Subsection 1 of section 41 of the said Act is amended by inserting after "roads" in the fifth line "between the county and a region,".

s. 86 (1),
re-enacted

6. Subsection 1 of section 86 of the said Act is repealed and the following substituted therefor:

Arrange-
ments for
construction
or
maintenance

(1) The Minister may arrange with,

(a) the Government of Canada;

R.S.O. 1970.
c. 256

(b) the local roads board elected under *The Local Roads Boards Act*;

R.S.O. 1970.
c. 445

(c) the roads commissioners elected under *The Statute Labour Act*; or

(d) a person who is the owner of land,

for the construction or maintenance of a road in territory without municipal organization, and the Minister may direct payment out of moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he considers requisite.

s. 91a (2),
amended

- 7.—(1) Subsection 2 of section 91a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 67, section 22,

is amended by inserting after "municipality" in the first line "or other person".

- (2) Subsection 3 of the said section 91a is amended by striking ^{s. 91a (3),} amended out "to a municipality" in the first line and by striking out "by the municipality" in the second line and inserting in lieu thereof "pursuant to an agreement under subsection 2".
8. This Act comes into force on the day it receives Royal Assent. ^{Commence-}ment
9. The short title of this Act is *The Public Transportation and* ^{Short title} *Highway Improvement Amendment Act, 1977.*





An Act to amend
The Public Transportation and
Highway Improvement Act

1st Reading

October 27th, 1977

2nd Reading

November 8th, 1977

3rd Reading

November 8th, 1977

THE HON. J. W. SNOW
Minister of Transportation and
Communications

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTES

SECTION 1. Certain medical information is required before certain classes of drivers' licences may be issued. The subsection being enacted makes clear that any such information filed is privileged and not open to public inspection.

SECTION 2. Section 15 (2) of the Act presently reads as follows:

(2) Section 13 and any regulation made thereunder do not apply to a person for thirty days after he has become a resident of Ontario if during such period he holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he was a resident immediately before becoming a resident of Ontario.

Section 13 of the Act prohibits the driving of a motor vehicle on a highway without a driver's licence issued under the Act.

SECTION 3. Section 18 of the Act is re-enacted to prohibit persons under the age of 16 from driving or being permitted to drive a self-propelled implement of husbandry on a highway.

This section in its present form does not refer to self-propelled implements of husbandry.

BILL 85

1977

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. Section 13 of *The Highway Traffic Act*, being chapter 202 of ^{s. 13,} the Revised Statutes of Ontario, 1970, as re-enacted by the ^{amended} Statutes of Ontario, 1973, chapter 167, section 4, and amended by 1974, chapter 123, section 3, is further amended by adding thereto the following subsection:

(7) Documents filed with the Ministry relating to mental ^{Documents} and physical, including ophthalmic and auditory, examina- ^{privileged} tions pursuant to this section are privileged for the informa- tion of the Ministry only and shall not be open for public inspection.
2. Subsection 2 of section 15 of the said Act, as amended by the ^{s. 15 (2),} Statutes of Ontario, 1973, chapter 167, section 5, is further ^{amended} amended by striking out "thirty" in the second line and inserting in lieu thereof "sixty".
3. Section 18 of the said Act, as amended by the Statutes of ^{s. 18,} Ontario, 1973, chapter 45, section 8, is repealed and the follow- ^{re-enacted} ing substituted therefor:

18.—(1) No person under the age of sixteen years shall ^{Drivers} drive or operate a motor vehicle, road-building machine, ^{under 16} self-propelled implement of husbandry or farm tractor on a ^{prohibited} highway.

(2) No person shall employ or permit anyone under the ^{Employment} age of sixteen years to drive or operate a motor vehicle, ^{of drivers} road-building machine, self-propelled implement of husbandry ^{under 16} or farm tractor on a highway. ^{prohibited}

(3) Subsections 1 and 2 do not apply in respect of the ^{Exception} driving or operating of a self-propelled implement of husbandry or farm tractor directly across a highway.

s. 20 (1),
re-enacted

4. Subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 37, section 3, is repealed and the following substituted therefor:

Suspension
on conviction
for certain
offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act is thereupon and hereby suspended for a period of,

- (a) upon the first conviction, three months; and
(b) upon a subsequent conviction, six months,

provided that where an order has been made before the 26th day of April, 1976 under subsection 1 of section 238 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

s. 32,
re-enacted

5. Section 32 of the said Act is repealed and the following substituted therefor:

Suspension
on appeal

32. If a person whose licence has been suspended enters an appeal against his conviction and serves notice of the appeal on the Registrar, the suspension does not apply from the time notice is served on the Registrar unless the conviction is sustained on appeal.

s. 37 (3),
amended

6. Subsection 3 of section 37 of the said Act is amended by striking out "subsection 1" in the third line and inserting in lieu thereof "subsections 1, 1a and 1b".

s. 41a,
enacted

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

Extended
mirrors

41a. No person shall operate or drive upon a highway a motor vehicle, other than a commercial motor vehicle, which has attached thereto any mirror or mirrors which extend more than twelve inches from the side of the vehicle, except when the motor vehicle is towing another vehicle.

s. 58b (6),
re-enacted

8. Subsection 6 of section 58b of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 167, section 8, is repealed and the following substituted therefor:

SECTION 4. The re-enactment is of a housekeeping nature in which the sections of the *Criminal Code* (Canada) are re-arranged to make clear that a driver's licence may be suspended for refusing to take a breathalyzer test.

SECTION 5. Section 32 presently reads as follows :

32. If a person whose licence has been suspended enters an appeal against his conviction, the suspension does not apply unless the conviction is sustained on appeal.

The re-enactment is of a housekeeping nature and clarifies the time during which a suspension does not apply if a conviction is appealed.

SECTION 6. Section 37 (3) presently reads as follows :

(3) Lamps on the front of a motor vehicle shall be so constructed, located, arranged and adjusted that when lighted as required by subsection 1 they produce under normal atmospheric conditions and on a level road a driving light sufficient to render clearly discernible to the operator of the motor vehicle any person or vehicle on the highway within a distance of 350 feet ahead of the motor vehicle.

Section 37 (1) of the Act sets out the lights required to be displayed on a motor vehicle. Section 37 (1a) and 37 (1b) set out the lights required on a motorcycle and a motorcycle with a side car. This is a housekeeping amendment.

SECTION 7. Self-explanatory.

SECTION 8. Subsections 1, 2 and 3 of section 58b of the Act require safety standard certificates before a used motor vehicle may be transferred.

Section 58b (6) of the Act presently reads as follows :

(6) Subsections 1, 2 and 3 do not apply to the sale or transfer of a used motor vehicle to a motor vehicle dealer registered under The Motor Vehicle Dealers Act.

SECTION 9. Sections 58 to 58l of the Act deal with the issue of safety standard certificates and the licensing and operation of motor vehicle inspection stations.

Section 6 (5) of *The Summary Convictions Act* provides that every summons issued for a contravention of any provision of *The Highway Traffic Act*, except for certain specified sections, shall be served by sending it by prepaid post or by personal service within twenty-one days of the alleged contravention.

The amendment extends the time for service to six months in respect of the sections mentioned.

SECTION 10.—Subsection 1. Section 60 (1) of the Act authorizes the Lieutenant Governor in Council to make regulations in respect of the matters specified therein. The added clause expands the matters specified.

Subsection 2. The new subsection is self-explanatory.

Subsection 3. The penalty subsection is made to apply to offences committed under the new subsection 2a as well as under the regulations.

The provision as re-enacted will read as follows:

- (3) *Every person who contravenes any of the provisions of this section or of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.*

The words underlined have been added.

SECTION 11. Section 69 (1) of the Act authorizes the Lieutenant Governor in Council to make regulations in respect of explosives and the labelling, packaging and transportation thereof on highways.

(6) Subsections 1, 2 and 3 do not apply to the sale or transfer of a used motor vehicle to a motor vehicle dealer who,

Sale or transfer to motor vehicle dealer or holder of exemption certificate
R.S.O. 1970. c. 475

- (a) is registered under *The Motor Vehicle Dealers Act*; or
- (b) holds an exemption certificate issued by the Registrar issued pursuant to that Act.

9. Section 58*l* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 167, section 8 and amended by 1974, chapter 123, section 16, is further amended by adding thereto the following subsection:

s. 58*l*.
amended

(1a) Notwithstanding subsection 5 of section 6 of *The Summary Convictions Act*, every summons issued for a contravention of any provision of sections 58 to 58*l* or any regulation made under section 58*m* shall be served by sending it by prepaid post or by personal service within six months of the alleged contravention.

Service of summons
R.S.O. 1970. c. 450

10.—(1) Subsection 1 of section 60 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 19, is further amended by adding thereto the following clauses:

s. 60 (1).
amended

- (d) providing for and requiring the identification and marking of vehicles or any class or classes thereof;
- (e) prescribing the types or classes of vehicles to which subsection 2a applies.

(2) The said section 60 is amended by adding thereto the following subsection:

s. 60.
amended

(2a) No person shall sell, offer or expose for sale any new vehicle of a type or class prescribed by the regulations made under clause e of subsection 1 that does not comply with the standards and specifications prescribed by the regulations or that is not marked or identified as prescribed by the regulations.

Prohibition re sale where non-compliance with regulations

(3) Subsection 3 of the said section 60 is amended by inserting after "provisions" in the first line "of this section or".

s. 60 (3).
amended

11. Section 69 of the said Act is amended by adding thereto the following subsection:

s. 69.
amended

(1a) 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

Codes

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.

s. 82 (12),
amended

- 12.** Subsection 12 of section 82 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 19, section 3, is further amended by striking out "city" in the first line and inserting in lieu thereof "county, township, city".

s. 96 (20, 21),
re-enacted

- 13.** Subsections 20 and 21 of section 96 of the said Act are repealed and the following substituted therefor:

Idem

(20) No signal-light traffic control system shall be erected unless approval has been obtained from the Ministry or an officer of the Ministry authorized by the Minister in writing to grant such approval.

Idem

(21) Additional signal-lights may be installed with the approval of the Ministry or an officer referred to in subsection 20 for use in conjunction with any signal-light traffic control system.

s. 120 (6),
amended

- 14.** Subsection 6 of section 120 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 29 and 1975, chapter 64, section 1, is further amended by adding thereto the following clauses:

(g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(h) prescribing the entries to be made in a book issued by the Ministry and requiring the use of such books by the driver and by the operator of a vehicle used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(i) prescribing fees for the issue of the books referred to in clause *h*.

s. 128 (2),
re-enacted

- 15.** Subsection 2 of section 128 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 31 and 1975, chapter 78, section 9, is repealed and the following substituted therefor:

Prohibiting
motor
assisted
bicycles,
etc., on
municipal
highways

(2) The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles,

SECTION 12. Subsection 12 of section 82 of the Act empowers the council of a city, town or village to designate school zones by by-law and to regulate speed limits in those zones. The amendment extends this power to the councils of counties and townships.

SECTION 13. Subsections 20 and 21 of section 96 presently read as follows:

- (20) *No signal-light traffic control system shall be erected unless the approval of the Ministry has been obtained.*
- (21) *Additional signal-lights may be installed with the approval of the Ministry for use in conjunction with any signal-light traffic control system.*

The amendment allows the Minister to delegate the power to approve signal-light installations to one or more officers of the Ministry. The amendment is housekeeping in nature.

SECTION 14. Section 120 (6) of the Act authorizes the Lieutenant Governor in Council to make regulations in respect of the matters set out in the clauses.

SECTION 15. Section 128 (2) of the Act presently reads as follows:

- (2) *The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles, wheelchairs or animals on any highway or portion of a highway under its jurisdiction on which the maximum speed limit is 50 miles per hour or more.*

The words underlined are being deleted.

The amendment has the effect of permitting municipalities to prohibit pedestrian and other traffic specified from using highways. Presently, this can be done only in respect of highways where the speed limit is 50 miles per hour or more.

SECTION 16. The provision being repealed saves an owner or driver of a motor vehicle harmless from civil liability for injury to a gratuitous passenger except where the injury was caused or contributed to by the gross negligence of the driver.

The effect of the repeal is to establish absence of negligence as the standard of care to be exercised by drivers towards gratuitous passengers.

SECTION 17. Section 139 of the Act requires a person involved in an accident where property damage exceeds \$200 to report the accident. The amount of \$200 is being changed to \$400.

SECTION 18. Section 142 (1) of the Act presently reads as follows:

- (1) *Every coroner who investigates, and every Crown attorney and police officer having knowledge of a fatal accident in which a motor vehicle is involved, shall secure such particulars of the accident, the persons involved, and other information as may be necessary to complete a written report to the Registrar on the forms prescribed for that purpose, and shall transmit the report forthwith to the Registrar.*

wheelchairs or animals on any highway or portion of a highway under its jurisdiction.

- 16.**—(1) Subsection 3 of section 132 of the said Act is repealed. s. 132 (3),
repealed
- (2) Notwithstanding subsection 1, the said subsection 3 of Exception section 132 continues in force in respect of a cause of action arising before this section comes into force.
- 17.** Subsection 1 of section 139 of the said Act, as amended by s. 139 (1),
amended the Statutes of Ontario, 1975, chapter 78, section 10, is further amended by striking out “\$200” in the fourth line and inserting in lieu thereof “\$400”.
- 18.** Subsection 1 of section 142 of the said Act is amended by s. 142 (1),
amended striking out “Every coroner who investigates, and” in the first line.
- 19.**—(1) This Act, except sections 7 and 17, comes into force on Commence-
ment the day it receives Royal Assent.
- (2) Sections 7 and 17 come into force on the 1st day of Idem January, 1978.
- 20.** The short title of this Act is *The Highway Traffic Amendment Act, 1977*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

October 27th, 1977

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

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

EXPLANATORY NOTES

SECTION 1. Certain medical information is required before certain classes of drivers' licences may be issued. The subsection being enacted makes clear that any such information filed is privileged and not open to public inspection.

SECTION 2. Section 15 (2) of the Act presently reads as follows:

- (2) *Section 13 and any regulation made thereunder do not apply to a person for thirty days after he has become a resident of Ontario if during such period he holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he was a resident immediately before becoming a resident of Ontario.*

Section 13 of the Act prohibits the driving of a motor vehicle on a highway without a driver's licence issued under the Act.

SECTION 3. Section 18 of the Act is re-enacted to prohibit persons under the age of 16 from driving or being permitted to drive a self-propelled implement of husbandry on a highway.

This section in its present form does not refer to self-propelled implements of husbandry.

BILL 85

1977

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. Section 13 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 167, section 4, and amended by 1974, chapter 123, section 3, is further amended by adding thereto the following subsection:

(7) Documents filed with the Ministry relating to mental and physical, including ophthalmic and auditory, examinations pursuant to this section are privileged for the information of the Ministry only and shall not be open for public inspection.

2. Subsection 2 of section 15 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 167, section 5, is further amended by striking out "thirty" in the second line and inserting in lieu thereof "sixty".
3. Section 18 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 8, is repealed and the following substituted therefor:

18.—(1) No person under the age of sixteen years shall drive or operate a motor vehicle, road-building machine, self-propelled implement of husbandry or farm tractor on a highway.

(2) No person shall employ or permit anyone under the age of sixteen years to drive or operate a motor vehicle, road-building machine, self-propelled implement of husbandry or farm tractor on a highway.

(3) Subsections 1 and 2 do not apply in respect of the driving or operating of a self-propelled implement of husbandry or farm tractor directly across a highway.

s. 20 (1),
re-enacted

4. Subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 37, section 3, is repealed and the following substituted therefor:

Suspension
on conviction
for certain
offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act is thereupon and hereby suspended for a period of,

(a) upon the first conviction, three months; and

(b) upon a subsequent conviction, six months,

provided that where an order has been made before the 26th day of April, 1976 under subsection 1 of section 238 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

s. 32,
re-enacted

5. Section 32 of the said Act is repealed and the following substituted therefor:

Suspension
on appeal

32. If a person whose licence has been suspended enters an appeal against his conviction and serves notice of the appeal on the Registrar, the suspension does not apply from the time notice is served on the Registrar unless the conviction is sustained on appeal.

s. 37 (3),
amended

6. Subsection 3 of section 37 of the said Act is amended by striking out "subsection 1" in the third line and inserting in lieu thereof "subsections 1, 1a and 1b".

s. 41a,
enacted

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

Extended
mirrors

41a. No person shall operate or drive upon a highway a motor vehicle, other than a commercial motor vehicle, which has attached thereto any mirror or mirrors which extend more than twelve inches from the side of the vehicle, except when the motor vehicle is towing another vehicle.

s. 58b (6),
re-enacted

8. Subsection 6 of section 58b of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 167, section 8, is repealed and the following substituted therefor:

SECTION 4. The re-enactment is of a housekeeping nature in which the sections of the *Criminal Code* (Canada) are re-arranged to make clear that a driver's licence may be suspended for refusing to take a breathalyzer test.

SECTION 5. Section 32 presently reads as follows:

32. If a person whose licence has been suspended enters an appeal against his conviction, the suspension does not apply unless the conviction is sustained on appeal.

The re-enactment is of a housekeeping nature and clarifies the time during which a suspension does not apply if a conviction is appealed.

SECTION 6. Section 37 (3) presently reads as follows:

(3) Lamps on the front of a motor vehicle shall be so constructed, located, arranged and adjusted that when lighted as required by subsection 1 they produce under normal atmospheric conditions and on a level road a driving light sufficient to render clearly discernible to the operator of the motor vehicle any person or vehicle on the highway within a distance of 350 feet ahead of the motor vehicle.

Section 37 (1) of the Act sets out the lights required to be displayed on a motor vehicle. Section 37 (1a) and 37 (1b) set out the lights required on a motorcycle and a motorcycle with a side car. This is a housekeeping amendment.

SECTION 7. Self-explanatory.

SECTION 8. Subsections 1, 2 and 3 of section 58b of the Act require safety standard certificates before a used motor vehicle may be transferred.

Section 58b (6) of the Act presently reads as follows:

(6) Subsections 1, 2 and 3 do not apply to the sale or transfer of a used motor vehicle to a motor vehicle dealer registered under The Motor Vehicle Dealers Act.

SECTION 9. Sections 58 to 58l of the Act deal with the issue of safety standard certificates and the licensing and operation of motor vehicle inspection stations.

Section 6 (5) of *The Summary Convictions Act* provides that every summons issued for a contravention of any provision of *The Highway Traffic Act*, except for certain specified sections, shall be served by sending it by prepaid post or by personal service within twenty-one days of the alleged contravention.

The amendment extends the time for service to six months in respect of the sections mentioned.

SECTION 10.—Subsection 1. Section 60 (1) of the Act authorizes the Lieutenant Governor in Council to make regulations in respect of the matters specified therein. The added clause expands the matters specified.

Subsection 2. The new subsection is self-explanatory.

Subsection 3. The penalty subsection is made to apply to offences committed under the new subsection 2a as well as under the regulations.

The provision as re-enacted will read as follows:

- (3) *Every person who contravenes any of the provisions of this section or of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.*

The words underlined have been added.

SECTION 11. Section 69 (1) of the Act authorizes the Lieutenant Governor in Council to make regulations in respect of explosives and the labelling, packaging and transportation thereof on highways.

(6) Subsections 1, 2 and 3 do not apply to the sale or transfer of a used motor vehicle to a motor vehicle dealer who,

Sale or transfer to motor vehicle dealer or holder of exemption certificate
R.S.O. 1970, c. 475

(a) is registered under *The Motor Vehicle Dealers Act*; or

(b) holds an exemption certificate issued by the Registrar issued pursuant to that Act.

9. Section 58*l* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 167, section 8 and amended by 1974, chapter 123, section 16, is further amended by adding thereto the following subsection:

s. 58*l*,
amended

(1a) Notwithstanding subsection 5 of section 6 of *The Summary Convictions Act*, every summons issued for a contravention of any provision of sections 58 to 58*l* or any regulation made under section 58*m* shall be served by sending it by prepaid post or by personal service within six months of the alleged contravention.

Service of summons
R.S.O. 1970, c. 450

- 10.—(1) Subsection 1 of section 60 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 19, is further amended by adding thereto the following clauses:

s. 60 (1),
amended

(d) providing for and requiring the identification and marking of vehicles or any class or classes thereof;

(e) prescribing the types or classes of vehicles to which subsection 2*a* applies.

- (2) The said section 60 is amended by adding thereto the following subsection:

s. 60,
amended

(2a) No person shall sell, offer or expose for sale any new vehicle of a type or class prescribed by the regulations made under clause *e* of subsection 1 that does not comply with the standards and specifications prescribed by the regulations or that is not marked or identified as prescribed by the regulations.

Prohibition re sale where non-compliance with regulations

- (3) Subsection 3 of the said section 60 is amended by inserting after "provisions" in the first line "of this section or".

s. 60 (3),
amended

11. Section 69 of the said Act is amended by adding thereto the following subsection:

s. 69,
amended

(1a) 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

Codes

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.

s. 82 (12),
amended

- 12.** Subsection 12 of section 82 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 19, section 3, is further amended by striking out "city" in the first line and inserting in lieu thereof "county, township, city".

s. 96 (20, 21),
re-enacted

- 13.** Subsections 20 and 21 of section 96 of the said Act are repealed and the following substituted therefor:

Idem

(20) No signal-light traffic control system shall be erected unless approval has been obtained from the Ministry or an officer of the Ministry authorized by the Minister in writing to grant such approval.

Idem

(21) Additional signal-lights may be installed with the approval of the Ministry or an officer referred to in subsection 20 for use in conjunction with any signal-light traffic control system.

s. 120 (6),
amended

- 14.** Subsection 6 of section 120 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 29 and 1975, chapter 64, section 1, is further amended by adding thereto the following clauses:

(g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(h) prescribing the entries to be made in a book issued by the Ministry and requiring the use of such books by the driver and by the operator of a vehicle used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(i) prescribing fees for the issue of the books referred to in clause *h*.

s. 128 (2),
re-enacted

- 15.** Subsection 2 of section 128 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 31 and 1975, chapter 78, section 9, is repealed and the following substituted therefor:

Prohibiting
motor
assisted
bicycles,
etc., on
municipal
highways

(2) The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles,

SECTION 12. Subsection 12 of section 82 of the Act empowers the council of a city, town or village to designate school zones by by-law and to regulate speed limits in those zones. The amendment extends this power to the councils of counties and townships.

SECTION 13. Subsections 20 and 21 of section 96 presently read as follows:

- (20) *No signal-light traffic control system shall be erected unless the approval of the Ministry has been obtained.*
- (21) *Additional signal-lights may be installed with the approval of the Ministry for use in conjunction with any signal-light traffic control system.*

The amendment allows the Minister to delegate the power to approve signal-light installations to one or more officers of the Ministry. The amendment is housekeeping in nature.

SECTION 14. Section 120 (6) of the Act authorizes the Lieutenant Governor in Council to make regulations in respect of the matters set out in the clauses.

SECTION 15. Section 128 (2) of the Act presently reads as follows:

- (2) *The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles, wheelchairs or animals on any highway or portion of a highway under its jurisdiction on which the maximum speed limit is 50 miles per hour or more.*

The words underlined are being deleted.

The amendment has the effect of permitting municipalities to prohibit pedestrian and other traffic specified from using highways. Presently, this can be done only in respect of highways where the speed limit is 50 miles per hour or more.

SECTION 16. The provision being repealed saves an owner or driver of a motor vehicle harmless from civil liability for injury to a gratuitous passenger except where the injury was caused or contributed to by the gross negligence of the driver.

The effect of the repeal is to establish absence of negligence as the standard of care to be exercised by drivers towards gratuitous passengers.

SECTION 17. Section 139 of the Act requires a person involved in an accident where property damage exceeds \$200 to report the accident. The amount of \$200 is being changed to \$400.

SECTION 18. Section 142 (1) of the Act presently reads as follows:

(1) Every coroner who investigates, and every Crown attorney and police officer having knowledge of a fatal accident in which a motor vehicle is involved, shall secure such particulars of the accident, the persons involved, and other information as may be necessary to complete a written report to the Registrar on the forms prescribed for that purpose, and shall transmit the report forthwith to the Registrar.

wheelchairs or animals on any highway or portion of a highway under its jurisdiction.

- 16.**—(1) Subsection 3 of section 132 of the said Act is repealed. s. 132 (3).
repealed
- (2) Notwithstanding subsection 1, the said subsection 3 of Exception section 132 continues in force in respect of a cause of action arising before this section comes into force.
- 17.** Subsection 1 of section 139 of the said Act, as amended by s. 139 (1).
amended the Statutes of Ontario, 1975, chapter 78, section 10, is further amended by striking out “\$200” in the fourth line and inserting in lieu thereof “\$400”.
- 18.** Subsection 1 of section 142 of the said Act is amended by s. 142 (1).
amended striking out “Every coroner who investigates, and” in the first line.
- 19.**—(1) This Act, except sections 7, 16 and 17, comes into force Commence-
ment on the day it receives Royal Assent.
- (2) Sections 7 and 17 come into force on the 1st day of Idem January, 1978.
- (3) Section 16 comes into force on a day to be named by Idem proclamation of the Lieutenant Governor.
- 20.** The short title of this Act is *The Highway Traffic Amendment Act, 1977*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

October 27th, 1977

2nd Reading

November 8th, 1977

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

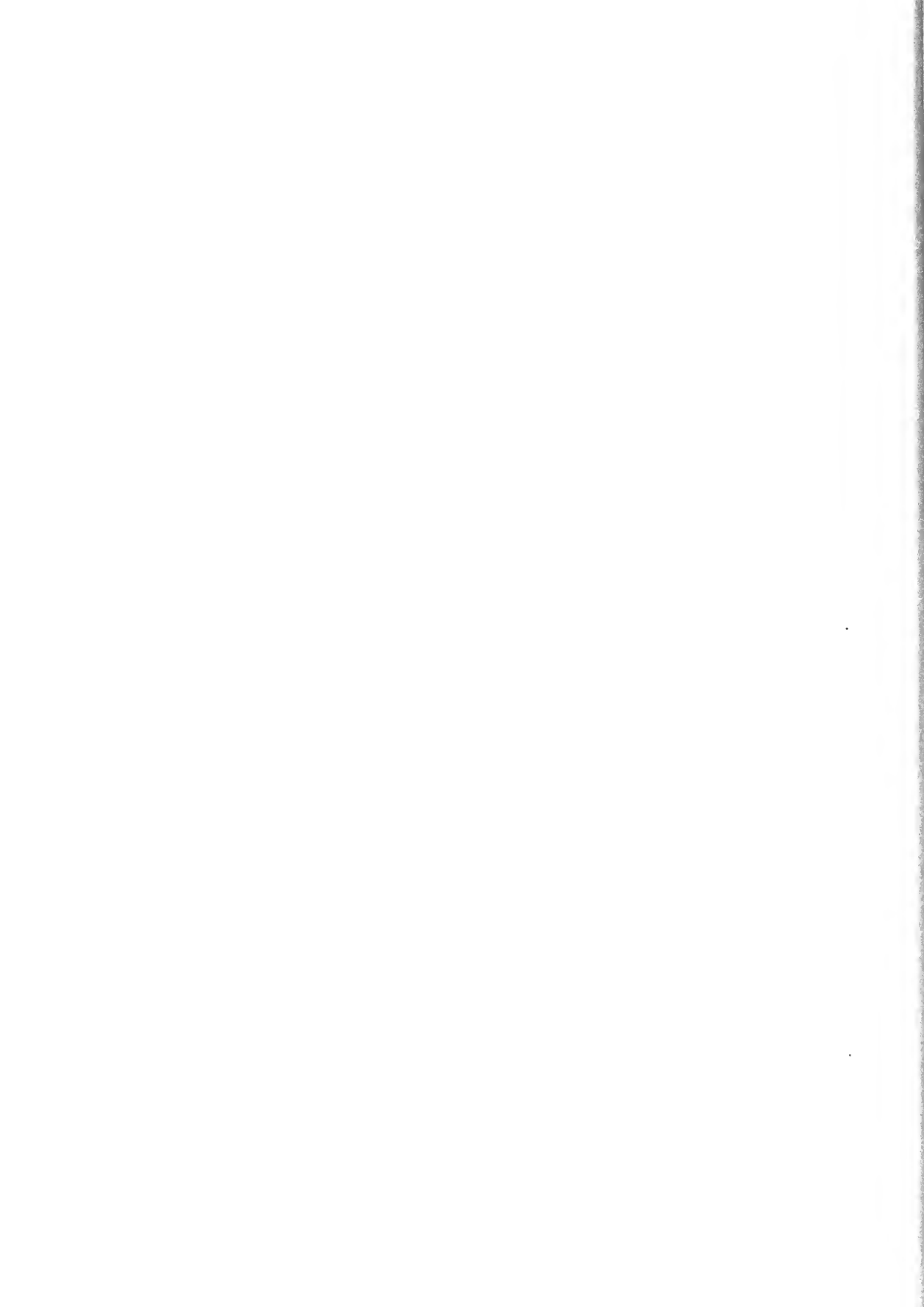
*(Reprinted as amended by the
Committee of the Whole House)*

BILL 85

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications



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. Section 13 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 167, section 4, and amended by 1974, chapter 123, section 3, is further amended by adding thereto the following subsection:

(7) Documents filed with the Ministry relating to mental and physical, including ophthalmic and auditory, examinations pursuant to this section are privileged for the information of the Ministry only and shall not be open for public inspection.
2. Subsection 2 of section 15 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 167, section 5, is further amended by striking out "thirty" in the second line and inserting in lieu thereof "sixty".
3. Section 18 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 8, is repealed and the following substituted therefor:

18.—(1) No person under the age of sixteen years shall drive or operate a motor vehicle, road-building machine, self-propelled implement of husbandry or farm tractor on a highway.

(2) No person shall employ or permit anyone under the age of sixteen years to drive or operate a motor vehicle, road-building machine, self-propelled implement of husbandry or farm tractor on a highway.

(3) Subsections 1 and 2 do not apply in respect of the driving or operating of a self-propelled implement of husbandry or farm tractor directly across a highway.

s. 13.
amendedDocuments
privilegeds. 15 (2),
amendeds. 18.
re-enactedDrivers
under 16
prohibitedEmployment
of drivers
under 16
prohibited

Exception

s. 20 (1),
re-enacted

4. Subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 37, section 3, is repealed and the following substituted therefor:

Suspension
on conviction
for certain
offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act is thereupon and hereby suspended for a period of,

(a) upon the first conviction, three months; and

(b) upon a subsequent conviction, six months,

provided that where an order has been made before the 26th day of April, 1976 under subsection 1 of section 238 of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

s. 32,
re-enacted

5. Section 32 of the said Act is repealed and the following substituted therefor:

Suspension
on appeal

32. If a person whose licence has been suspended enters an appeal against his conviction and serves notice of the appeal on the Registrar, the suspension does not apply from the time notice is served on the Registrar unless the conviction is sustained on appeal.

s. 37 (3),
amended

6. Subsection 3 of section 37 of the said Act is amended by striking out "subsection 1" in the third line and inserting in lieu thereof "subsections 1, 1a and 1b".

s. 41a,
enacted

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

Extended
mirrors

41a. No person shall operate or drive upon a highway a motor vehicle, other than a commercial motor vehicle, which has attached thereto any mirror or mirrors which extend more than twelve inches from the side of the vehicle, except when the motor vehicle is towing another vehicle.

s. 58b (6),
re-enacted

8. Subsection 6 of section 58b of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 167, section 8, is repealed and the following substituted therefor:

(6) Subsections 1, 2 and 3 do not apply to the sale or transfer of a used motor vehicle to a motor vehicle dealer who,

Sale or transfer to motor vehicle dealer or holder of exemption certificate
R.S.O. 1970, c. 475

- (a) is registered under *The Motor Vehicle Dealers Act*; or
- (b) holds an exemption certificate issued by the Registrar pursuant to that Act.

9. Section 58*l* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 167, section 8 and amended by 1974, chapter 123, section 16, is further amended by adding thereto the following subsection:

s. 58*l*,
amended

(1a) Notwithstanding subsection 5 of section 6 of *The Summary Convictions Act*, every summons issued for a contravention of any provision of sections 58 to 58*l* or any regulation made under section 58*m* shall be served by sending it by prepaid post or by personal service within six months of the alleged contravention.

Service of summons
R.S.O. 1970, c. 450

10.—(1) Subsection 1 of section 60 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 19, is further amended by adding thereto the following clauses:

s. 60 (1),
amended

- (d) providing for and requiring the identification and marking of vehicles or any class or classes thereof;
- (e) prescribing the types or classes of vehicles to which subsection 2*a* applies.

(2) The said section 60 is amended by adding thereto the following subsection:

s. 60,
amended

(2a) No person shall sell, offer or expose for sale any new vehicle of a type or class prescribed by the regulations made under clause *e* of subsection 1 that does not comply with the standards and specifications prescribed by the regulations or that is not marked or identified as prescribed by the regulations.

Prohibition re sale where non-compliance with regulations

(3) Subsection 3 of the said section 60 is amended by inserting after "provisions" in the first line "of this section or".

s. 60 (3),
amended

11. Section 69 of the said Act is amended by adding thereto the following subsection:

s. 69,
amended

(1a) 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

Codes

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.

s. 82 (12),
amended

12. Subsection 12 of section 82 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 19, section 3, is further amended by striking out "city" in the first line and inserting in lieu thereof "county, township, city".

s. 96 (20, 21),
re-enacted

13. Subsections 20 and 21 of section 96 of the said Act are repealed and the following substituted therefor:

Idem

(20) No signal-light traffic control system shall be erected unless approval has been obtained from the Ministry or an officer of the Ministry authorized by the Minister in writing to grant such approval.

Idem

(21) Additional signal-lights may be installed with the approval of the Ministry or an officer referred to in subsection 20 for use in conjunction with any signal-light traffic control system.

s. 120 (6),
amended

14. Subsection 6 of section 120 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 29 and 1975, chapter 64, section 1, is further amended by adding thereto the following clauses:

(g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(h) prescribing the entries to be made in a book issued by the Ministry and requiring the use of such books by the driver and by the operator of a vehicle used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(i) prescribing fees for the issue of the books referred to in clause *h*.

s. 128 (2),
re-enacted

15. Subsection 2 of section 128 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 31 and 1975, chapter 78, section 9, is repealed and the following substituted therefor:

Prohibiting
motor
assisted
bicycles,
etc., on
municipal
highways

(2) The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles,

wheelchairs or animals on any highway or portion of a highway under its jurisdiction.

- 16.**—(1) Subsection 3 of section 132 of the said Act is repealed. s. 132 (3),
repealed
- (2) Notwithstanding subsection 1, the said subsection 3 of Exception section 132 continues in force in respect of a cause of action arising before this section comes into force.
- 17.** Subsection 1 of section 139 of the said Act, as amended by s. 139 (1),
amended the Statutes of Ontario, 1975, chapter 78, section 10, is further amended by striking out “\$200” in the fourth line and inserting in lieu thereof “\$400”.
- 18.** Subsection 1 of section 142 of the said Act is amended by s. 142 (1),
amended striking out “Every coroner who investigates, and” in the first line.
- 19.**—(1) This Act, except sections 7, 16 and 17, comes into force Commence-
ment on the day it receives Royal Assent.
- (2) Sections 7 and 17 come into force on the 1st day of Idem January, 1978.
- (3) Section 16 comes into force on a day to be named by Idem proclamation of the Lieutenant Governor.
- 20.** The short title of this Act is *The Highway Traffic Amendment Act, 1977*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

October 27th, 1977

2nd Reading

November 8th, 1977

3rd Reading

November 8th, 1977

THE HON. J. W. SNOW
Minister of Transportation and
Communications

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act respecting The Official Languages of Ontario

MR. SAMIS

EXPLANATORY NOTE

The purpose of this Bill is to establish French and English as the official languages of Ontario. The Bill defines the extent to which both official languages are to be used in the Legislative Assembly by the Government of Ontario and in proceedings before judicial and quasi-judicial bodies.

BILL 86

1977

An Act respecting The Official Languages of Ontario

WHEREAS the English and French languages are recognized as official languages in Canada; and whereas the Franco-Ontarian community has been and continues to be a vital partner in the growth, development and cultural enrichment of Ontario;

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) "proceedings" includes, when applied to a court of record or statutory tribunal, all pleadings and process in or issuing from and written submissions to and oral arguments before the court or tribunal;
- (b) "regulation" includes rules, orders, and by-laws;
- (c) "statutory tribunal" means one or more persons, whether or not incorporated and however described, upon which is conferred by or under a statute a power or right to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not.

2. The English and French languages are the official languages of Ontario for all purposes to which the authority

Declaration
of status

of the Legislative Assembly extends, and possess and enjoy equality of status and equal rights and privileges as to their use in all institutions of the Assembly and Government of Ontario.

Use of
official
languages
in Legis-
lative
Assembly

3.—(1) Either of the official languages may be used by any person in proceedings of the Legislative Assembly or a committee thereof and the record of debates, journals and Order Paper of the Assembly shall be printed in both official languages.

Idem

(2) Every Bill, resolution, motion or petition introduced in the Assembly may be in either or both of the official languages.

Statutes
to be
printed and
published
in both
official
languages

4.—(1) The Statutes of Ontario shall be printed and published in both official languages.

Regula-
tions and
proclama-
tions

(2) Any regulation and proclamation that is made or issued by or under the authority of any Act of the Legislative Assembly and is required to be published in *The Ontario Gazette* shall be made or issued and published accordingly in both official languages.

Orders and
judgments

(3) All orders and judgments, including any reasons given therefor, issued by any court of record or statutory tribunal established by or pursuant to an Act of the Legislative Assembly of Ontario shall be issued in both official languages where the order or judgment determines a question of law or policy of general public interest or importance or where the proceedings leading to its issue were conducted in whole or in part in both official languages.

Construc-
tion

(4) In construing an Act, regulation or proclamation that is printed and published in the official languages, both versions are equally authentic.

Where
versions
may be
issued at
different
times

(5) Where an authority responsible for the making or issuance of a regulation, proclamation, order or judgment is of the opinion that to make or issue it in both official languages would cause a delay prejudicial to the public interest or result in injustice or hardship to a person affected thereby, the regulation, proclamation, order or judgment may be issued in the first instance in one of the official languages and thereafter, within such time as is reasonable in the circumstances, shall be issued in the other official language and the latter version is deemed to be effective from the time the first is effective.

5.—(1) Every ministry of the Government of Ontario and every board, commission, corporation or other agency thereof has the duty to ensure that members of the public can obtain available services from and can communicate with it in both official languages, ^{Ministries to provide service in both official languages}

- (a) at its head or central office location; and
- (b) at any other office location where there is a significant demand for services in both official languages.

(2) Every ministry, board, commission, corporation or other agency of the Government of Ontario that is required by an Act of the Legislative Assembly to lay an annual report before the Assembly shall include as part of that report a description of the extent to which it provides services to the members of the public in both official languages. ^{Report}

6.—(1) Either of the official languages may be used by a person in a proceeding before a court of record or statutory tribunal but, upon application by a party to the proceedings and subject to subsection 2, a court or statutory tribunal may order that proceedings be conducted wholly or partially in one of the official languages where, in the opinion of the court, the balance of convenience favours such an order and no party will be prejudiced thereby. ^{Courts and tribunals}

(2) Every court of record or statutory tribunal has in any proceedings brought or taken before it the duty to ensure that any person giving evidence before it may be heard in the official language of his choice. ^{Evidence}

7.—(1) In this section, “ministry” means a ministry of the Government of Ontario and every board, commission, corporation or other agency thereof. ^{Interpretation}

(2) Where, upon the submission of a Minister, it is established to the satisfaction of the Lieutenant Governor in Council that the immediate application of any provision of this Act to a ministry, court of record or statutory tribunal or any service provided by it, ^{Where application of Bill may be deferred or suspended}

- (a) would unduly prejudice the interests of the ministry;
- (b) would unduly prejudice the interests of persons undertaking or affected by proceedings before a court of record or statutory tribunal; or

(c) would be seriously detrimental to the effective administration of the ministry, court of record or statutory tribunal,

the Lieutenant Governor in Council may by order defer or suspend the application of this Act or a part thereof to the ministry, court of record or statutory tribunal for such period and to such extent as the Lieutenant Governor in Council deems necessary or expedient.

Terms of
order

(3) Any order made under this section may contain such directions and be subject to such terms and conditions as the Lieutenant Governor in Council considers appropriate to ensure the earliest possible application of any deferred or suspended provision provided for in the order.

Order to
be laid
before
Assembly

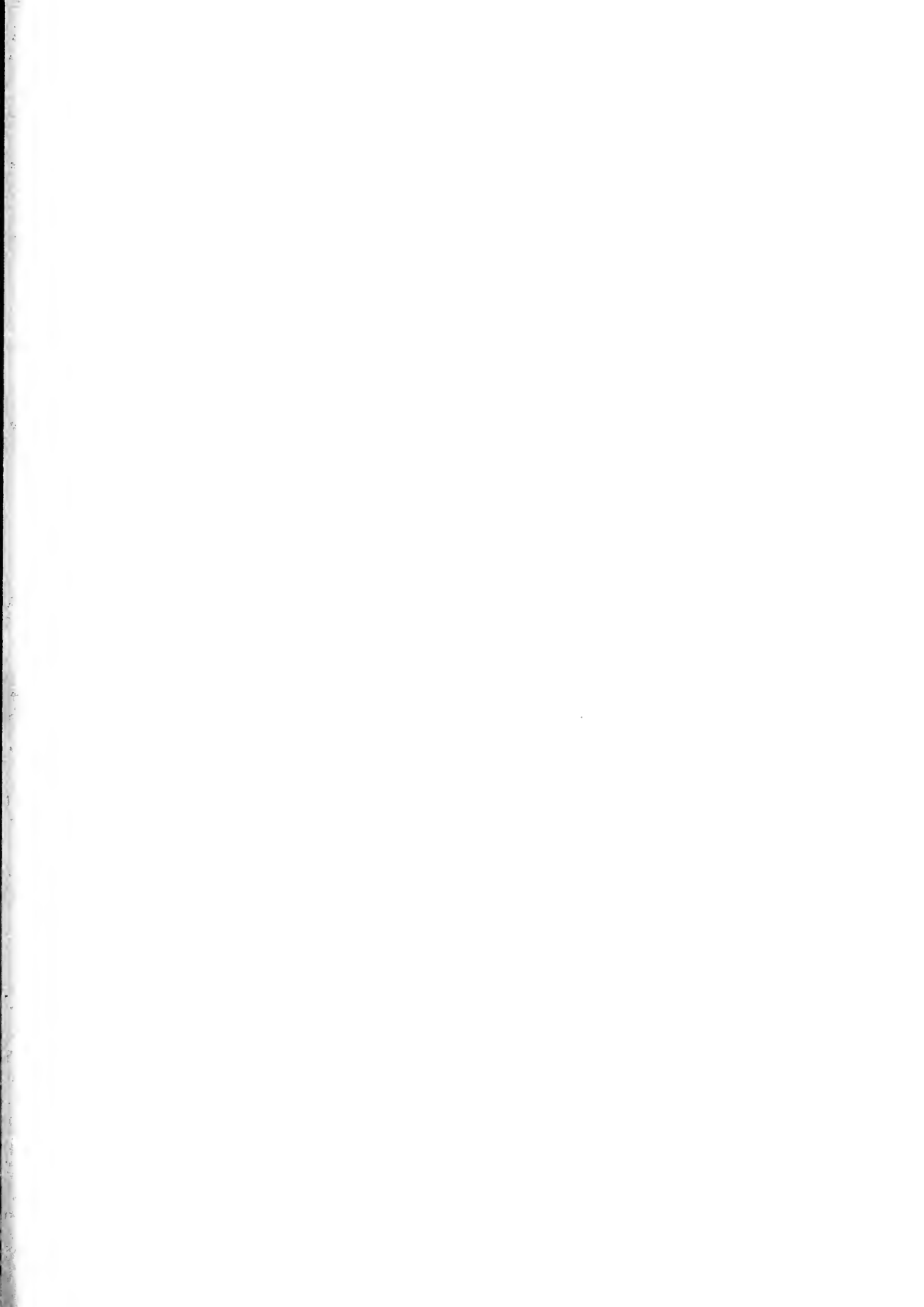
(4) A copy of an order made under this section shall be laid before the Assembly by the Lieutenant Governor within fifteen days of making the order if the Assembly is in session or, if not, at the commencement of the next ensuing session.

Commence-
ment

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

Short title

9. The short title of this Act is *The Ontario Official Languages Act, 1977*.



An Act respecting The Official
Languages of Ontario

1st Reading

October 27th, 1977

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Liquor Licence Act, 1975**

MR. EATON

EXPLANATORY NOTE

The purpose of the Bill is to raise the legal age, in Ontario, at which the drinking of alcoholic beverages is allowed, from eighteen to twenty.

BILL 87

1977

**An Act to amend
The Liquor Licence Act, 1975**

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 45 of *The Liquor Licence Act*, <sup>s. 45 (1),
amended</sup> 1975, being chapter 40, is amended by striking out “eighteen” in the second line and inserting in lieu thereof “twenty”.
 - (2) Subsection 2 of the said section 45 is amended by striking <sup>s. 45 (2),
amended</sup> out “eighteen” in the second line and in the sixth line and inserting in lieu thereof in each instance “twenty”.
 - (3) Subsection 3 of the said section 45 is amended by striking <sup>s. 45 (3),
amended</sup> out “eighteen” in the first line and inserting in lieu thereof “twenty”.
 - (4) Subsection 4 of the said section 45 is amended by striking <sup>s. 45 (4),
amended</sup> out “eighteen” in the first line and inserting in lieu thereof “twenty”.
 - (5) Subsection 5 of the said section 45 is amended by striking <sup>s. 45 (5),
amended</sup> out “eighteen” in the second line and inserting in lieu thereof “twenty”.
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
 3. The short title of this Act is *The Liquor Licence Amendment Act, 1977*. ^{Short title}

An Act to amend
The Liquor Licence Act, 1975

1st Reading

October 28th, 1977

2nd Reading

3rd Reading

MR. EATON

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

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

THE HON. MARGARET SCRIVENER
Minister of Revenue

EXPLANATORY NOTES

The Bill substantially re-enacts Parts I and II of *The Corporations Tax Act, 1972*, in the interest of tax simplification. In addition, a number of administrative amendments are made. With respect to the tax simplification measures, Part II of the Act (tax on income) is entirely re-enacted by section 8 of the Bill to provide a greater tie-in with the *Income Tax Act (Canada)*; in those areas where the provisions of both Acts are the same, the sections of the *Income Tax Act (Canada)* are made applicable in so far as they apply to corporations, so that such sections need not be reproduced in *The Corporations Tax Act*, and where there are differences, special provisions are enacted to deal with these. Substantial amendments to Part I of the Act, complementary to the amendments to Part II, are also required. Finally, the Bill adds to the Act a number of provisions to provide for the treatment of corporations that buy shares of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*; such provisions to come into force on proclamation.

SECTION 1. This section re-enacts section 1 of the Act and is complementary to the tax simplification measures contained in section 8 of the Bill. The interpretations contained in Part XVII of the *Income Tax Act (Canada)* are, with certain exceptions, adopted and made applicable for the purposes of the Act. Certain additional interpretations are also included for the purposes of the Act. A provision is included to deal with the applicability or non-applicability of cross-references within the adopted sections of the *Income Tax Act (Canada)*. Also it is provided in subsection 6 of the new section 1 of the Act that the applicable sections of the *Income Tax Act (Canada)* are adopted as amended or re-enacted from time to time. Finally, the adoption of the definition of "corporation" contained in the *Income Tax Act (Canada)* represents a substantive change to the Act—the present definition of "corporation" does not include corporations incorporated without share capital; the new definition includes such corporations.

The adoption of the Federal definition of "gross revenue" represents a change from the definition of that term in the present Act. This will affect the allocation of income to jurisdictions other than Ontario.

It should be noted that this section also reflects a change in terminology which has been adopted throughout the Act, namely that the expression "fiscal year" will now become "taxation year". Section 26 of the Bill amends this terminology in those sections of the Act not otherwise specifically amended by the Bill.

**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. Section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, 1974, chapter 75, section 1, 1975, chapter 17, section 1 and 1976, chapter 32, section 1, is repealed and the following substituted therefor:

1.—(1) In this Act and in the application of the provisions of the *Income Tax Act* (Canada) that are by this Act made applicable for the purposes of this Act,

s.1,
re-enacted

Interpre-
tation
R.S.C. 1952,
c. 148

- (a) each of the interpretations contained in Part XVII of the *Income Tax Act* (Canada) are, except as hereinafter provided, applicable for the purposes of this Act;
- (b) the interpretations contained in the said Part XVII of the expressions "farming", "foreign resource property", "Minister", "paid-up capital", "regulations", "taxable income", "taxable income earned in Canada" and "tax payable" do not apply and in lieu thereof the following interpretations are applicable:
- (i) "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing, and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming and, for the purposes of subsection 2 of section 135 only, does not include the maintaining of horses for racing,

R.S.C. 1952,
c. 148

- (ii) "foreign resource property" has the meaning given to that expression by section 15 of this Act,
- (iii) "Minister" means, unless otherwise provided in this Act, the Minister of Revenue,
- (iv) "paid-up capital" has the meaning given to that expression by paragraph *c* of subsection 1 of section 89 of the *Income Tax Act* (Canada), but such meaning does not apply for the purposes of Part III of this Act,
- (v) "regulations" means regulations made under this Act,
- (vi) "tax payable" by a corporation under any part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 154 to 160*b*, as the case may be,
- (vii) "taxable income" has the meaning given to that expression by section 9 of this Act,
- (viii) "taxable income earned in Canada" has the meaning given to that expression by section 10 of this Act;

R.S.C. 1970,
cc. B-1, B-4

- (c) "bank" means a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies;
- (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) "farming assets" of a family farm corporation means,
- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming,
 - (ii) land, buildings, equipment, machinery, and live stock that are used chiefly in the operation of the farm by the corporation,
 - (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming,
 - (iv) the building in which a shareholder or member or members of his family reside who are engaged in the operation of the farm if that building is on land that is used or is contiguous to land used by that shareholder or member or members of his family in the operation of the farm,
 - (v) shares in another family farm corporation;
- (f) "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
- (g) "member of his family" means, with respect to an individual referred to in clause *d*,
- (i) his spouse,
 - (ii) his child,
 - (iii) his father, mother, brother or sister or any lawful descendant of such brother or sister,
 - (iv) the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

R.S.O. 1970.
c. 64

- (v) the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,
- (vi) his son-in-law or daughter-in-law,
- (vii) a person adopted by him under *The Child Welfare Act* or the spouse or any lawful descendant of such person, or
- (viii) his grandfather or grandmother;
- (h) "permanent establishment" has the meaning given to that expression by section 7;
- (i) "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, and computed by reference to, the amount of timber cut or taken.

Idem
R.S.C. 1952.
c. 148

(2) In the application of the sections of the *Income Tax Act* (Canada) that by this Act are made applicable for the purposes of this Act,

- (a) "capital cost" means the cost of property as determined for the purposes of this Act;
- (b) "undepreciated capital cost" means the undepreciated capital cost of depreciable property as determined for the purposes of this Act;
- (c) the references therein to,
 - (i) returns required to be filed under section 150 of that Act shall be deemed to be references to the returns required to be filed under section 145 of this Act, and
 - (ii) assessments to be made under section 152 of that Act shall be deemed to be references to assessments to be made under section 150 of this Act;
- (d) where a section of that Act has been made applicable for the purposes of this Act, and reference is made in that section to another provision (herein-

after in this clause referred to as the "other provision") of that Act which,

- (i) does not apply for the purposes of this Act,
- (ii) does not apply for the purposes of this Act because a provision of this Act is enacted to apply in lieu thereof, or
- (iii) in respect of which the application for the purposes of this Act differs,

the following rules apply in the application of the section for the purposes of this Act,

- (iv) where subclause i applies, the section (except sections 20, 56, 60, paragraph *f* of subsection 1 of section 95 and section 138 of that Act) shall be read as if the reference to the other provision were deleted,
- (v) where subclause ii applies, the reference to the other provision shall be deemed to be a reference to the provision of this Act that applies in lieu thereof, and
- (vi) where subclause iii applies, the reference to the other provision shall be deemed to be a reference to the other provision as it applies for the purposes of this Act.

(3) Notwithstanding subsection 1, any regulation made pursuant to any provision of the *Income Tax Act* (Canada) that is by this Act made applicable for the purposes of this Act shall apply with necessary modifications for the purposes of this Act unless otherwise provided by this Act or by the regulations. Application
of
regulations
under
R.S.C. 1952,
c. 148

(4) Any election or designation by a corporation which has been properly made for the purposes of the *Income Tax Act* (Canada), pursuant to any provision of that Act that is by this Act made applicable for the purposes of this Act, shall be deemed to have been properly made for the purposes of this Act, provided that, Elections
R.S.C. 1952,
c. 148

- (a) where an amount elected would be different from the amount determined in accordance with this Act, the amount determined in accordance with this Act shall apply; and

(b) the provisions in that Act imposing penalties for late filing of such elections are not applicable for the purposes of this Act.

Registered pension funds

(5) Any registered pension fund or plan that has been accepted for registration by the Minister of National Revenue for Canada shall be deemed to have been accepted for registration by the Minister of Revenue.

R.S.C. 1952, c. 148 applies as amended from time to time

(6) The sections of the *Income Tax Act* (Canada) by this Act made applicable for the purposes of this Act shall, unless otherwise provided in this Act, be deemed to be applicable as amended or re-enacted from time to time, and such amendments or re-enactments shall apply for the purposes of this Act in the same manner as they apply for the purposes of the *Income Tax Act* (Canada).

s. 2 (2), amended

2.—(1) Subsection 2 of section 2 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 1 and 1975, chapter 17, section 2, is further amended by adding “or” at the end of clause *c* and by adding thereto the following clause:

(d) carried on business in Ontario,

.

s. 2 (3), amended

(2) Subsection 3 of the said section 2, as amended by the Statutes of Ontario, 1973, chapter 42, section 1 and 1975, chapter 17, section 2, is further amended by adding “or” at the end of clause *c* and by adding thereto the following clause:

(d) carried on business in Ontario,

.

ss. 4, 5, repealed

3. Sections 4 and 5 of the said Act are repealed.

s. 6 (1), amended

4. Subsection 1 of section 6 of the said Act is amended by striking out “stock, mileage” in the third line and in the fifth line.

s. 11, repealed

5. Section 11 of the said Act is repealed.

s. 12, re-enacted

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

Basic rules, R.S.C. 1952, c. 148, s. 3, applicable

12.—(1) Except as hereinafter provided, section 3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations.

SECTION 2. This section amends subsections 2 and 3 of section 2 of the Act to add clause *d* to extend the applicability of section 2 to foreign corporations which carried on business in Ontario in a taxation year.

SECTION 3. This section repeals sections 4 and 5 of the Act which are no longer necessary as a result of the tax simplification measures adopting the various provisions of the *Income Tax Act* (Canada).

SECTION 4. This section amends subsection 1 of section 6 of the Act by striking out the words "stock, mileage" which became unnecessary as a result of the repeal in 1973 of sections 138 and 139 of the Act.

SECTION 5. This section of the Bill repeals section 11 of the Act which is no longer necessary as a result of the tax simplification measures adopting the various provisions of the *Income Tax Act* (Canada).

SECTION 6. This section re-enacts section 12 of the Act to make section 3 of the *Income Tax Act* (Canada) applicable for the purposes of the Act. This is part of the tax simplification measures adopting various provisions of the *Income Tax Act* (Canada) and does not represent a substantive change to the Act.

SECTION 7. This section re-enacts section 13 of the Act to make section 4 of the *Income Tax Act* (Canada) applicable for the purposes of the Act. This amendment is part of the tax simplification measures contained in this Bill and does not involve any substantive change to the Act.

SECTION 8. This section re-enacts Part II (sections 14 to 122) of the Act as part of the tax simplification measures contained in the Bill. As indicated in the preamble to these explanatory notes, these provisions adopt the corresponding provisions of the *Income Tax Act* (Canada) where applicable and also preserve those sections of the Act where the Act differs from the *Income Tax Act* (Canada). This section of the Bill, enacting new sections 14 to 49 of the Act, also enacts some substantive changes to the Act. The following matters should be noted:

1. The provision formerly found in clause *l* of subsection 1 of section 22 of the Act, with respect to the deduction of 5/12ths from the amount otherwise deductible as a management fee in certain circumstances, is now an inclusion of that amount in income as provided in subsection 6 of the new section 14.
2. Certain sections have been deleted as they have become redundant as a result of the adoption of the various provisions of the *Income Tax Act* (Canada). For example, because of the adoption of sections 20 and 60 (deductions) and 56 (inclusions) of the *Income Tax Act* (Canada), the sections of the Act dealing with co-operative corporations (section 113) and certain deferred income arrangements (sections 118, 119 and 120 of the Act) became redundant and are no longer required.
3. Certain sections have been amended for clarification, for example, clause *c* of subsection 8 of the new section 14 amends the wording of the former subsection 2 of section 22 of the Act.
4. The new section 29 of the Act relating to charitable donations and gifts to Her Majesty represents a change from the former section 98 of the Act, in that gifts to provinces other than Ontario will now be fully deductible, in line with the treatment given to such gifts under the *Income Tax Act* (Canada) and by the other provinces. The former section 98 limited this deduction to 20 per cent of the donor corporation's income.
5. The new section 45 of the Act adds a section adopting the provisions of the *Income Tax Act* (Canada) with respect to deposit insurance corporations.
6. The former section 115 of the Act relating to insurance companies has been simplified as a result of the adoption of the various other provisions of the *Income Tax Act* (Canada); however, the new section 46 does not make any substantive change in the taxation of such companies.

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph *c* thereof to "sub-division e" shall be deemed to be a reference to Subdivision D of Part II of this Act. Interpre-
tation

7. Section 13 of the said Act is repealed and the following substituted therefor: s. 13,
re-enacted

13. Except as hereinafter provided, section 4 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations. Income or
loss from
a source or
from sources
in a place
R.S.C. 1952,
c. 148

8. Part II of the said Act, exclusive of sections 8 to 13a, as amended by the Statutes of Ontario, 1973, chapter 42, sections 3 to 9, 1973, chapter 157, sections 2 to 11, 13 to 15 and 17 to 31, 1974, chapter 75, sections 3 to 6 and 8, 1975, chapter 17, sections 4 to 56 and 58 to 63, 1976, chapter 32, sections 2 to 16, 1976, chapter 63, section 1, 1976, chapter 80, section 1 and 1977, chapter 16, sections 1 and 2, is repealed and the following substituted therefor: Pt. II,
(ss. 14-49,
re-enacted),
(ss. 50-122,
repealed)

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

14.—(1) Except as hereinafter provided, the income or loss of a corporation for a taxation year from a business or property shall for the purposes of this Act be determined in accordance with subdivisions a and b of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivisions a and b are applicable to this Act in so far as the said subdivisions apply to corporations. Application
of
R.S.C. 1952,
c. 148

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act the amount determined for the purposes of the *Income Tax Act* (Canada) as the value of property described in an inventory is applicable for the purposes of this Act, except that, Inventory of
land

(a) where land is included in an inventory of a corporation and the corporation has, in calculating its income for the taxation year or any previous taxation year, deducted an amount referred to in clause *c* of subsection 8 in respect of such land, the amount so deducted shall not be included in determining the value of the inventory for the purposes of subsection 1; and

(b) the Minister may determine the value of the property described in an inventory for the purposes

of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation.

Payment or refund of a fee under Ontario Beef Calf Income Stabilization Program to be included in income

(3) In addition to any other amount required by virtue of subsection 1 to be included in computing the income of a corporation for a taxation year as income from a business or property, there shall be included any amount received by the corporation as a stabilization payment or refund of a fee under the Ontario Beef Calf Income Stabilization Program.

Disposition of depreciable property:

(4) In the application of section 13 of the *Income Tax Act* (Canada) for the purposes of this Act, the following rules apply,

Undepreciated capital cost

(a) subsections 7.1 and 10 of the said section 13 and subparagraph vi of paragraph *f* of subsection 21 of the said section 13 are not applicable in determining the capital cost or the undepreciated capital cost of depreciable property of a prescribed class for the purposes of this Act and the regulations;

Reduction of capital cost by amount of government assistance

(b) where a corporation has received or is entitled to receive a grant, subsidy, forgivable loan, investment allowance or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount,

(i) authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Treasury Board of the Government of Canada in respect of scientific research expenditures incurred for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

R.S.C. 1970,
c. I-10

(ii) authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister, or

1965, c. 12
(Can.)

R.S.C. 1952,
c. 148

(iii) deducted as an allowance under section 65 of the *Income Tax Act* (Canada) or section 19 of this Act,

7. Subsection 12 of the new section 14 of the Act (non-capital loss on the disposition of shares of a V.I.C.), subsection 5 of the new section 15 of the Act (capital loss on disposition of shares of a V.I.C.), subsections 4, 5 and 6 of the new section 16 of the Act (amounts to be included in income on the disposition of the shares of a V.I.C.), subsection 5 of the new section 25 of the Act (transfer of the shares of a V.I.C. on an amalgamation or winding-up) and the new section 31 of the Act (deduction from taxable income on acquisition of shares of a V.I.C.) are all new provisions, contained in section 8 of the Bill, relating to the treatment of the acquisition and disposition of shares of a company registered under *The Venture Investment Corporations Registration Act, 1977*, and will come into force on proclamation when *The Venture Investment Corporations Registration Act, 1977*, is proclaimed into force.

Basically, a corporation will be allowed a deduction from taxable income earned in Ontario equal to 250 per cent of its investment in the shares of a V.I.C., and the amount eligible for such deduction not used in the year may be carried forward indefinitely. On the disposition of such shares, 250 per cent of the proceeds will be included in the investor's income for the year of the disposition. Recoveries in excess of the original cost of the shares will be treated as capital gains. Non-capital losses on the disposition of such shares will not be allowed, and capital losses on such dispositions will be limited, since the deferred taxes on the loss portion of the investment will not be recovered.



the capital cost of the property to the corporation shall be deemed to be the amount by which the aggregate of,

(iv) the capital cost thereof to the corporation, otherwise determined, and

(v) such part, if any, of the assistance as has been repaid by the corporation pursuant to an obligation to repay all or part of that assistance,

exceeds,

(vi) the amount of assistance.

(5) In the application of section 17 of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 2 thereof does not apply in determining whether an amount shall be included in the income of a corporation in accordance with subsection 1 thereof. Loan to non-resident person

(6) Where an amount in respect of,

(a) a management or administration fee or charge;

(b) a rent, royalty or a similar payment; or

(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

Management fee, rent and similar payment to non-resident to be included in income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/12ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph *a*, *d* or *e* of subsection 1 of section 212 of the *Income Tax Act* (Canada) or subsection 5 of that section, except that clause *b* does not apply where the non-resident person to whom the amount is paid or payable is a corporation liable to the taxes imposed under this Act by virtue of clause *b* of subsection 2 or clause *b* of subsection 3 of section 2. R.S.C. 1952, c. 148

(7) Section 19.1 of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation from a business or property for a taxation year for the purposes of this Act. Advertising expense on foreign broadcasting undertaking

Deductions
allowed

(8) Subsection 2 of section 18 of the *Income Tax Act* (Canada) and paragraphs *a* and *v.1* of subsection 1 of section 20 of that Act are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

Capital cost
of property

(a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, as is allowed by regulation;

Fee under
Ontario Beef
Calf Income
Stabilization
Program

(b) an amount paid by the corporation in the taxation year as a fee under the Ontario Beef Calf Income Stabilization Program;

Certain
interest
and property
taxes on land

(c) notwithstanding paragraph *c* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable to this Act but subject to subsection 3 of section 18 of the said Act, any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,

(i) interest on borrowed money used to acquire land or on an amount payable by the corporation for land, or

(ii) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land can reasonably be considered to have been, in that year,

(iii) included in the inventory of a business carried on by the corporation,

(iv) otherwise used in, or held in the course of, carrying on a business carried on by the corporation, or

(v) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

and if none of subclauses iii, iv and v is applicable, then the deduction under this clause is permitted only to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year ;

- (d) such amount as is allowed to the corporation by ^{Resource allowance} regulation in respect of oil or gas resources in Canada, as defined by regulation.

(9) In the application of paragraph *n* of subsection 1 of ^{Deductions not allowed} section 20 of the *Income Tax Act* (Canada) for the purposes of this Act,

- (a) notwithstanding subsection 8 of section 20 of the ^{No deduction in respect of property in certain circumstances} *Income Tax Act* (Canada), the said paragraph *n* does not apply to allow a deduction in computing the income of a corporation for a taxation year from a business in respect of a property sold in the course of the business if the corporation at the end of the taxation year or at any time in the immediately following taxation year,

(i) was exempt from tax under any provision of this Part, or

(ii) ceased to have a permanent establishment in Canada; and

- (b) the said paragraph *n* does not apply to allow a ^{No deduction in respect of sale of property if security disposed of} deduction in computing the income of a corporation for a taxation year from a business where the corporation has, in the taxation year sold, pledged, assigned or in any way disposed of any security received by it as payment in whole or in part for the sale of property in respect of which the corporation has, in that or a previous taxation year, been allowed a deduction under that paragraph for the purposes of this Act.

(10) In the application of paragraph *s* of subsection 1 of ^{Interpretation R.S.C. 1952, c. 148} section 20 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "Minister" shall be deemed to be a reference to the Minister of National Revenue for Canada.

(11) Section 27 of the *Income Tax Act* (Canada) is not ^{Crown corporations} applicable for the purposes of this Act and in lieu thereof the following provisions shall apply:

Prescription

1. Where a corporation referred to in paragraph *d* of subsection 1 of section 149 of the *Income Tax Act* (Canada) is otherwise exempt under section 49 of this Act and subsection 1 of section 135 of this Act, such exemptions do not apply if the corporation is prescribed by regulation.

Transfers of land for disposition

2. Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation.

Loss on disposition of shares of a Venture Investment Corporation
1977, c. 10

(12) Where in a taxation year a corporation has incurred a loss, other than a capital loss, from the disposition of property that is shares of the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*, such loss shall not be allowed in computing the income or loss of the corporation from a business or property for the taxation year.

SUBDIVISION B—TAXABLE CAPITAL GAINS AND ALLOWABLE CAPITAL LOSSES

Application of R.S.C. 1952, c. 148

15.—(1) Except as hereinafter provided, the taxable capital gains and allowable capital losses of a corporation for a taxation year from the disposition of any property shall for the purposes of this Act be determined in accordance with subdivision c of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivision c is applicable to this Act in so far as the said subdivision applies to corporations.

Idem

(2) Paragraph *c* of subsection 1 of section 48 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Idem

(3) In the application of paragraph *a* of subsection 2 of section 40 of the *Income Tax Act* (Canada) for the purposes of this Act, subparagraph *i* thereof shall be read as though the words "was not resident" were deleted and the words "ceased to have a permanent establishment" were inserted in lieu thereof.

Adjustments to cost base

(4) In computing the adjusted cost base to a corporation of property in accordance with the provisions made applicable by subsection 1, the following rules apply for the purposes of this Act,

- (a) where the property is a foreign resource property, there shall be added to the cost of the property to the corporation that part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to the property that is not allowed as a deduction from income for purposes of this Act;
- (b) clause B of subparagraph ii of paragraph c of subsection 2 of section 53 of the *Income Tax Act* ^{R.S.C. 1952, c. 148} (Canada) shall apply as if the words "foreign exploration and development expenses" were deleted;
- (c) subparagraph i of paragraph k of subsection 2 of section 53 of the *Income Tax Act* (Canada) shall apply,
- (i) as if the words "deduction from tax" were deleted, and
- (ii) as if the reference in clause B thereof to section 65 were a reference to the said section 65 and to section 19 of this Act;
- (d) where the property is a foreign resource property, there shall be deducted in respect of such property any amount that has become receivable by the corporation at a particular time in a taxation year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services the original cost of which may reasonably be regarded as having been foreign exploration and development expenses.

(5) Notwithstanding the rules contained in subsection 1 of section 40 of the *Income Tax Act* (Canada) as made applicable by subsection 1 of this section, a corporation's capital loss from the disposition of property that is shares in the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*, is the amount by which,

- (a) the capital loss in respect of such disposition, otherwise determined,
- exceeds,

- (b) the amount in respect of such shares that was deducted under section 31 minus the amount included in income under subsection 4 of section 16.

Interpre-
tation

(6) In this Subdivision,

(a) "foreign exploration and development expenses" incurred by a corporation means,

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

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

(iii) any annual payment made by the corporation for the preservation of a foreign resource property, and

(iv) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period it was a member or partner thereof;

(b) "foreign 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 "in Canada" were references to "outside Canada" and were read without reference to the words "after 1971".

R.S.C. 1952,
c. 148

SUBDIVISION C—OTHER SOURCES OF INCOME

R.S.C. 1952,
c. 148
Part I (B) (d)
applicable

16.—(1) Except as hereinafter provided, subdivision d of Division B of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subdivision applies to corporations.

(2) In the application of subsection 1 of section 56 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference in subparagraph i of paragraph 1 thereof to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpre-
tation
R.S.C. 1952,
c. 148

(3) Section 59 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act, and in lieu thereof the following provisions apply,

Disposition
of resource
property

(a) where a corporation disposes of,

Amount
receivable as
consideration
for disposition
of resource
property

(i) a Canadian resource property, or

(ii) any right, licence or privilege described in subsection 12 of section 58 of *The Corporations Tax Act*, as it read in its application to taxation years prior to 1972, that was acquired by the corporation,

(A) before 1972 in the case of,

1. a corporation that is a principal-business corporation within the meaning given to that expression by subsection 14 of section 20 or that was, at the time it acquired the property, such a principal-business corporation, or

2. an association, partnership or syndicate described in subsection 4 of section 83A of the *Income Tax Act* (Canada) as it read in its application to the 1971 taxation year, and

(B) after April 10, 1962 and before 1972, in any other case,

under an agreement or other contract or arrangement described therein,

the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year, to the extent that the proceeds become receivable in that year;

(b) there shall be included in computing a corporation's income for a taxation year any amount in respect of,

Amount
deducted
under s. 18
in preceding
year

- (i) a Canadian resource property, or
- (ii) any property referred to in subclause ii of clause *a* or in clause *c*,

that has been deducted under section 18 in computing the corporation's income for the immediately preceding taxation year;

Disposition of
resource
property
acquired
before 1972

R.S.C. 1952,
c. 148

- (c) where a corporation has made a disposition of property owned, or deemed to have been owned, by it on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subparagraphs i to vi of paragraph *c* of subsection 15 of section 66 of the *Income Tax Act* (Canada) and is not property described in subclause ii of clause *a*, the following rules apply,

- (i) the relevant percentage of the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year to the extent that the proceeds become receivable, and

- (ii) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this subsection and section 20,

- (A) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of subclause i in respect of the disposition by the corporation of the property, and

- (B) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof;

Interpre-
tation

- (d) in this subsection,

- (i) "relevant percentage" has the meaning given to that expression by subsection 4 of section 59 of the *Income Tax Act* (Canada),

- (ii) "disposition" and "proceeds of disposition" have the meaning given to those expressions by section 54 of the *Income Tax Act* (Canada). R.S.C. 1952, c. 148

(4) In addition to any other amount that is required to be included in computing the income of a corporation for a taxation year by virtue of the provisions of subdivision d of Division B of Part I of the *Income Tax Act* (Canada) that are made applicable by subsection 1 of this section, there shall be included the following amounts:

- (a) where, in a taxation year, shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977*, c. 10 have been disposed of by the corporation, an amount equal to the aggregate of,

(i) 250 per cent of the lesser of,

(A) the cost to the corporation of the said shares disposed of, and

(B) the proceeds of disposition of such shares, and

(ii) that proportion of the amount determined under subclause i that,

(A) the taxable income of the corporation for the year, determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(B) the amount by which the taxable income of the corporation for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A; and

- (b) where at a particular time in the taxation year the registration of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* (hereinafter in this subsection referred to as the V.I.C.) has been revoked pursuant to section 6 of that Act and at the particular time

the corporation owned shares of the capital stock of the V.I.C., an amount equal to the aggregate of,

- (i) 250 per cent of the cost to the corporation of the said shares, and
- (ii) that proportion of the amount determined under subclause i that,
 - (A) the taxable income of the corporation for the year, determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

- (B) the amount by which the taxable income of the corporation for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A.

Idem

1977, c. 10

(5) Where in a taxation year a corporation that owns shares in the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has ceased to have a permanent establishment in Ontario within the meaning of section 7, the corporation shall for the purposes of subsections 4 and 6 of this section be deemed to have disposed of the shares in that year for proceeds equal to the cost to the corporation of the shares.

Idem

(6) Where in a taxation year a corporation that owns shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has disposed of or is deemed to have disposed of any of those shares, or the registration of the corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has been revoked pursuant to section 6 of that Act, and all of the taxable income of the corporation for the year, determined without reference to this subsection, is deemed for the purposes of section 34 to have been earned in jurisdictions other than Ontario, the following rules apply,

- (a) the amount of the corporation's taxable income for the year shall be determined as if it has no income other than the amount determined under clause *a* or *b* of subsection 4, as the case may be;

- (b) the only amounts deductible under this Act by the corporation in determining its taxable income for the year shall be its undeducted eligible expenditures, within the meaning of section 31, as at the end of the immediately preceding taxation year; and
- (c) for the purposes of section 34, no portion of the corporation's taxable income as determined under clauses *a* and *b* shall be deemed to have been earned in jurisdictions other than Ontario.

SUBDIVISION D—DEDUCTIONS IN
COMPUTING INCOME

17.—(1) Except as hereinafter provided, section 60 of the *Income Tax Act* (Canada), is applicable for the purposes of this Act in so far as the said section applies to corporations.

Application
of
R.S.C. 1952,
c. 148, s. 60

(2) In the application of subparagraph *i* of paragraph *o* of the said section 60 for the purposes of this Act, the reference therein to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpre-
tation

R.S.C. 1952,
c. 148

(3) In addition to the deductions permitted by virtue of subsection 1, there may be deducted in computing the income of a corporation for a taxation year all corporation taxes payable in the taxation year by the corporation.

Corporation
taxes
deductible

(4) In this section,

Interpre-
tation

- (a) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations;
- (b) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax.

18.—(1) In computing a corporation's income for a taxation year, in this subsection referred to as the "current year", where,

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

- (a) by virtue of clause *a* or *c* of subsection 3 of section 16, subsection 11 of section 20, or clause *a* of subsection 12 of section 20, an amount has been included in computing the corporation's income for the current year or a previous taxation year; or
- (b) an amount referred to in paragraph *b* of subsection 1 of section 64 of the *Income Tax Act* (Canada) has been included in computing, for the purposes of this Act, the corporation's income for that previous taxation year,

in respect of the disposition of any property and that amount or a part thereof is not due until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the part thereof that is not due until a day that is after the end of the current year, not exceeding, where the property was disposed of in a taxation year preceding the current year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the taxation year immediately preceding the current year, and for greater certainty, no deduction may be made in respect of that amount under paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 14 of this Act.

R.S.C. 1952.
c. 148

Application of
subs. 1

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at any time in the taxation year or in the immediately following taxation year,

- (a) ceases to be a resident of Canada;
- (b) becomes exempt from tax under any provision of this Part; or
- (c) if a non-resident, ceases to have a permanent establishment in Canada.

Application
of section

(3) For the purpose of clause *d* of subsection 2 of section 1, this section applies in lieu of section 64 of the *Income Tax Act* (Canada).

Allowance for
oil or gas well,
mine or
timber limit

19.—(1) There may be deducted in computing a corporation's income for a taxation year such amount as an allowance, if any, in respect of,

- (a) an oil or gas well, mineral resource or timber limit;
or

- (b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource,

as is allowed by regulation.

(2) For greater certainty it is hereby declared that, in the ^{Regulations} case of a regulation made under subsection 1,

- (a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or

(ii) processing operations described in clause *b* of subsection 1 that are carried on by the corporation; and

- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

(3) Where a deduction is allowed under subsection 1 in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions. ^{Lessee's share of allowance}

(4) For the purpose of clause *d* of subsection 2 of section 1, ^{Application} this section applies in lieu of section 65 of the *Income Tax Act* (Canada). ^{R.S.C. 1952, c. 148}

20.—(1) A principal-business corporation may deduct, in computing its income for a taxation year, the lesser of, ^{Exploration and development expenses of principal-business corporations}

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year, to the extent that they were not deductible in computing income for a previous taxation year; and

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 19, minus the deductions allowed for the taxation year by subsection 5 and by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

Expenses of
other
corporations

(2) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year to the extent they were not deductible in computing its income for a previous taxation year; and

(b) of that aggregate, the amount, if any, by which the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 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,

if no deductions were allowed under section 19,

exceeds,

- (iii) the amount of any deduction allowed by the *Corporations Tax Application Rules, 1972* in respect of this subclause in computing its income for the taxation year.

(3) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

Ontario
exploration
and
development
expenses:
corporation
other than
a principal-
business
corporation

- (a) the aggregate of such of its Ontario exploration and development expenses as were incurred by it before the end of the taxation year to the extent that they were not deducted in computing its income for a previous year, minus that portion of the deduction allowed, if any, in computing its income for the taxation year under subsection 2 which is reasonably attributable to Ontario exploration and development expenses; and

- (b) that portion of the amount determined under clause *a* equal to the amount of its income for the taxation year if no deductions were allowed under this section, minus,

- (i) that portion of the deduction allowed for the taxation year under subsection 2 which is reasonably attributable to Ontario exploration and development expenses, and

- (ii) the deduction allowed for the taxation year under sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

R.S.C. 1952,
c. 148

(4) Subsection 3 of section 16, section 18 and subsections 2 and 3 do not apply in computing the income for a taxation year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons. Dealers

Canadian
exploration
and
development
expenses
deductible
by successor
corporation
and second
successor
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 the reference in paragraph *b* of each of the said subsections,

- (a) to "this section" is deemed to be a reference to this section of this Act;
- (b) to section 65 is deemed to be a reference to section 19 of this Act;
- (c) to subsection 2 of section 66.1 does not apply; and
- (d) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*.

Joint
exploration
corporation:
renunciation
of its
exploration
and develop-
ment expenses
in favour
of shareholder
corporation

(6) The portion, if any, of its Canadian exploration and development expenses that a joint exploration corporation may renounce in favour of a shareholder corporation shall be determined in accordance with the rules provided in subsection 10 of section 66 of the *Income Tax Act* (Canada) and paragraphs *a* and *b* of the said subsection are applicable, except that for the purposes of this subsection,

- (a) the references in the said subsection to subsections 1 and 3 of that section shall be deemed to be references to subsections 1 and 2 of this section; and
- (b) the references in paragraph *b* of the said subsection to paragraph *a* of subsection 1 of that section shall be deemed to be a reference to clause *a* of subsection 1 of this section.

Control
change

(7) Subsection 11 of section 66 of the *Income Tax Act* (Canada) is applicable for the purposes of this section, except that, in its application for the purposes of this section, the said subsection shall be read without the reference therein to "cumulative Canadian exploration expense, cumulative Canadian development expense and foreign exploration and development expenses".

Computation
of explora-
tion and
development
expenses

(8) In computing the Canadian exploration and development expenses and Ontario exploration and development expenses of a corporation,

- (a) there shall be deducted the aggregate of all amounts paid to it after 1971 and before the 25th day of May, 1976,

- (i) under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
- (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development, or
- (iii) under the *Mineral Exploration Assistance Program* (Ontario),

to the extent that the amounts have been expended by the corporation as or on account of Canadian exploration and development expenses or Ontario exploration and development expenses, as the case may be; and

- (b) there shall be included any amount, except an amount in respect of interest, paid by the corporation, after 1971 in respect of amounts paid to it before the 25th day of May, 1976, under the Regulations referred to in subclause i of clause a to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario.

(9) Except as otherwise provided in this section, where a ^{Limitations} 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, 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.

(10) Notwithstanding subsection 9, a corporation that is ^{Idem} entitled to a deduction under both subsections 2 and 3 may, in addition to the deduction under subsection 2, deduct such additional amount as it may claim in respect of Ontario exploration and development expenses under subsection 3.

(11) Except as expressly otherwise provided in this Act, ^{Limitations of Canadian exploration and development expenses} where, as a result of a transaction occurring after the 6th day of May, 1974, an amount has become receivable by a corporation at a particular time in a taxation year and the consideration given by the corporation therefor was property (other than a property referred to in subsection 3 of section

16 or a share or interest therein or a right thereto) or services, the original cost of which to the corporation may reasonably be regarded as having been primarily Canadian exploration and development expenses of the corporation or would have been so regarded if they have been incurred by the corporation after 1971, there shall be included in its income for that taxation year the amount that became receivable by it at that time.

Unitized oil
or gas field
in Canada

(12) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1974 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

- (a) there shall, at that time, be included in computing the corporation's income for the taxation year the amount that became receivable by it; and
- (b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that person.

Amount
deemed
deductible
under this
Subdivision

(13) For the purposes of section 12, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision.

Interpre-
tation
R.S.C. 1952.
c. 148

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

- (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,
 - (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), R.S.C. 1952.
c. 148 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 from a government, municipality or other public authority in respect of or related to its Canadian exploration and development expenses, 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;

R.S.C. 1952,
c. 148

- (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);
- (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) "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
 - (iii) "Canadian" were references to "Ontario";
- (f) "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";

(g) "principal-business corporation" has the meaning given to that expression by paragraph *h* of subsection 15 of section 66 of the *Income Tax Act* R.S.C. 1952. c. 148 (Canada);

(h) "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), except that subparagraph *ii* thereof shall, in its application for the purposes of this section, be read without the reference therein to "a Canadian exploration expense or a Canadian development expense".

(15) For the purposes of clause *d* of subsection 2 of section 1, this section applies in lieu of sections 66, 66.1 and 66.2 of the *Income Tax Act* (Canada). Application

21. Section 66.3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as that section applies to corporations. Shares taxed as inventory

SUBDIVISION E—RULES RELATING TO COMPUTATION OF INCOME

22.—(1) The rules provided in subdivision *f* of Division B of Part I of the *Income Tax Act* (Canada), relating to the computation of income are, in so far as the said rules apply to corporations, applicable in computing income for the purposes of this Act. R.S.C. 1952. c. 148, Part I (B) (f), applicable

(2) In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. General limitation re expenses

23.—(1) Section 245 of the *Income Tax Act* (Canada) is applicable in computing income for the purposes of this Act, except that, Artificial transactions

(a) paragraph *b* of subsection 2 thereof is not applicable; and

(b) the reference therein to Part I of that Act shall be deemed to be reference to Part II of this Act.

Dividend stripping

R.S.C. 1952, c. 148

(2) In computing the income of a corporation for a taxation year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act.

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

Amounts not included in income:

federal grants
1965, c. 12 (Can.)
R.S.C. 1970, cc. 1-10, R-3
1970-71-72, c. 56 (Can.)

other amounts

24. There shall not be included in computing the income of a corporation for a taxation year,

(a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada), or the *Employment Support Act* (Canada); and

(b) an amount determined in accordance with the rules provided in paragraphs *b*, *c*, *l* and *m* of subsection 1 of section 81 of the *Income Tax Act* (Canada).

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA
AND THEIR SHAREHOLDERS

R.S.C. 1952, c. 148,
Part I (B) (h),
applicable

Amalgamations consideration for resource property disposition

25.—(1) Except as hereinafter provided, the rules provided in subdivision h of Division B of Part I of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

(2) In lieu of the rule provided in paragraph *p* of subsection 2 of section 87 of the *Income Tax Act* (Canada) with respect to amalgamations, the following rule is applicable for the purposes of this Act:

For the purpose of computing a deduction from the income of the new corporation for a taxation year under section 18, any amount that has been included in computing the income of a predecessor corporation for its last taxation year or a previous taxation year by virtue of clause *a* or *c* of subsection 3 of section 16, or subsection 11 or 12 of section 20, or by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act* as it read in its application to the taxation years prior to 1972, shall be deemed to have been included in computing the income of the new corporation for a previous taxation year by virtue thereof.

(3) Paragraph *z* of subsection 2 of the said section 87 is not applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 87 (2) (*z*),
not applicable

(4) Paragraph *e.2* of subsection 1 of section 88 of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraph *z* of subsection 2 of section 87 of the said Act, and as though the reference therein to paragraph *p* of the said subsection 2 were a reference to subsection 2 of this section.

R.S.C. 1952,
c. 148,
s. 88 (1) (*e.2*),
applicable

(5) For the purposes of subsection 4 of section 16 and section 31, where a corporation (hereinafter in this section referred to as the "vendor") has transferred shares of the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977* to another corporation (hereinafter in this section referred to as the "purchaser") pursuant to an amalgamation within the meaning of section 87 of the *Income Tax Act* (Canada) or the winding-up of a Canadian corporation within the meaning of section 88 of that Act, or the vendor and the purchaser have jointly elected under section 85 of that Act in respect of those shares, the following rules apply,

Transfer of
V.I.C.
shares on
amalgama-
tion
or winding-up
1977, c. 10

- (a) the vendor shall be deemed to have disposed of the shares for proceeds of disposition equal to the cost to it of the shares; and
- (b) the purchaser shall be deemed to have acquired the shares at a cost equal to the amount determined under clause *a*.

(6) In the application of the said subdivision *h* for the purposes of this Act, the references in section 84.2, paragraphs *g* and *k* of subsection 1 of section 89 and subsection 3 of section 89 of the *Income Tax Act* (Canada), to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

"Minister"
deemed to
be Minister
of National
Revenue

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS NOT RESIDENT IN CANADA

26.—(1) The provisions of subdivision *i* of Division B of Part I of the *Income Tax Act* (Canada) are applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

R.S.C. 1952,
c. 148,
Part I (B) (1),
applicable

(2) In the application of the said subdivision *i* for the purposes of this Act, the references therein to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

Idem

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

R.S.C. 1952,
c. 148,
Part I (B) (j),
applicable

27.—(1) Except as hereinafter provided, the rules provided in subdivision j of Division B of Part I of the *Income Tax Act* (Canada) with respect to partnerships and their members, are applicable for the purposes of this Act in so far as the said rules apply to corporations.

Exception

(2) Subsection 1.6 of section 96 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Members of
partnerships
deemed to
have
permanent
establishment
in Ontario

(3) Where any activity in Ontario of a partnership in a taxation year is such that, if it were a corporation, it would be subject to subsection 2 or 3 of section 2, as the case may be, each corporation that is deemed to be a member of the partnership shall be deemed to be subject to subsection 2 or 3 of section 2, as the case may be, for that taxation year.

SUBDIVISION J—BENEFICIARIES OF TRUSTS

R.S.C. 1952,
c. 148,
Part I (B) (k),
applicable

28.—(1) In determining for the purposes of this Act the income of a corporation that is a beneficiary of a trust, subdivision k of Division B of Part I of the *Income Tax Act* (Canada) is applicable in so far as the said subdivision applies to corporations that are beneficiaries of trusts, and any amount included in or deducted from the income of a corporation for a taxation year by virtue of that subdivision shall be included or deducted, as the case may be, in computing its income for the taxation year for the purposes of this Act.

Idem

(2) In the application of the said subdivision for the purposes of this Act,

(a) clause *d* of subsection 2 of section 1 of this Act does not apply; and

(b) the references therein to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

DIVISION C—COMPUTATION OF TAXABLE INCOME

R.S.C. 1952,
c. 148,
Part I (C),
applicable

29.—(1) Except as hereinafter in this Division provided, in computing the taxable income of a corporation for a taxation year, Division C of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said Division applies to deductions permitted to corporations.

(2) In the application of paragraphs *a*, *b* and *b.1* of subsection 1 of section 110 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "receipts" shall be deemed to mean receipts or photostatic reproductions thereof.

Receipts;
application of
R.S.C. 1952,
c. 148,
s. 110 (1)

(3) For the purposes of this Act, "registered amateur athletic association" and "registered charity" mean respectively an amateur athletic association or a charity that, unless otherwise designated by the Minister, has been registered by the Minister of National Revenue for Canada pursuant to subsection 8 of section 110 of the *Income Tax Act* (Canada) and, unless otherwise designated by the Minister, whose registration has not been revoked.

Interpre-
tation

(4) In the application, for the purposes of this Act, of subsection 3 of section 111 of the *Income Tax Act* (Canada), paragraph *a* thereof shall be read as if subparagraph ii thereof were deleted.

Losses;
application of
R.S.C. 1952,
c. 148,
s. 111 (3)

30.—(1) In computing a corporation's taxable income for a taxation year, there may be deducted the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as "the amount contributed") that are contributions for the purposes of *The Election Finances Reform Act, 1975* and that are contributed in the taxation year, and in any previous taxation year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that,

Election
contributions

1975, c. 12

- (a) subject to subsection 3, such deduction shall not exceed the least of,
 - (i) the amount contributed,
 - (ii) its taxable income computed without reference to this section, and
 - (iii) \$4,000; and
- (b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

Interpre-
tation

1975, c. 12

(2) In this section,

- (a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under *The Election Finances Reform Act, 1975*;
- (b) "registered candidate", with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;
- (c) "registered constituency association" means a registered constituency association within the meaning given to that expression by *The Election Finances Reform Act, 1975*;
- (d) "registered party" means a registered party within the meaning given to that expression by *The Election Finances Reform Act, 1975*.

Corporations
to which
s. 34 is
applicable(3) In respect of a corporation to which section 34 is applicable, the amount deductible under clause *a* of subsection 1 is the aggregate of,

- (a) the amount which would otherwise be deducted under clause *a* of subsection 1; and
- (b) that proportion of the amount determined under clause *a* that,
 - (i) the taxable income of the corporation that is earned in jurisdictions other than Ontario (as computed for the purposes of section 34 and without reference to this section and section 31),

is to,

- (ii) the amount by which the taxable income of the corporation exceeds the amount referred to in subclause i.

31.—(1) In computing the taxable income of a corporation for a taxation year there may be deducted the lesser of,

Purchase
of shares
of Venture
Investment
Corporation

(a) the aggregate of,

(i) the corporation's "eligible expenditure" for the year determined under subsection 2, and

(ii) that proportion of the amount referred to in subclause i that,

(A) the proportion of the corporation's taxable income determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(B) the amount by which the corporation's taxable income for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A; and

(b) the taxable income of the corporation for the year determined without reference to this section and section 30.

(2) In this section, a corporation's "eligible expenditure" for a taxation year means the aggregate of,

Interpre-
tation

(a) the amount of the corporation's "undeducted eligible expenditure" determined under subsection 3 for the immediately preceding taxation year; and

(b) an amount equal to 250 per cent of the cost incurred in the year for the acquisition of shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977*.^{1977, c. 10}

(3) For the purposes of subsection 2, a corporation's "undeducted eligible expenditures" means the amount by which,

Interpre-
tation

(a) its "eligible expenditure" for a taxation year determined under subsection 2,

exceeds,

- (b) the amount deducted for that year under subsection 1 minus the proportion thereof that,
- (i) the taxable income of the corporation for the year that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

- (ii) the taxable income of the corporation for the year.

DIVISION D—TAXABLE INCOME EARNED IN CANADA
BY NON-RESIDENTS

Non-residents' taxable income earned in Canada

32. The taxable income earned in Canada for a taxation year of a corporation to which subsection 2 or 3 of section 2 applies shall be computed in accordance with the rules provided in section 115 of the *Income Tax Act* (Canada) in so far as the said rules apply to corporations, except that for the purposes of this Act,

- (a) there shall be included income from property that is real property situated in Canada or any interest therein, that arose from the sale or rental thereof or both; and
- (b) the amount of the income included in accordance with the said rules and clause *a* shall be determined in accordance with this Act.

DIVISION E—COMPUTATION OF INCOME TAX PAYABLE

Rate

33. The tax payable by a corporation under this Part upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the "amount taxable", is 12 per cent of the amount taxable.

Deduction from income tax

34. There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 12 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the taxation year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations.

Foreign tax deduction

35.—(1) Where a corporation has a permanent establishment in Ontario, and,

(a) the corporation has included in computing its income for the taxation year,

(i) income that was derived from sources within a jurisdiction outside Canada in the form of dividends, interest, rents or royalties received in the year,

(ii) income that is deemed to have been received in the form of dividends and interest from a jurisdiction outside Canada by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), or

R.S.C. 1952,
c. 148

(iii) the amount by which,

(A) the aggregate of that part of the corporation's taxable capital gains for the taxation year from the disposition of property as may reasonably be considered to be income from a source within a jurisdiction outside Canada,

exceeds,

(B) the aggregate of such of the corporation's allowable capital losses for the year from the disposition of property as may reasonably be considered to be a loss from a source within that jurisdiction outside Canada,

hereinafter in this section referred to as "foreign investment income"; or

(b) the corporation, having included in its income for the taxation year foreign investment income from sources within a jurisdiction outside Canada, also included income from a business carried on by it in that jurisdiction, hereinafter in this section referred to as "foreign business income",

and where,

(c) for the purposes of subsection 2 of section 126 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to a jurisdiction outside Ontario in accordance with the regulations made under sec-

tion 34 such foreign investment income has been excluded from the calculation of gross revenue or any part thereof; and

R.S.C. 1952,
c. 148

- (d) the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of subsection 5 of section 148 of the *Income Tax Act* (Canada),

the corporation may deduct from the tax otherwise payable under this Part for the taxation year an amount equal to the lesser of,

- (e) 12 per cent of that part of such foreign investment income that is income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 34; and
- (f) the deficiency, if any, between,
- (i) the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause e, and
 - (ii) the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 1 of section 126 of the *Income Tax Act* (Canada).

Idem

(2) For greater certainty, where the income of a corporation for a taxation year is in whole or in part from sources in more than one jurisdiction outside Canada, subsection 1 shall be read as providing for a separate deduction in respect of each jurisdiction outside Canada.

Small
business
incentives

36.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to 3 per cent of the amount determined under subsection 2.

(2) For the purposes of subsection 1, the amount determined under this subsection is that proportion of the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) for the taxation year, not exceeding \$150,000, that,

Idem

R.S.C. 1952,
c. 148

- (a) the amount of that portion of its taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada),

bears to,

- (b) the total amount of the portions of its taxable income for the taxation year that are deemed to have been earned in the provinces of Canada, measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada).

(3) In lieu of the deduction permitted under subsection 1, for the taxation year that ends after the 6th day of April, 1976, and that includes that day, there may be deducted from the tax otherwise payable under this Part for that taxation year the amount that would otherwise be deductible under section 106*a* as that section stood on the 6th day of April, 1976, determined on the assumption that that section applied to the whole of that taxation year.

Transitional
rule; alter-
native
deduction

(4) Where a corporation has made a deduction under subsection 1 for the taxation year that ends after the 6th day of April, 1976, and that includes that day, in addition to the amount deducted under subsection 1 there may be deducted from the tax otherwise payable under this Part for that taxation year the lesser of,

Transitional
rule; additional
deduction

- (a) 3 per cent of the amount determined under subsection 2 for that taxation year; and
- (b) the amount that would have been deductible under subsection 3 of section 106*a* as that section stood on the 6th day of April, 1976 had that section applied to that taxation year.

(5) In this section, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 34 and 35, but before making any deduction under this section.

Interpre-
tation

Tax on tax

R.S.C. 1952,
c. 148

37. Where, under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

(a) the tax payable by the corporation under Part II of this Act for the taxation year in or in respect of which such payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the taxation year plus,

(i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,

(A) the payment, and

(B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and

(ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the taxation year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and

(b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a taxation year, such corporation is not entitled to deduct the amount determined under subclause ii of clause a.

DIVISION F—SPECIAL RULES APPLICABLE IN CERTAIN CIRCUMSTANCES

Where
corporation
bankrupt

38. Where a corporation has become bankrupt, as defined in subsection 3 of section 128 of the *Income Tax Act* (Canada), the rules provided in the said section 128 are applicable for the purposes of this Act.

Investment Corporations

39.—(1) Where a corporation is, throughout a taxation year, an investment corporation, other than a mutual fund corporation, subsections 1, 2 and 3 of section 131 of the *Income Tax Act* (Canada) as made applicable by section 41 of this Act are applicable in respect of the corporation for the taxation year as if,

Application
of s. 41

R.S.C. 1952,
c. 148

(a) the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation; and

(b) its capital gains redemption for that and all previous taxation years ending after 1971, throughout which it would, but for the assumption made by clause *a*, not have been a mutual fund corporation, were nil.

(2) Subsection 6 of section 41 applies to a corporation to which this section applies.

Idem

Mortgage Investment Corporations

40. Where a corporation was, throughout a taxation year, a mortgage investment corporation, as defined in subsection 6 of section 130.1 of the *Income Tax Act* (Canada), the rules provided in the said section 130.1 are applicable in computing its income for the taxation year for the purposes of this Act.

R.S.C. 1952,
c. 158, s. 130.1,
applicable

Mutual Fund Corporations

41.—(1) Except as hereinafter provided, where a corporation is a mutual fund corporation, section 131 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 131,
applicable

(2) In the application of subparagraph i of paragraph *a* of subsection 2 of the said section 131 for the purposes of this Act, the reference therein to "20%" shall be read as a reference to "6%".

(3) In the application of subsection 3 of the said section 131 for the purposes of this Act, the reference therein to "this Act" shall be deemed to be a reference to this Act.

Idem

(4) In the application of clause A of subparagraph i of paragraph *a* and clause C of subparagraph ii of paragraph *b*,

Idem

of subsection 6 of the said section 131, for the purposes of this Act, the references therein to "5 times" shall be read as references to "16 $\frac{2}{3}$ times".

Idem

(5) In the application of paragraph *d* of subsection 6 of the said section 131 for the purposes of this Act, subparagraph *i* thereof shall be read without reference to clause C thereof, and the reference to "40%" in clauses A and B of the said subparagraph shall be read as references to "12 per cent".

Apportionment of capital gains refund

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 34 bears to its total taxable income or, where its taxable income is nil, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the corporation's taxable paid-up capital that is deemed to have been used in jurisdictions outside Ontario for that taxation year for the purposes of section 132 bears to its total taxable paid-up capital.

Exceptions
R.S.C. 1952,
c. 148

(7) Subsections 5 and 9 of section 131 of the *Income Tax Act* (Canada) and paragraph *c* of subsection 6 of the said section are not applicable for the purposes of this Act.

Non-Resident-Owned Investment Corporations

Computation of income

42.—(1) The income of a non-resident-owned investment corporation for a taxation year shall be computed as if its only income for the year was the amount, if any, by which its taxable capital gains for the year exceeds its allowable capital losses for the year, from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada.

Computation of taxable income

(2) The taxable income of a non-resident-owned investment corporation for a taxation year is its income determined under subsection 1, minus its net capital losses for taxation years preceding and the taxation year immediately following the taxation year, as determined in accordance with section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

R.S.C. 1952,
c. 148,
s. 133 (5, 7.1, 7.2),
applicable

(3) The provisions of subsections 5, 7.1 and 7.2 of section 133 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Patronage Dividends

43.—(1) Except as hereinafter provided, the provisions of section 135 of the *Income Tax Act* (Canada) with respect to the deduction from income of payments made pursuant to allocations in proportion to patronage and the inclusion in income of payments received pursuant to allocations in proportion to patronage are, in so far as they apply to corporations, applicable in computing income for the purposes of this Act. R.S.C. 1952, c. 148, s. 135, applicable

(2) Subsection 3 of the said section 135 is not applicable for the purposes of this Act. Non-application of s. 135 (3)

Credit Unions

44.—(1) Except as hereinafter provided, the provisions of section 137 of the *Income Tax Act* (Canada) are applicable in computing the income of credit unions for the purposes of this Act. R.S.C. 1952, c. 148, s. 137, applicable

(2) Subsections 3 and 4 of the said section 137 and paragraph *c* of subsection 6 of the said section 137 are not applicable for the purposes of this Act. Exceptions

Deposit Insurance Corporations

45.—(1) Except as hereinafter provided, the provisions of section 137.1 of the *Income Tax Act* (Canada) are applicable in computing the income of deposit insurance corporations and member institutions thereof for the purposes of this Act. R.S.C. 1952, c. 148, s. 137.1, applicable

(2) In the application of subsection 1 of the said section 137.1 for the purposes of this Act, the reference in paragraph *a* thereof to "this Part" shall be deemed to be a reference to Part II of this Act. Idem

(3) Subsection 9 of the said section 137.1 is not applicable for the purposes of this Act. Exception

Insurance Corporations

46.—(1) Notwithstanding any other provision of this Act, except as hereinafter provided, the taxable incomes of insurance corporations that carry on an insurance business in Ontario shall, for the purposes of this Act, be computed in accordance with the rules provided in sections 138, 140, 141, 141.1 and 142 of the *Income Tax Act* (Canada). Calculation of taxable income

Interpre-
tation

(2) In the application of subsection 1 of the said section 138 for the purposes of this Act, the reference in paragraph *d* thereof to "this Part" shall be deemed to be a reference to Part II of this Act.

Application
of rules
under
R.S.C. 1952,
c. 148

47. The rules provided in section 139 of the *Income Tax Act* (Canada), with respect to the conversion of a provincially incorporated life insurance corporation into a mutual corporation, are applicable for the purposes of this Act.

Amounts to
be included
in computing
policy-
holder's
income

48. Subsection 2 of section 142 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act.

DIVISION G—EXEMPTIONS

Exemptions

49.—(1) Except as hereinafter provided, no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was,

Charities
and other
corporations

(a) a corporation referred to in paragraph *c, d, e, f, h, l, i, j, k, m, n* or *o* of subsection 1 of section 149 of the *Income Tax Act* (Canada);

Non-profit
organizations

(b) a club, society or association that, in the opinion of the Minister, was not a charity within the meaning given to that expression by subsection 1 of section 149.1 of the *Income Tax Act* (Canada) and that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, which has not in the taxation year or in any previous taxation year distributed any part of its income to any proprietor, member or shareholder thereof, or appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, unless the proprietor, member or shareholder was a club, society or association, the primary purpose and function of which was the promotion of amateur athletics in Canada; or

Farmers' and
fishermen's
insurers

(c) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen.

(2) Where a corporation described in clause *b* of subsection 1, Tax payable where distribution made to members or shareholders

(a) has in the taxation year distributed any part of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, such corporation shall be liable to the taxes imposed under this Act for the taxation year in which the distribution is made and for subsequent taxation years, and in computing its income for the taxation year in which the distribution is made, it shall include the aggregate of its income of all previous taxation years; or

(b) has, after 1971, distributed any of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof on the winding up or discontinuance of its business, the corporation shall be deemed to have received income in that taxation year equal to the amount, if any, by which the amount of the funds and the value of the property distributed or appropriated, as the case may be, exceeds the aggregate of,

(i) amounts paid in by proprietors, members or shareholders on account of capital, and

(ii) that part of the corporation's surplus that is attributed to income that was exempt under this section other than taxable capital gains,

and the corporation shall be liable for the taxes imposed under this Act for the taxation year in which the distribution is made.

(3) For the purposes of clause *b* of subsection 1, in computing the part, if any, of any income that was distributed or otherwise appropriated for the benefit of any person, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein. Income not to include taxable capital gains

(4) The rules provided in subsections 2, 3, 4, 6, 8, 9 and 10 of section 149 of the *Income Tax Act* (Canada) are applicable for the purposes of this section. Application of rules under R.S.C. 1952, c. 148

Idem
R.S.C. 1952,
c. 148

(5) In the application of subsection 2 of section 149 of the *Income Tax Act* (Canada) for the purposes of this Act, the said subsection shall be read without the reference therein to paragraph *l*.

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

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

(c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 1 and 9 of section 14 of this Act.

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, 1973, chapter 42, section 11, is repealed and the following substituted therefor:

(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

.

s. 127 (1) (b),
re-enacted

10.—(1) Clause *b* of subsection 1 of section 127 of the said Act is repealed and the following substituted therefor:

(b) the amount of the discount on the issue or sale of the shares of the corporation.

s. 127 (1) (c),
re-enacted

(2) Clause *c* of subsection 1 of the said section 127, as amended by the Statutes of Ontario, 1976, chapter 32, section 17, is repealed and the following substituted therefor:

Investments

(c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *d* which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total of the assets of the corporation remaining after the deductions of the amounts provided by clauses *a*, *b* and *d*, but,

SECTION 9. Subsection 1 of this section amends a cross-reference in clause *c* of subsection 1 of section 126 of the Act. This change is complementary to the amendments made by section 8 of the Bill. Subsection 2 of this section amends clause *d* of subsection 1 of the said section 126, which section defines the amounts required to be included in the calculation of paid-up capital. Clause *d* is amended by adding thereto the words "or by any person related to any of its shareholders" to make it clear that sums or credits advanced or loaned to the corporation by such persons are to be included in the paid-up capital of the corporation.

SECTION 10. This section amends section 127 of the Act. The changes contained in subsection 1 of section 127 extend the deduction from paid-up capital to all corporations which have issued their share of a discount. The deduction was previously limited to Ontario mining corporations incorporated before 1970. The changes contained in subsections 3 and 4 of this section are amendments to cross-references and are complementary to the amendments made by section 8 of the Bill. Subsection 2 of this section amends clause *c* of subsection 1 of section 127 of the Act for the purpose of clarification and to make it clear that the deduction permitted under that clause shall not exceed the cost of the investments with respect to which the deduction is claimed.

SECTION 11. This section amends subclause ii of clause *b* of subsection 1 of section 128 of the Act, relating to the calculation of paid-up capital employed in Canada by non-resident corporations. The subclause is amended to clarify the wording and to provide that loans from banks and loans made to the corporation by "any person related to any of its shareholders" will be taxable in the same way as such amounts are taxed as part of the paid-up capital of resident corporations under section 126.

- (i) the deduction under this clause shall in no case exceed the cost of the investments in respect of which the deduction is claimed, and
- (ii) cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under this Part are deemed not to be loans and advances to other corporations.

(3) Clause *d* of subsection 1 of the said section 127, as enacted by the Statutes of Ontario, 1976, chapter 32, section 17, is amended by striking out "section 63" in the fifth line and inserting in lieu thereof "section 20". s. 127 (1) (d),
amended

(4) Clause *d* of subsection 2 of the said section 127 is repealed and the following substituted therefor: s. 127 (2) (d),
re-enacted

(*d*) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 1 and 9 of section 14 of this Act. R.S.C. 1952,
c. 148

11. Subclause ii of clause *b* of subsection 1 of section 128 of the said Act is repealed and the following substituted therefor: s. 128 (1) (b)
(ii),
re-enacted

- (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada, but excluding therefrom,
 - (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
 - (B) all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and

any other securities to which the property in Canada or any of it is subject,

s. 130.
amended

- 12.** Section 130 of the said Act is amended by striking out “clause *c* of subsection 1 of section 75” in the seventh and eighth lines and inserting in lieu thereof “paragraph *c* of subsection 1 of section 81 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 24 of this Act”.

s. 135.
re-enacted

- 13.** Section 135 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 75, section 10, is repealed and the following substituted therefor:

Idem

135.—(1) Except as provided in subsection 11 of section 14, every corporation referred to in subsection 1 of section 49, other than a corporation referred to in paragraph *m* of subsection 1 of section 149 of the *Income Tax Act* (Canada), shall not be required to pay the taxes otherwise payable under section 131 or 133.

Idem

(2) Subject to subsection 3, every corporation referred to in clause *d* of subsection 1 of section 1, and sections 40 and 44 of this Act and paragraph *m* of subsection 1 of section 149 of the *Income Tax Act* (Canada) shall, in lieu of the tax payable under section 131 or 133, pay a tax of \$50.

Idem

(3) Subsection 2 does not apply in the case of a corporation referred to in clause *d* of subsection 1 of section 1 where, pursuant to subsection 2 of section 31 of the *Income Tax Act* (Canada) as made applicable by subsection 1 of section 14 of this Act, the Minister has determined that the chief source of income of the corporation for a taxation year is neither farming nor a combination of farming and some other source of income.

s. 137.
amended

- 14.** Section 137 of the said Act is amended by striking out “section 122” in the first line and in the sixth line and inserting in lieu thereof in each instance “section 49”.

s. 145.
amended

- 15.** Section 145 of the said Act is amended by adding thereto the following subsection:

Trustees,
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a

SECTIONS 12 AND 14. These sections amend cross-references in sections 130 and 137 and are complementary to the amendments contained in section 8 of this Bill.

SECTION 13. This section re-enacts section 135 of the Act to amend cross-references and these amendments are complementary to the amendments contained in section 8 of the Bill. In addition, subsection 1 of section 135 is amended to provide that the corporations referred to, which were previously required to pay a tax of \$5 in lieu of the paid-up capital tax otherwise payable, will henceforth not be required to pay any paid-up capital tax.

SECTION 15. This section amends section 145 of the Act by adding thereto a new subsection 3 to provide that trustees in bankruptcy, assignees, liquidators, receivers and other persons administering or managing the property or business of the corporation be required to file the annual return where the corporation has not done so. This amendment is required as a result of the amendment to the definition of corporation, which definition previously dealt with this situation.

SECTION 16 This section amends section 148 of the Act. Subsection 1 of this section amends subsection 3 of section 148 of the Act, which provides the rules for the time of payment of tax, in order to parallel as much as possible the amendment to the corresponding section of the *Income Tax Act* (Canada). Clause *b* of subsection 3 of section 148 determines when the final payment of tax for a taxation year is to be made and subclause *i* previously provided that where a corporation had claimed the small business deduction under section 125 of the *Income Tax Act* (Canada) for the previous taxation year, it could make the final payment on or before the last day of the third month following the end of the taxation year in question (all other corporations are required to make the last payment on or before the last day of the second month following the end of the taxation year). The present amendment provides that a corporation may make the final payment on or before the last day of the third month following the end of the taxation year if it deducted an amount under the federal section 125 for that year, even though it may not have made a deduction for the previous year. Subsections 2 and 3 of this section amend cross-references contained in subsections 5 and 6 of the said section 148 and are complementary to the amendments contained in section 8 of the Bill.

SECTION 17. This section of the Bill amends a cross-reference contained in subsection 4 of section 149 of the Act and is complementary to the amendments contained in section 8 of the Bill.

SECTION 18. This section amends section 150 of the Act. Subsection 1 of this section amends subsection 1 of section 150 of the Act and enacts new subsections *1a* and *1b*, in line with the amendments to the corresponding section of the *Income Tax Act* (Canada). The amendments will require the Minister to determine the amount of the capital gains refunds to the mutual fund corporations, investment corporations and other corporations entitled to such refunds (subsection 1 of section 150) and allows the Minister to determine the amount of a corporation's non-capital loss, net capital loss or restricted farm loss (new subsection *1a* of section 150). In addition, it is provided that the sections relating to objections and appeals from assessments are applicable to such determinations (new subsection *1b* of section 150). Previously, a corporation could not appeal from such determination since they were not "assessments" to which the appeal provisions would apply. Subsections 2 and 3 of this section amend cross-references in subsections 4 and 5 of section 150 of the Act and are complementary to the amendments contained in section 8 of the Bill.

taxation year as required by this section shall file the return required by subsection 1 for that corporation for that year.

- 16.**—(1) Subclause i of clause b of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor: ^{s. 148 (3) (b) (i), re-enacted}

- (i) on or before the last day of the third month of the taxation year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part I of that Act for the taxation year or the immediately preceding taxation year, or ^{R.S.C. 1952, c. 148}

.

- (2) Clause b of subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19, is amended by striking out "subsections 2 and 2a of section 109" in the second and third lines and inserting in lieu thereof "section 41". ^{s. 148 (5) (b), amended}

- (3) Subsection 6 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19, is amended by striking out "subsections 2 and 2a of section 109" in the fourth and fifth lines and inserting in lieu thereof "section 41". ^{s. 148 (6), amended}

- 17.** Subsection 4 of section 149 of the said Act is amended by striking out "section 99" in the second line and in the twelfth line and inserting in lieu thereof in each instance "section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act". ^{s. 149 (4), amended}

- 18.**—(1) Subsection 1 of section 150 of the said Act is repealed and the following substituted therefor: ^{s. 150 (1), re-enacted}

(1) The Minister shall with all due despatch examine each return delivered under section 145, shall assess the tax for the taxation year and the interest and penalties, if any, payable and shall determine the amount of refund, if any, to which the corporation may be entitled by virtue of section 39 or 41 for the taxation year. ^{Assessment of returns}

(1a) The Minister may determine the amount of a corporation's non-capital loss, net-capital loss or restricted farm loss for a taxation year where, in his opinion, the amount thereof is different from the amount reported by the corporation in its return delivered under section 145 for the taxation year. ^{Determination of loss}

Provisions
applicable
R.S.C. 1952.
c. 148

(1*b*) The provisions of paragraph *l* of subsection 1 of section 56 and paragraph *o* of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part shall apply, *mutatis mutandis*, to a determination under subsection 1 or 1*a*.

s. 150 (4) (a)
(v),
re-enacted

(2) Subclause *v* of clause *a* of subsection 4 of the said section 150 is repealed and the following substituted therefor:

(v) has claimed a deduction under paragraph *s* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act; and

s. 150 (5),
amended

(3) Subsection 5 of the said section 150 is amended by striking out "section 99" in the sixth line and inserting in lieu thereof "section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act".

s. 152 (4),
amended

19.—(1) Subsection 4 of section 152 of the said Act is amended by inserting after "section 154" in the first line "or by virtue of a decision made under section 160*b*".

s. 152 (7),
amended

(2) Subsection 7 of the said section 152 is amended by striking out "section 99" in the second line and in the twelfth and thirteenth lines and inserting in lieu thereof in each instance "section 111 of the *Income Tax Act* (Canada), as made applicable by section 29 of this Act".

s. 153 (1),
amended

20. Subsection 1 of section 153 of the said Act is amended by striking out "to the extent that interest has been otherwise assessed under subsection 2 of section 149 except that under no circumstances shall the credit interest so allowed exceed the interest otherwise assessed under that section" in the ninth, tenth, eleventh, twelfth and thirteenth lines.

s. 154,
amended

21. Section 154 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 21, is further amended by adding thereto the following subsection:

Reassess-
ment,
additional
assessment or
deter-
mination
does not in-
validate
objection
or appeal

(6) Where a corporation has served a notice of objection to an assessment in accordance with this section or has instituted an appeal in accordance with section 155 and thereafter the Minister issues to the corporation,

(a) a reassessment or additional assessment of tax, interest or penalties under section 150; or

SECTION 19. This section amends section 152 of the Act. Subsection 1 of this section amends subsection 4 of the said section 152 to include therein a reference to the new section 160*b* enacted by section 24 of the Bill and is complementary to that amendment. Subsection 2 of this section amends a cross-reference to subsection 7 of section 152 and is complementary to the amendments contained in section 8 of the Bill.

SECTION 20. This section amends subsection 1 of section 153 of the Act to allow credit interest to be paid on overpayments of tax instalments. Previously such credit interest could only be used to offset interest charged on deficient instalments.

SECTION 21. This section of the Bill adds subsection 6 to section 154 of the Act relating to objections to assessments, and provides that a reassessment, additional assessment or determination for the same fiscal year in respect of which a notice of objection has already been served or an appeal taken, does not invalidate the notice of objection or the appeal. This amendment is similar to the amendment to the corresponding section of the *Income Tax Act* (Canada).

SECTION 22. This section amends section 155 of the Act relating to appeals to the Supreme Court.

Subsection 1 amends subsection 1 of section 155 in order to provide that the appeals shall not be instituted in the Divisional Court. Appeals to the Divisional Court are normally appeals from decisions of another tribunal in which the Divisional Court considers the transcripts of evidence in the other tribunal but does not really hold a new trial, whereas appeals to the Supreme Court under section 155 of the Act are in fact trials of the issues and it is more appropriate, therefore, that these appeals should be in the High Court rather than in the Divisional Court.

Subsection 2 repeals the provisions in section 155 of the Act requiring the payment into court of security for costs when an appeal is instituted. Section 155 will no longer require payment into court of security for costs.

SECTION 23. This section amends subsection 1 of section 157 of the Act which provides that on the filing in court of a notice of appeal and the reply of the Minister the matter is deemed to be an action in the court and ready for hearing. Because the rules of practice of the Supreme Court provide that once an action is ready for hearing no further interlocutory proceedings may be had, the phrase "and, unless the court otherwise orders, ready for hearing" would prohibit any interlocutory proceedings after the filing of the reply of the Minister. Those words are being removed so that such interlocutory proceedings as might otherwise be possible will not be prohibited by that rule.

SECTION 24. This section enacts two new sections to the Act.

Section 160a is added to the Act to permit the Minister to extend the time for serving a notice of objection or instituting an appeal. Previously there was no authority under the Act for the Minister or for the Court to allow an extension of the time, and there have been cases in which an extension of time could not be given even though there were compelling reasons for such an extension. This amendment will remove this harshness from the Act.

This section also adds section 160b to the Act which provides an alternative objection and appeal procedure. This section will apply where the assessment under *The Corporations Tax Act* is based on similar sections of the *Income Tax Act* (Canada) and the corporation wishes to object to both assessments and to raise the same issues in both objections. In such cases, the corporation may object to the assessment under *The Corporations Tax Act* simply by not filing the notice of objection under section 154. This procedure will apply only with respect to those assessments under *The Corporations Tax Act* that state on the face thereof that they are made pursuant to this section. Both the corporation and the Minister will be bound by the results of the federal objection; and the provisions of *The Corporations Tax Act* relating to objections and appeals will not be applicable. This procedure will therefore avoid the necessity of both a federal and provincial appeal on the same issues, which has in the past been to corporations a burdensome duplication of effort.

- (b) a determination of the amount of a refund or loss under subsection 1 or 1a of section 150,

for the taxation year in respect of which the notice of objection was served or the appeal instituted, and sends to the corporation a notice of such reassessment, additional assessment or determination,

- (c) the reassessment, additional assessment or determination does not invalidate the notice of objection or appeal, as the case may be; and

- (d) the corporation may, if section 160b does not apply, file an additional objection in respect of any new matters raised in the reassessments, additional assessment or determination, as the case may be.

22.—(1) Subsection 1 of section 155 of the said Act is amended s. 155 (1), amended by adding at the end thereof “and notwithstanding section 17 of *The Judicature Act* the appeal shall be heard and determined by a judge of the High Court and not by the Divisional Court”.

(2) Subsections 5 and 6 of the said section 155 are repealed. s. 155 (5, 6), repealed

23. Subsection 1 of section 157 of the said Act is amended by striking out “and, unless the court otherwise orders, ready for hearing” in the sixth and seventh lines. s. 157 (1), amended

24. The said Act is further amended by adding thereto the following sections: ss. 160a, 160b, enacted

160a. The time within which a notice of objection under subsection 1 of section 154 or a notice of appeal under subsection 1 of section 155 is to be served may be extended by the Minister if application for extension is made prior to the expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension of time

160b.—(1) Where,

Alternative objection and appeal procedure

- (a) a notice of assessment is issued to a corporation under section 150 that states on the face thereof that the assessment or a designated part thereof has been made pursuant to this section (which assessment or part, as the case may be, is hereinafter referred to as the designated assessment);

- (b) a notice of assessment has been issued to the corporation under the *Income Tax Act* (Canada) based R.S.C. 1952, c. 148

on provisions in that Act corresponding to the provisions in this Act on which the designated assessment was based;

- (c) the corporation has served a notice of objection to the assessment referred to in clause *b* in which the same issues have been raised as would have been raised in an objection to the designated assessment and
- (d) the corporation has not served in accordance with section 154 a notice of objection to the designated assessment,

this section applies to the designated assessment, and in any such case, sections 154 to 160 do not apply, but those sections do apply to the part, if any, of the assessment referred to in clause *a* that is not a designated assessment.

Corporation
and Minister
bound

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies, be bound by,

R.S.C. 1952,
c. 148

- (a) the decision of the Minister of National Revenue for Canada from which no appeal is taken in accordance with the *Income Tax Act* (Canada); or
- (b) where an appeal is instituted, the final disposition of the appeal by the Tax Review Board or any court of competent jurisdiction; or
- (c) any minutes of settlement of the issues raised in the notice of objection to the assessment referred to in clause *b* of subsection 1 made between the corporation and the Minister of National Revenue for Canada at any stage of the proceedings following the service of that notice of objection,

and in any such case the Minister shall, where necessary, reassess the corporation in accordance therewith.

Idem

(3) Sections 154 to 160 do not apply to the reassessment referred to in subsection 2.

s. 167 (1, 2),
re-enacted

25. Subsections 1 and 2 of section 167 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 32 and 1975, chapter 17, section 66, are repealed and the following substituted therefor:

SECTION 25. This section amends section 167 of the Act relating to the statutory lien for taxes and other amounts owing under the Act.

Subsection 1 of section 167 is re-enacted to provide that only such arrears and other amounts for the period commencing after December 31, 1972 will give rise to the statutory lien. Previously the lien commenced after December 31, 1967.

Subsection 2 of section 167 is re-enacted to provide an automatic annual updating of the December 31, 1972 date for commencement of the lien. Previously subsection 2 of section 167 created a lien on the property of railway companies and that provision is repealed because it became obsolete and was redundant to subsection 1 of section 167. This section also enacts a new subsection 2a to section 167 to preserve the lien where a notice thereof is registered in the proper land registry office.

SECTION 26. This section is an omnibus amendment and changes the term "fiscal year" to "taxation year" wherever it occurs in the Act. This amendment is complementary to the tax simplification measures contained in the Bill.

(1) All taxes, interest, penalties, costs and other amounts imposed under this or any predecessor Act in respect of any taxation year of a corporation that commenced in any calendar year ending after the 31st day of December, 1972 are debts due to Her Majesty and, subject to the *Bankruptcy Act* (Canada), are a first lien and charge upon property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts.

Lien in respect of taxes and other amounts imposed

R.S.C. 1970, c. B-4

(2) At the expiry of each calendar year following 1977, the reference in subsection 1 to "1972" shall be advanced by one year.

Expiry of lien

(2a) Subsections 1 and 2 do not apply to extinguish or remove any lien or charge that is claimed under this or any predecessor Act in a Notice of Lien that is registered in the proper land registry office.

Exception re registered liens

26. The said Act is further amended by striking out "fiscal year" wherever it occurs and inserting in lieu thereof in each instance "taxation year".

Act amended

27.—(1) This Act, except clause *d* of subsection 8 and subsection 12 of section 14 of the said Act, subsection 5 of section 15 of the said Act, subsections 4, 5 and 6 of section 16 of the said Act, section 19 of the said Act, subsection 5 of section 25 of the said Act, and section 31 of the said Act, all as enacted by section 8 of this Act, subsection 1 of section 19 and sections 20, 21, 22, 23, 24, 25 and 26, of this Act, comes into force on the day it receives Royal Assent and applies to corporations in respect of all taxation years ending on or after that day.

Commencement and application

(2) Clause *d* of subsection 8 of section 14 of the said Act and section 19 of the said Act, both as enacted by section 8 of this Act, shall be deemed to have come into force on the 20th day of April, 1977 and apply to corporations in respect of all taxation years ending after the 19th day of April, 1977.

Idem

(3) Subsection 12 of section 14 of the said Act, subsection 5 of section 15 of the said Act, subsections 4, 5 and 6 of section 16 of the said Act, subsection 5 of section 25 of the said Act and section 31 of the said Act, all as enacted by section 8 of this Act, come into force on a day to be named by proclamation of the Lieutenant Governor, and when in force, apply to corporations in respect of all taxation years ending on or after the day that *The*

Idem

1977, c. 10

Venture Investment Corporations Registration Act, 1977 comes into force.

- Idem (4) Subsection 1 of section 19 and sections 21, 22, 23, 24, 25 and 26 come into force on the day this Act receives Royal Assent.
- Idem (5) Section 20 of this Act comes into force on the day this Act receives Royal Assent and applies to instalments of tax payable in respect of all taxation years ending on or after that day.
- Idem
R.S.C. 1952,
c. 148.

1972, c. 143 (6) The amendments to the *Income Tax Act* (Canada) made by an Act to amend the *Income Tax Act*, being chapter 4 of the Statutes of Canada, 1976-77, to sections of that Act which are by this Act made applicable for the purposes of *The Corporations Tax Act, 1972* shall be deemed to have come into force for the purposes of *The Corporations Tax Act, 1972* at the same time and to apply in the same manner as those amendments were brought into force and made applicable by the said Act to amend the *Income Tax Act* (Canada).
- Short title **28.** The short title of this Act is *The Corporations Tax Amendment Act, 1977*.







An Act to amend
The Corporations Tax Act, 1972

1st Reading

November 1st, 1977

2nd Reading

3rd Reading

THE HON. MARGARET SCRIVENER
Minister of Revenue

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

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

THE HON. MARGARET SCRIVENER
Minister of Revenue

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

EXPLANATORY NOTES

The Bill substantially re-enacts Parts I and II of *The Corporations Tax Act, 1972*, in the interest of tax simplification. In addition, a number of administrative amendments are made. With respect to the tax simplification measures, Part II of the Act (tax on income) is entirely re-enacted by section 8 of the Bill to provide a greater tie-in with the *Income Tax Act (Canada)*; in those areas where the provisions of both Acts are the same, the sections of the *Income Tax Act (Canada)* are made applicable in so far as they apply to corporations, so that such sections need not be reproduced in *The Corporations Tax Act*, and where there are differences, special provisions are enacted to deal with these. Substantial amendments to Part I of the Act, complementary to the amendments to Part II, are also required. Finally, the Bill adds to the Act a number of provisions to provide for the treatment of corporations that buy shares of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*; such provisions to come into force on proclamation.

SECTION 1. This section re-enacts section 1 of the Act and is complementary to the tax simplification measures contained in section 8 of the Bill. The interpretations contained in Part XVII of the *Income Tax Act (Canada)* are, with certain exceptions, adopted and made applicable for the purposes of the Act. Certain additional interpretations are also included for the purposes of the Act. A provision is included to deal with the applicability or non-applicability of cross-references within the adopted sections of the *Income Tax Act (Canada)*. Also it is provided in subsection 6 of the new section 1 of the Act that the applicable sections of the *Income Tax Act (Canada)* are adopted as amended or re-enacted from time to time. Finally, the adoption of the definition of "corporation" contained in the *Income Tax Act (Canada)* represents a substantive change to the Act—the present definition of "corporation" does not include corporations incorporated without share capital; the new definition includes such corporations.

The adoption of the Federal definition of "gross revenue" represents a change from the definition of that term in the present Act. This will affect the allocation of income to jurisdictions other than Ontario.

It should be noted that this section also reflects a change in terminology which has been adopted throughout the Act, namely that the expression "fiscal year" will now become "taxation year". Section 26 of the Bill amends this terminology in those sections of the Act not otherwise specifically amended by the Bill.

**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. Section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, 1974, chapter 75, section 1, 1975, chapter 17, section 1 and 1976, chapter 32, section 1, is repealed and the following substituted therefor:

1.—(1) In this Act and in the application of the provisions of the *Income Tax Act* (Canada) that are by this Act made applicable for the purposes of this Act,

^{s. 1,}
re-enacted

Interpre-
tation
R.S.C. 1952,
c. 148

- (a) each of the interpretations contained in Part XVII of the *Income Tax Act* (Canada) are, except as hereinafter provided, applicable for the purposes of this Act;
- (b) the interpretations contained in the said Part XVII of the expressions “farming”, “foreign resource property”, “Minister”, “paid-up capital”, “regulations”, “taxable income”, “taxable income earned in Canada” and “tax payable” do not apply and in lieu thereof the following interpretations are applicable:
- (i) “farming” includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing, and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming and, for the purposes of subsection 2 of section 135 only, does not include the maintaining of horses for racing,

R.S.C. 1952,
c. 148

- (ii) "foreign resource property" has the meaning given to that expression by section 15 of this Act,
- (iii) "Minister" means, unless otherwise provided in this Act, the Minister of Revenue,
- (iv) "paid-up capital" has the meaning given to that expression by paragraph *c* of subsection 1 of section 89 of the *Income Tax Act* (Canada), but such meaning does not apply for the purposes of Part III of this Act,
- (v) "regulations" means regulations made under this Act,
- (vi) "tax payable" by a corporation under any part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 154 to 160*b*, as the case may be,
- (vii) "taxable income" has the meaning given to that expression by section 9 of this Act,
- (viii) "taxable income earned in Canada" has the meaning given to that expression by section 10 of this Act;

R.S.C. 1970,
cc. B-1, B-4

- (c) "bank" means a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies;
- (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) "farming assets" of a family farm corporation means,
- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming,
 - (ii) land, buildings, equipment, machinery, and live stock that are used chiefly in the operation of the farm by the corporation,
 - (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming,
 - (iv) the building in which a shareholder or member or members of his family reside who are engaged in the operation of the farm if that building is on land that is used or is contiguous to land used by that shareholder or member or members of his family in the operation of the farm,
 - (v) shares in another family farm corporation;
- (f) "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
- (g) "member of his family" means, with respect to an individual referred to in clause *d*,
- (i) his spouse,
 - (ii) his child,
 - (iii) his father, mother, brother or sister or any lawful descendant of such brother or sister,
 - (iv) the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

R.S.O. 1970.
c. 64

- (v) the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,
- (vi) his son-in-law or daughter-in-law,
- (vii) a person adopted by him under *The Child Welfare Act* or the spouse or any lawful descendant of such person, or
- (viii) his grandfather or grandmother;
- (h) "permanent establishment" has the meaning given to that expression by section 7;
- (i) "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, and computed by reference to, the amount of timber cut or taken.

Idem
R.S.C. 1952,
c. 148

(2) In the application of the sections of the *Income Tax Act* (Canada) that by this Act are made applicable for the purposes of this Act,

- (a) "capital cost" means the cost of property as determined for the purposes of this Act;
- (b) "undepreciated capital cost" means the undepreciated capital cost of depreciable property as determined for the purposes of this Act;
- (c) the references therein to,
 - (i) returns required to be filed under section 150 of that Act shall be deemed to be references to the returns required to be filed under section 145 of this Act, and
 - (ii) assessments to be made under section 152 of that Act shall be deemed to be references to assessments to be made under section 150 of this Act;
- (d) where a section of that Act has been made applicable for the purposes of this Act, and reference is made in that section to another provision (herein-

after in this clause referred to as the "other provision") of that Act which,

- (i) does not apply for the purposes of this Act,
- (ii) does not apply for the purposes of this Act because a provision of this Act is enacted to apply in lieu thereof, or
- (iii) in respect of which the application for the purposes of this Act differs,

the following rules apply in the application of the section for the purposes of this Act,

- (iv) where subclause i applies, the section (except sections 20, 56, 60, paragraph *f* of subsection 1 of section 95 and section 138 of that Act) shall be read as if the reference to the other provision were deleted,
- (v) where subclause ii applies, the reference to the other provision shall be deemed to be a reference to the provision of this Act that applies in lieu thereof, and
- (vi) where subclause iii applies, the reference to the other provision shall be deemed to be a reference to the other provision as it applies for the purposes of this Act.

(3) Notwithstanding subsection 1, any regulation made pursuant to any provision of the *Income Tax Act* (Canada) that is by this Act made applicable for the purposes of this Act shall apply with necessary modifications for the purposes of this Act unless otherwise provided by this Act or by the regulations. Application of regulations under R.S.C. 1952, c. 148

(4) Any election or designation by a corporation which has been properly made for the purposes of the *Income Tax Act* (Canada), pursuant to any provision of that Act that is by this Act made applicable for the purposes of this Act, shall be deemed to have been properly made for the purposes of this Act, provided that, Elections R.S.C. 1952, c. 148

- (a) where an amount elected would be different from the amount determined in accordance with this Act, the amount determined in accordance with this Act shall apply; and

(b) the provisions in that Act imposing penalties for late filing of such elections are not applicable for the purposes of this Act.


Registered
pension
funds

(5) Any registered pension fund or plan that has been accepted for registration by the Minister of National Revenue for Canada shall be deemed to have been accepted for registration by the Minister of Revenue.

R.S.C. 1952,
c. 148 applies
as amended
from time
to time

(6) The sections of the *Income Tax Act* (Canada) by this Act made applicable for the purposes of this Act shall, unless otherwise provided in this Act, be deemed to be applicable as amended or re-enacted from time to time, and such amendments or re-enactments shall apply for the purposes of this Act in the same manner as they apply for the purposes of the *Income Tax Act* (Canada).

s. 2 (2) (c),
re-enacted

 2.—(1) Clause *c* of subsection 2 of section 2 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 1, is repealed and the following substituted therefor:

(c) disposed of taxable Canadian property within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section; or

R.S.C. 1952,
c. 148

(d) carried on business in Ontario,

.

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

(2) Clause *c* of subsection 3 of the said section 2, as amended by the Statutes of Ontario, 1973, chapter 42, section 1, is repealed and the following substituted therefor:

(c) disposed of taxable Canadian property within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section; or

(d) carried on business in Ontario, 



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ss. 4, 5,
repealed

3. Sections 4 and 5 of the said Act are repealed.

s. 6 (1),
amended

4. Subsection 1 of section 6 of the said Act is amended by striking out "stock, mileage" in the third line and in the fifth line.

 SECTION 2. This section amends subsections 2 and 3 of section 2 of the Act by re-enacting clause *c* in each subsection to correct cross references that are required as a result of other amendments. In addition, the section adds clause *d* to subsections 2 and 3 to extend the applicability of section 2 to foreign corporations which carried on business in Ontario in a taxation year. 

SECTION 3. This section repeals sections 4 and 5 of the Act which are no longer necessary as a result of the tax simplification measures adopting the various provisions of the *Income Tax Act* (Canada).

SECTION 4. This section amends subsection 1 of section 6 of the Act by striking out the words "stock, mileage" which became unnecessary as a result of the repeal in 1973 of sections 138 and 139 of the Act.

SECTION 5. This section of the Bill repeals section 11 of the Act which is no longer necessary as a result of the tax simplification measures adopting the various provisions of the *Income Tax Act* (Canada).

SECTION 6. This section re-enacts section 12 of the Act to make section 3 of the *Income Tax Act* (Canada) applicable for the purposes of the Act. This is part of the tax simplification measures adopting various provisions of the *Income Tax Act* (Canada) and does not represent a substantive change to the Act.

SECTION 7. This section re-enacts section 13 of the Act to make section 4 of the *Income Tax Act* (Canada) applicable for the purposes of the Act. This amendment is part of the tax simplification measures contained in this Bill and does not involve any substantive change to the Act.

SECTION 8. This section re-enacts Part II (sections 14 to 122) of the Act as part of the tax simplification measures contained in the Bill. As indicated in the preamble to these explanatory notes, these provisions adopt the corresponding provisions of the *Income Tax Act* (Canada) where applicable and also preserve those sections of the Act where the Act differs from the *Income Tax Act* (Canada). This section of the Bill, enacting new sections 14 to 49 of the Act, also enacts some substantive changes to the Act. The following matters should be noted:

1. The provision formerly found in clause *l* of subsection 1 of section 22 of the Act, with respect to the deduction of 5/12ths from the amount otherwise deductible as a management fee in certain circumstances, is now an inclusion of that amount in income as provided in subsection 6 of the new section 14.
2. Certain sections have been deleted as they have become redundant as a result of the adoption of the various provisions of the *Income Tax Act* (Canada). For example, because of the adoption of sections 20 and 60 (deductions) and 56 (inclusions) of the *Income Tax Act* (Canada), the sections of the Act dealing with co-operative corporations (section 113) and certain deferred income arrangements (sections 118, 119 and 120 of the Act) became redundant and are no longer required.
3. Certain sections have been amended for clarification, for example, clause *c* of subsection 7 of the new section 14 amends the wording of the former subsection 2 of section 22 of the Act.
4. The new section 29 of the Act relating to charitable donations and gifts to Her Majesty represents a change from the former section 98 of the Act, in that gifts to provinces other than Ontario will now be fully deductible, in line with the treatment given to such gifts under the *Income Tax Act* (Canada) and by the other provinces. The former section 98 limited this deduction to 20 per cent of the donor corporation's income.
5. The new section 45 of the Act adds a section adopting the provisions of the *Income Tax Act* (Canada) with respect to deposit insurance corporations.
6. The former section 115 of the Act relating to insurance companies has been simplified as a result of the adoption of the various other provisions of the *Income Tax Act* (Canada); however, the new section 46 does not make any substantive change in the taxation of such companies.

5. Section 11 of the said Act is repealed. s. 11,
repealed
6. Section 12 of the said Act is repealed and the following substituted therefor: s. 12,
re-enacted

12.—(1) Except as hereinafter provided, section 3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations. Basic
rules,
R.S.C. 1952,
c. 148, s. 3,
applicable

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph *c* thereof to "sub-division *e*" shall be deemed to be a reference to Subdivision D of Part II of this Act. Interpre-
tation

7. Section 13 of the said Act is repealed and the following substituted therefor: s. 13,
re-enacted

13. Except as hereinafter provided, section 4 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations. Income or
loss from
a source or
from sources
in a place
R.S.C. 1952,
c. 148

8. Part II of the said Act, exclusive of sections 8 to 13*a*, as amended by the Statutes of Ontario, 1973, chapter 42, sections 3 to 9, 1973, chapter 157, sections 2 to 11, 13 to 15 and 17 to 31, 1974, chapter 75, sections 3 to 6 and 8, 1975, chapter 17, sections 4 to 56 and 58 to 63, 1976, chapter 32, sections 2 to 16, 1976, chapter 63, section 1, 1976, chapter 80, section 1 and 1977, chapter 16, sections 1 and 2, is repealed and the following substituted therefor: Pt. II,
(ss. 14-49,
re-enacted),
(ss. 50-122,
repealed)

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

14.—(1) Except as hereinafter provided, the income or loss of a corporation for a taxation year from a business or property shall for the purposes of this Act be determined in accordance with subdivisions *a* and *b* of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivisions *a* and *b* are applicable to this Act in so far as the said subdivisions apply to corporations. Application
of
R.S.C. 1952,
c. 148

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act the amount determined for the purposes of the *Income Tax Act* (Canada) as the value of property described in an inventory is applicable for the purposes of this Act, except that, Inventory of
land

- (*a*) where land is included in an inventory of a corporation and the corporation has, in calculating its income for the taxation year or any previous taxation year, deducted an amount referred to in clause *c* of subsection 7 in respect of such land, the amount

so deducted shall not be included in determining the value of the inventory for the purposes of subsection 1; and

- (b) the Minister may determine the value of the property described in an inventory for the purposes of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation.

Payment or refund of a fee under Ontario Beef Calf Income Stabilization Program to be included in income

(3) In addition to any other amount required by virtue of subsection 1 to be included in computing the income of a corporation for a taxation year as income from a business or property, there shall be included any amount received by the corporation as a stabilization payment or refund of a fee under the Ontario Beef Calf Income Stabilization Program.

Disposition of depreciable property:

(4) In the application of section 13 of the *Income Tax Act* (Canada) for the purposes of this Act, the following rules apply,

Undepreciated capital cost

- (a) subsections 7.1 and 10 of the said section 13 and subparagraph vi of paragraph *f* of subsection 21 of the said section 13 are not applicable in determining the capital cost or the undepreciated capital cost of depreciable property of a prescribed class for the purposes of this Act and the regulations;

Reduction of capital cost by amount of government assistance

- (b) where a corporation has received or is entitled to receive a grant, subsidy, forgivable loan, investment allowance or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount,

(i) authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Treasury Board of the Government of Canada in respect of scientific research expenditures incurred for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

(ii) authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister, or

R.S.C. 1970,
c. I-10

1965, c. 12
(Can.)

7. Subsection 11 of the new section 14 of the Act (non-capital loss on the disposition of shares of a V.I.C.), subsection 5 of the new section 15 of the Act (capital loss on disposition of shares of a V.I.C.), subsections 4, 5 and 6 of the new section 16 of the Act (amounts to be included in income on the disposition of the shares of a V.I.C.), subsection 5 of the new section 25 of the Act (transfer of the shares of a V.I.C. on an amalgamation or winding-up) and the new section 31 of the Act (deduction from taxable income on acquisition of shares of a V.I.C.) are all new provisions, contained in section 8 of the Bill, relating to the treatment of the acquisition and disposition of shares of a company registered under *The Venture Investment Corporations Registration Act, 1977*, and will come into force on proclamation when *The Venture Investment Corporations Registration Act, 1977*, is proclaimed into force.

Basically, a corporation will be allowed a deduction from taxable income earned in Ontario equal to 250 per cent of its investment in the shares of a V.I.C., and the amount eligible for such deduction not used in the year may be carried forward indefinitely. On the disposition of such shares, 250 per cent of the proceeds will be included in the investor's income for the year of the disposition. Recoveries in excess of the original cost of the shares will be treated as capital gains. Non-capital losses on the disposition of such shares will not be allowed, and capital losses on such dispositions will be limited, since the deferred taxes on the loss portion of the investment will not be recovered.

- (iii) deducted as an allowance under section 65 of the *Income Tax Act* (Canada) or section 19 of this Act, R.S.C. 1952,
c. 148

the capital cost of the property to the corporation shall be deemed to be the amount by which the aggregate of,

- (iv) the capital cost thereof to the corporation, otherwise determined, and
- (v) such part, if any, of the assistance as has been repaid by the corporation pursuant to an obligation to repay all or part of that assistance,

exceeds,

- (vi) the amount of assistance.

(5) In the application of section 17 of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 2 thereof does not apply in determining whether an amount shall be included in the income of a corporation in accordance with subsection 1 thereof. Loan to
non-resident
person

(6) Where an amount in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or a similar payment; or

- (c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

Management
fee, rent and
similar
payment
to non-
resident to be
included in
income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include $\frac{5}{12}$ ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph *a*, *d* or *e* of subsection 1 of section 212 of the *Income Tax Act* (Canada) or subsection 5 of that section, except that clause *b* does not apply where the non-resident person to whom the amount is paid or payable is a corporation liable to the taxes imposed under this Act by virtue of clause *b* of subsection 2 or clause *b* of subsection 3 of section 2.

Deductions
allowed
R.S.C. 1952,
c. 148

(7) Subsection 2 of section 18 of the *Income Tax Act* (Canada) and paragraphs *a* and *v.1* of subsection 1 of section 20 of that Act are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

Capital cost
of property

(a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, as is allowed by regulation;

Fee under
Ontario Beef
Calf Income
Stabilization
Program

(b) an amount paid by the corporation in the taxation year as a fee under the Ontario Beef Calf Income Stabilization Program;

Certain
interest
and property
taxes on land

(c) notwithstanding paragraph *c* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable to this Act but subject to subsection 3 of section 18 of the said Act, any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,

(i) interest on borrowed money used to acquire land or on an amount payable by the corporation for land, or

(ii) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land can reasonably be considered to have been, in that year,

(iii) included in the inventory of a business carried on by the corporation,

(iv) otherwise used in, or held in the course of, carrying on a business carried on by the corporation, or

(v) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

and if none of subclauses iii, iv and v is applicable, then the deduction under this clause is permitted only to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year;

- (d) such amount as is allowed to the corporation by ^{Resource allowance} regulation in respect of oil or gas resources in Canada, as defined by regulation.

(8) In the application of paragraph *n* of subsection 1 of ^{Deductions not allowed R.S.C. 1952, c. 148} section 20 of the *Income Tax Act* (Canada) for the purposes of this Act,

- (a) notwithstanding subsection 8 of section 20 of the ^{No deduction in respect of property in certain circumstances} *Income Tax Act* (Canada), the said paragraph *n* does not apply to allow a deduction in computing the income of a corporation for a taxation year from a business in respect of a property sold in the course of the business if the corporation at the end of the taxation year or at any time in the immediately following taxation year,

(i) was exempt from tax under any provision of this Part, or

(ii) ceased to have a permanent establishment in Canada; and

- (b) the said paragraph *n* does not apply to allow a ^{No deduction in respect of sale of property if security disposed of} deduction in computing the income of a corporation for a taxation year from a business where the corporation has, in the taxation year sold, pledged, assigned or in any way disposed of any security received by it as payment in whole or in part for the sale of property in respect of which the corporation has, in that or a previous taxation year, been allowed a deduction under that paragraph for the purposes of this Act.

(9) In the application of paragraph *s* of subsection 1 of ^{Interpretation} section 20 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "Minister" shall be deemed to be a reference to the Minister of National Revenue for Canada.

(10) Section 27 of the *Income Tax Act* (Canada) is not ^{Crown corporations} applicable for the purposes of this Act and in lieu thereof the following provisions shall apply:

Prescription

1. Where a corporation referred to in paragraph *d* of subsection 1 of section 149 of the *Income Tax Act* (Canada) is otherwise exempt under section 49 of this Act and subsection 1 of section 135 of this Act, such exemptions do not apply if the corporation is prescribed by regulation.

Transfers of land for disposition

2. Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation.

Loss on disposition of shares of a Venture Investment Corporation 1977, c. 10

- (11) Where in a taxation year a corporation has incurred a loss, other than a capital loss, from the disposition of property that is shares of the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*, such loss shall not be allowed in computing the income or loss of the corporation from a business or property for the taxation year.

SUBDIVISION B—TAXABLE CAPITAL GAINS AND ALLOWABLE CAPITAL LOSSES

Application of R.S.C. 1952, c. 148

- 15.—(1) Except as hereinafter provided, the taxable capital gains and allowable capital losses of a corporation for a taxation year from the disposition of any property shall for the purposes of this Act be determined in accordance with subdivision c of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivision c is applicable to this Act in so far as the said subdivision applies to corporations.

Idem

- (2) Paragraph *c* of subsection 1 of section 48 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Idem

- (3) In the application of paragraph *a* of subsection 2 of section 40 of the *Income Tax Act* (Canada) for the purposes of this Act, subparagraph *i* thereof shall be read as though the words “was not resident” were deleted and the words “ceased to have a permanent establishment” were inserted in lieu thereof.

Adjustments to cost base

- (4) In computing the adjusted cost base to a corporation of property in accordance with the provisions made applicable by subsection 1, the following rules apply for the purposes of this Act,

- (a) where the property is a foreign resource property, there shall be added to the cost of the property to the corporation that part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to the property that is not allowed as a deduction from income for purposes of this Act;
- (b) clause B of subparagraph ii of paragraph c of subsection 2 of section 53 of the *Income Tax Act* ^{R.S.C. 1952, c. 148} (Canada) shall apply as if the words "foreign exploration and development expenses" were deleted;
- (c) subparagraph i of paragraph k of subsection 2 of section 53 of the *Income Tax Act* (Canada) shall apply,
- (i) as if the words "deduction from tax" were deleted, and
- (ii) as if the reference in clause B thereof to section 65 were a reference to the said section 65 and to section 19 of this Act;
- (d) where the property is a foreign resource property, there shall be deducted in respect of such property any amount that has become receivable by the corporation at a particular time in a taxation year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services the original cost of which may reasonably be regarded as having been foreign exploration and development expenses.

(5) Notwithstanding the rules contained in subsection 1 of section 40 of the *Income Tax Act* (Canada) as made applicable by subsection 1 of this section, a corporation's capital loss from the disposition of property that is shares in the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*, is the amount ^{Capital loss on disposition of shares of a Venture Investment Corporation} ^{1977, c. 10} by which,

- (a) the capital loss in respect of such disposition, otherwise determined,

exceeds,

- (b) the amount in respect of such shares that was deducted under section 31 minus the amount included in income under subsection 4 of section 16.

Inter-
pretation

(6) In this Subdivision,

(a) "foreign exploration and development expenses" incurred by a corporation means,

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

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

(iii) any annual payment made by the corporation for the preservation of a foreign resource property, and

(iv) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period it was a member or partner thereof;

(b) "foreign 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 "in Canada" were references to "outside Canada" and were read without reference to the words "after 1971".

R.S.C. 1952,
c. 148

SUBDIVISION C—OTHER SOURCES OF INCOME

R.S.C. 1952,
c. 148
Part I (B) (d)
applicable

16.—(1) Except as hereinafter provided, subdivision d of Division B of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subdivision applies to corporations.

(2) In the application of subsection 1 of section 56 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference in subparagraph i of paragraph 1 thereof to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpre-
tation
R.S.C. 1952,
c. 148

(3) Section 59 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act, and in lieu thereof the following provisions apply,

Disposition
of resource
property

(a) where a corporation disposes of,

Amount
receivable as
consideration
for disposition
of resource
property

(i) a Canadian resource property, or

(ii) any right, licence or privilege described in subsection 12 of section 58 of *The Corporations Tax Act*, as it read in its application to taxation years prior to 1972, that was acquired by the corporation,

(A) before 1972 in the case of,

1. a corporation that is a principal-business corporation within the meaning given to that expression by subsection 14 of section 20 or that was, at the time it acquired the property, such a principal-business corporation, or

2. an association, partnership or syndicate described in subsection 4 of section 83A of the *Income Tax Act* (Canada) as it read in its application to the 1971 taxation year, and

(B) after April 10, 1962 and before 1972, in any other case,

under an agreement or other contract or arrangement described therein,

the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year, to the extent that the proceeds become receivable in that year;

(b) there shall be included in computing a corporation's income for a taxation year any amount in respect of,

Amount
deducted
under s. 18
in preceding
year

- (i) a Canadian resource property, or
- (ii) any property referred to in subclause ii of clause *a* or in clause *c*,

that has been deducted under section 18 in computing the corporation's income for the immediately preceding taxation year;

Disposition of
resource
property
acquired
before 1972

R.S.C. 1952,
c. 148

- (c) where a corporation has made a disposition of property owned, or deemed to have been owned, by it on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subparagraphs i to vi of paragraph *c* of subsection 15 of section 66 of the *Income Tax Act* (Canada) and is not property described in subclause ii of clause *a*, the following rules apply,

- (i) the relevant percentage of the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year to the extent that the proceeds become receivable, and
- (ii) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this subsection and section 20,
 - (A) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of subclause i in respect of the disposition by the corporation of the property, and
 - (B) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof;

Interpre-
tation

- (d) in this subsection,
 - (i) "relevant percentage" has the meaning given to that expression by subsection 4 of section 59 of the *Income Tax Act* (Canada),

- (ii) "disposition" and "proceeds of disposition" have the meaning given to those expressions by section 54 of the *Income Tax Act* (Canada). R.S.C. 1952, c. 148

(4) In addition to any other amount that is required to be included in computing the income of a corporation for a taxation year by virtue of the provisions of subdivision d of Division B of Part I of the *Income Tax Act* (Canada) that are made applicable by subsection 1 of this section, there shall be included the following amounts:

- (a) where, in a taxation year, shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* c. 10 have been disposed of by the corporation, an amount equal to the aggregate of,

(i) 250 per cent of the lesser of,

(A) the cost to the corporation of the said shares disposed of, and

(B) the proceeds of disposition of such shares, and

(ii) that proportion of the amount determined under subclause i that,

(A) the taxable income of the corporation for the year, determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(B) the amount by which the taxable income of the corporation for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A; and

- (b) where at a particular time in the taxation year the registration of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* (hereinafter in this subsection referred to as the V.I.C.) has been revoked pursuant to section 6 of that Act and at the particular time

the corporation owned shares of the capital stock of the V.I.C., an amount equal to the aggregate of,

- (i) 250 per cent of the cost to the corporation of the said shares, and
- (ii) that proportion of the amount determined under subclause i that,
 - (A) the taxable income of the corporation for the year, determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

- (B) the amount by which the taxable income of the corporation for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A.

Idem
1977, c. 10

(5) Where in a taxation year a corporation that owns shares in the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has ceased to have a permanent establishment in Ontario within the meaning of section 7, the corporation shall for the purposes of subsections 4 and 6 of this section be deemed to have disposed of the shares in that year for proceeds equal to the cost to the corporation of the shares.

Idem

(6) Where in a taxation year a corporation that owns shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has disposed of or is deemed to have disposed of any of those shares, or the registration of the corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has been revoked pursuant to section 6 of that Act, and all of the taxable income of the corporation for the year, determined without reference to this subsection, is deemed for the purposes of section 34 to have been earned in jurisdictions other than Ontario, the following rules apply,

- (a) the amount of the corporation's taxable income for the year shall be determined as if it has no income other than the amount determined under clause *a* or *b* of subsection 4, as the case may be;

- (b) the only amounts deductible under this Act by the corporation in determining its taxable income for the year shall be its undeducted eligible expenditures, within the meaning of section 31, as at the end of the immediately preceding taxation year; and
- (c) for the purposes of section 34, no portion of the corporation's taxable income as determined under clauses *a* and *b* shall be deemed to have been earned in jurisdictions other than Ontario.

SUBDIVISION D—DEDUCTIONS IN
COMPUTING INCOME

17.—(1) Except as hereinafter provided, section 60 of the *Income Tax Act* (Canada), is applicable for the purposes of this Act in so far as the said section applies to corporations.

Application
of
R.S.C. 1952,
c. 148, s. 60

(2) In the application of subparagraph *i* of paragraph *o* of the said section 60 for the purposes of this Act, the reference therein to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpre-
tation

R.S.C. 1952,
c. 148

(3) In addition to the deductions permitted by virtue of subsection 1, there may be deducted in computing the income of a corporation for a taxation year all corporation taxes payable in the taxation year by the corporation.

Corporation
taxes
deductible

(4) In this section,

Interpre-
tation

- (a) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations;
- (b) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax.

18.—(1) In computing a corporation's income for a taxation year, in this subsection referred to as the "current year", where,

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

- (a) by virtue of clause *a* or *c* of subsection 3 of section 16, subsection 11 of section 20, or clause *a* of subsection 12 of section 20, an amount has been included in computing the corporation's income for the current year or a previous taxation year; or
- (b) an amount referred to in paragraph *b* of subsection 1 of section 64 of the *Income Tax Act* (Canada) has been included in computing, for the purposes of this Act, the corporation's income for that previous taxation year,

in respect of the disposition of any property and that amount or a part thereof is not due until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the part thereof that is not due until a day that is after the end of the current year, not exceeding, where the property was disposed of in a taxation year preceding the current year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the taxation year immediately preceding the current year, and for greater certainty, no deduction may be made in respect of that amount under paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 14 of this Act.

R.S.C. 1952,
c. 148

Application of
subs. 1

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at any time in the taxation year or in the immediately following taxation year,

- (a) ceases to be a resident of Canada;
- (b) becomes exempt from tax under any provision of this Part; or
- (c) if a non-resident, ceases to have a permanent establishment in Canada.

Application
of section

(3) For the purpose of clause *d* of subsection 2 of section 1, this section applies in lieu of section 64 of the *Income Tax Act* (Canada).

Allowance for
oil or gas well,
mine or
timber limit

19.—(1) There may be deducted in computing a corporation's income for a taxation year such amount as an allowance, if any, in respect of,

- (a) an oil or gas well, mineral resource or timber limit; or

- (b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource,

as is allowed by regulation.

(2) For greater certainty it is hereby declared that, in the ^{Regulations} case of a regulation made under subsection 1,

- (a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or

(ii) processing operations described in clause *b* of subsection 1 that are carried on by the corporation; and

- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

(3) Where a deduction is allowed under subsection 1 in ^{Lessee's share of allowance} respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions.

(4) For the purpose of clause *d* of subsection 2 of section 1, ^{Application} this section applies in lieu of section 65 of the *Income Tax* ^{R.S.C. 1952, c. 148} *Act* (Canada).

20.—(1) A principal-business corporation may deduct, in ^{Exploration and development expenses of principal-business corporations} computing its income for a taxation year, the lesser of,

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year, to the extent that they were not deductible in computing income for a previous taxation year; and

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 19, minus the deductions allowed for the taxation year by subsection 5 and by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

Expenses of
other
corporations

(2) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year to the extent they were not deductible in computing its income for a previous taxation year; and

(b) of that aggregate, the amount, if any, by which the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 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,

if no deductions were allowed under section 19,

exceeds,

- (iii) the amount of any deduction allowed by the *Corporations Tax Application Rules, 1972* in respect of this subclause in computing its income for the taxation year.

(3) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

Ontario exploration and development expenses; corporation other than a principal-business corporation

- (a) the aggregate of such of its Ontario exploration and development expenses as were incurred by it before the end of the taxation year to the extent that they were not deducted in computing its income for a previous year, minus that portion of the deduction allowed, if any, in computing its income for the taxation year under subsection 2 which is reasonably attributable to Ontario exploration and development expenses; and

- (b) that portion of the amount determined under clause a equal to the amount of its income for the taxation year if no deductions were allowed under this section, minus,

- (i) that portion of the deduction allowed for the taxation year under subsection 2 which is reasonably attributable to Ontario exploration and development expenses, and

- (ii) the deduction allowed for the taxation year under sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

R.S.C. 1952, c. 148

(4) Subsection 3 of section 16, section 18 and subsections 2 and 3 do not apply in computing the income for a taxation year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons. Dealers

Canadian
exploration
and
development
expenses
deductible
by successor
corporation
and second
successor
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 the reference in paragraph *b* of each of the said subsections,

- (a) to "this section" is deemed to be a reference to this section of this Act;
- (b) to section 65 is deemed to be a reference to section 19 of this Act;
- (c) to subsection 2 of section 66.1 does not apply; and
- (d) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*.

Joint
exploration
corporation:
renunciation
of its
exploration
and develop-
ment expenses
in favour
of shareholder
corporation

(6) The portion, if any, of its Canadian exploration and development expenses that a joint exploration corporation may renounce in favour of a shareholder corporation shall be determined in accordance with the rules provided in subsection 10 of section 66 of the *Income Tax Act* (Canada) and paragraphs *a* and *b* of the said subsection are applicable, except that for the purposes of this subsection,

- (a) the references in the said subsection to subsections 1 and 3 of that section shall be deemed to be references to subsections 1 and 2 of this section; and
- (b) the references in paragraph *b* of the said subsection to paragraph *a* of subsection 1 of that section shall be deemed to be a reference to clause *a* of subsection 1 of this section.

Control
change

(7) Subsection 11 of section 66 of the *Income Tax Act* (Canada) is applicable for the purposes of this section, except that, in its application for the purposes of this section, the said subsection shall be read without the reference therein to "cumulative Canadian exploration expense, cumulative Canadian development expense and foreign exploration and development expenses".

Computation
of explora-
tion and
development
expenses

(8) In computing the Canadian exploration and development expenses and Ontario exploration and development expenses of a corporation,

- (a) there shall be deducted the aggregate of all amounts paid to it after 1971 and before the 25th day of May, 1976,

- (i) under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
- (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development, or
- (iii) under the *Mineral Exploration Assistance Program* (Ontario),

to the extent that the amounts have been expended by the corporation as or on account of Canadian exploration and development expenses or Ontario exploration and development expenses, as the case may be; and

- (b) there shall be included any amount, except an amount in respect of interest, paid by the corporation, after 1971 in respect of amounts paid to it before the 25th day of May, 1976, under the Regulations referred to in subclause i of clause a to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario.

(9) Except as otherwise provided in this section, 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, 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

(10) Notwithstanding subsection 9, a corporation that is entitled to a deduction under both subsections 2 and 3 may, in addition to the deduction under subsection 2, deduct such additional amount as it may claim in respect of Ontario exploration and development expenses under subsection 3. Idem

(11) Except as expressly otherwise provided in this Act, where, as a result of a transaction occurring after the 6th day of May, 1974, an amount has become receivable by a corporation at a particular time in a taxation year and the consideration given by the corporation therefor was property (other than a property referred to in subsection 3 of section Limitations of Canadian exploration and development expenses

16 or a share or interest therein or a right thereto) or services, the original cost of which to the corporation may reasonably be regarded as having been primarily Canadian exploration and development expenses of the corporation or would have been so regarded if they have been incurred by the corporation after 1971, there shall be included in its income for that taxation year the amount that became receivable by it at that time.

Unitized oil
or gas field
in Canada

(12) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1974 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

- (a) there shall, at that time, be included in computing the corporation's income for the taxation year the amount that became receivable by it; and
- (b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that person.

Amount
deemed
deductible
under this
Subdivision

(13) For the purposes of section 12, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision.

Interpre-
tation
R.S.C. 1952,
c. 148

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

- (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,
 - (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), R.S.C. 1952, c. 148 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 from a government, municipality or other public authority in respect of or related to its Canadian exploration and development expenses, 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;

R.S.C. 1952,
c. 148

- (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);
- (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) "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
 - (iii) "Canadian" were references to "Ontario";
- (f) "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";

(g) "principal-business corporation" has the meaning given to that expression by paragraph *h* of subsection 15 of section 66 of the *Income Tax Act* R.S.C. 1952, c. 148 (Canada);

(h) "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), except that subparagraph *ii* thereof shall, in its application for the purposes of this section, be read without the reference therein to "a Canadian exploration expense or a Canadian development expense".

(15) For the purposes of clause *d* of subsection 2 of section 1, this section applies in lieu of sections 66, 66.1 and 66.2 of the *Income Tax Act* (Canada). Application

21. Section 66.3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as that section applies to corporations. Shares taxed as inventory

SUBDIVISION E—RULES RELATING TO COMPUTATION OF INCOME

22.—(1) The rules provided in subdivision *f* of Division B of Part I of the *Income Tax Act* (Canada), relating to the computation of income are, in so far as the said rules apply to corporations, applicable in computing income for the purposes of this Act. R.S.C. 1952, c. 148, Part I (B) (f), applicable

(2) In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. General limitation re expenses

23.—(1) Section 245 of the *Income Tax Act* (Canada) is applicable in computing income for the purposes of this Act, except that, Artificial transactions

(a) paragraph *b* of subsection 2 thereof is not applicable; and

(b) the reference therein to Part I of that Act shall be deemed to be reference to Part II of this Act.

Dividend stripping

R.S.C. 1952, c. 148

(2) In computing the income of a corporation for a taxation year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act.

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

Amounts not included in income:

federal grants
1965, c. 12
(Can.)
R.S.C. 1970,
cc. 1-10, R-3
1970-71-72,
c. 56 (Can.)

other amounts

24. There shall not be included in computing the income of a corporation for a taxation year,

- (a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada), or the *Employment Support Act* (Canada); and
- (b) an amount determined in accordance with the rules provided in paragraphs *b*, *c*, *l* and *m* of subsection 1 of section 81 of the *Income Tax Act* (Canada).

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA
AND THEIR SHAREHOLDERS

R.S.C. 1952,
c. 148,
Part I (B) (h),
applicable

Amalgamations
consideration
for resource
property
disposition

25.—(1) Except as hereinafter provided, the rules provided in subdivision h of Division B of Part I of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

(2) In lieu of the rule provided in paragraph *p* of subsection 2 of section 87 of the *Income Tax Act* (Canada) with respect to amalgamations, the following rule is applicable for the purposes of this Act:

For the purpose of computing a deduction from the income of the new corporation for a taxation year under section 18, any amount that has been included in computing the income of a predecessor corporation for its last taxation year or a previous taxation year by virtue of clause *a* or *c* of subsection 3 of section 16, or subsection 11 or 12 of section 20, or by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act* as it read in its application to the taxation years prior to 1972, shall be deemed to have been included in computing the income of the new corporation for a previous taxation year by virtue thereof.

(3) Paragraph *z* of subsection 2 of the said section 87 is not applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 87 (2) (*z*),
not applicable

(4) Paragraph *e.2* of subsection 1 of section 88 of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraph *z* of subsection 2 of section 87 of the said Act, and as though the reference therein to paragraph *p* of the said subsection 2 were a reference to subsection 2 of this section.

R.S.C. 1952,
c. 148,
s. 88 (1) (*e.2*),
applicable

(5) For the purposes of subsection 4 of section 16 and section 31, where a corporation (hereinafter in this section referred to as the "vendor") has transferred shares of the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977* to another corporation (hereinafter in this section referred to as the "purchaser") pursuant to an amalgamation within the meaning of section 87 of the *Income Tax Act* (Canada) or the winding-up of a Canadian corporation within the meaning of section 88 of that Act, or the vendor and the purchaser have jointly elected under section 85 of that Act in respect of those shares, the following rules apply,

Transfer of
V.I.C.
shares on
amalgama-
tion
or winding-up
1977, c. 10

- (a) the vendor shall be deemed to have disposed of the shares for proceeds of disposition equal to the cost to it of the shares; and
- (b) the purchaser shall be deemed to have acquired the shares at a cost equal to the amount determined under clause *a*.

(6) In the application of the said subdivision *h* for the purposes of this Act, the references in section 84.2, paragraphs *g* and *k* of subsection 1 of section 89 and subsection 3 of section 89 of the *Income Tax Act* (Canada), to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

"Minister"
deemed to
be Minister
of National
Revenue

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS NOT RESIDENT IN CANADA

26.—(1) The provisions of subdivision *i* of Division B of Part I of the *Income Tax Act* (Canada) are applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

R.S.C. 1952,
c. 148,
Part I (B) (1),
applicable

(2) In the application of the said subdivision *i* for the purposes of this Act, the references therein to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

Idem

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

R.S.C. 1952,
c. 148,
Part I (B) (j),
applicable

27.—(1) Except as hereinafter provided, the rules provided in subdivision j of Division B of Part I of the *Income Tax Act* (Canada) with respect to partnerships and their members, are applicable for the purposes of this Act in so far as the said rules apply to corporations.

Exception

(2) Subsection 1.6 of section 96 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Members of
partnerships
deemed to
have
permanent
establishment
in Ontario

(3) Where any activity in Ontario of a partnership in a taxation year is such that, if it were a corporation, it would be subject to subsection 2 or 3 of section 2, as the case may be, each corporation that is deemed to be a member of the partnership shall be deemed to be subject to subsection 2 or 3 of section 2, as the case may be, for that taxation year.

SUBDIVISION J—BENEFICIARIES OF TRUSTS

R.S.C. 1952,
c. 148,
Part I (B) (k),
applicable

28.—(1) In determining for the purposes of this Act the income of a corporation that is a beneficiary of a trust, subdivision k of Division B of Part I of the *Income Tax Act* (Canada) is applicable in so far as the said subdivision applies to corporations that are beneficiaries of trusts, and any amount included in or deducted from the income of a corporation for a taxation year by virtue of that subdivision shall be included or deducted, as the case may be, in computing its income for the taxation year for the purposes of this Act.

Idem

(2) In the application of the said subdivision for the purposes of this Act,

- (a) clause *d* of subsection 2 of section 1 of this Act does not apply; and
- (b) the references therein to “Minister” shall be deemed to be references to the Minister of National Revenue for Canada.

DIVISION C—COMPUTATION OF TAXABLE INCOME

R.S.C. 1952,
c. 148,
Part I (C),
applicable

29.—(1) Except as hereinafter in this Division provided, in computing the taxable income of a corporation for a taxation year, Division C of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said Division applies to deductions permitted to corporations.

(2) In the application of paragraphs *a*, *b* and *b.1* of subsection 1 of section 110 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "receipts" shall be deemed to mean receipts or photostatic reproductions thereof.

Receipts:
application of
R.S.C. 1952,
c. 148,
s. 110 (1)

(3) For the purposes of this Act, "registered amateur athletic association" and "registered charity" mean respectively an amateur athletic association or a charity that, unless otherwise designated by the Minister, has been registered by the Minister of National Revenue for Canada pursuant to subsection 8 of section 110 of the *Income Tax Act* (Canada) and, unless otherwise designated by the Minister, whose registration has not been revoked.

Interpre-
tation

(4) In the application, for the purposes of this Act, of subsection 3 of section 111 of the *Income Tax Act* (Canada), paragraph *a* thereof shall be read as if subparagraph ii thereof were deleted.

Losses:
application of
R.S.C. 1952,
c. 148,
s. 111 (3)

30.—(1) In computing a corporation's taxable income for a taxation year, there may be deducted the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as "the amount contributed") that are contributions for the purposes of *The Election Finances Reform Act, 1975* and that are contributed in the taxation year, and in any previous taxation year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that,

Election
contributions

1975, c. 12

- (a) subject to subsection 3, such deduction shall not exceed the least of,
 - (i) the amount contributed,
 - (ii) its taxable income computed without reference to this section, and
 - (iii) \$4,000; and
- (b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

Interpre-
tation

1975, c. 12

(2) In this section,

- (a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under *The Election Finances Reform Act, 1975*;
- (b) "registered candidate", with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;
- (c) "registered constituency association" means a registered constituency association within the meaning given to that expression by *The Election Finances Reform Act, 1975*;
- (d) "registered party" means a registered party within the meaning given to that expression by *The Election Finances Reform Act, 1975*.

Corporations
to which
s. 34 is
applicable

(3) In respect of a corporation to which section 34 is applicable, the amount deductible under clause *a* of subsection 1 is the aggregate of,

- (a) the amount which would otherwise be deducted under clause *a* of subsection 1; and
- (b) that proportion of the amount determined under clause *a* that,
 - (i) the taxable income of the corporation that is earned in jurisdictions other than Ontario (as computed for the purposes of section 34 and without reference to this section and section 31),

is to,

- (ii) the amount by which the taxable income of the corporation exceeds the amount referred to in subclause i.

31.—(1) In computing the taxable income of a corporation for a taxation year there may be deducted the lesser of,

Purchase
of shares
of Venture
Investment
Corporation

(a) the aggregate of,

- (i) the corporation's "eligible expenditure" for the year determined under subsection 2, and
- (ii) that proportion of the amount referred to in subclause i that,
 - (A) the proportion of the corporation's taxable income determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(B) the amount by which the corporation's taxable income for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A; and

(b) the taxable income of the corporation for the year determined without reference to this section and section 30.

(2) In this section, a corporation's "eligible expenditure" for a taxation year means the aggregate of,

Interpre-
tation

(a) the amount of the corporation's "undeducted eligible expenditure" determined under subsection 3 for the immediately preceding taxation year; and

(b) an amount equal to 250 per cent of the cost incurred in the year for the acquisition of shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977*, c. 10, 1977..

(3) For the purposes of subsection 2, a corporation's "undeducted eligible expenditures" means the amount by which,

Interpre-
tation

(a) its "eligible expenditure" for a taxation year determined under subsection 2,

exceeds,

(b) the amount deducted for that year under subsection 1 minus the proportion thereof that,

(i) the taxable income of the corporation for the year that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(ii) the taxable income of the corporation for the year.

DIVISION D—TAXABLE INCOME EARNED IN CANADA
BY NON-RESIDENTS

Non-residents' taxable income earned in Canada

32. The taxable income earned in Canada for a taxation year of a corporation to which subsection 2 or 3 of section 2 applies shall be computed in accordance with the rules provided in section 115 of the *Income Tax Act* (Canada) in so far as the said rules apply to corporations, except that for the purposes of this Act,

(a) there shall be included income from property that is real property situated in Canada or any interest therein, that arose from the sale or rental thereof or both; and

(b) the amount of the income included in accordance with the said rules and clause *a* shall be determined in accordance with this Act.

DIVISION E—COMPUTATION OF INCOME TAX PAYABLE

Rate

33. The tax payable by a corporation under this Part upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the "amount taxable", is 12 per cent of the amount taxable.

Deduction from income tax

34. There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 12 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the taxation year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations.

Foreign tax deduction

35.—(1) Where a corporation has a permanent establishment in Ontario, and,

(a) the corporation has included in computing its income for the taxation year,

(i) income that was derived from sources within a jurisdiction outside Canada in the form of dividends, interest, rents or royalties received in the year,

(ii) income that is deemed to have been received in the form of dividends and interest from a jurisdiction outside Canada by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), or

R.S.C. 1952,
c. 148

(iii) the amount by which,

(A) the aggregate of that part of the corporation's taxable capital gains for the taxation year from the disposition of property as may reasonably be considered to be income from a source within a jurisdiction outside Canada,

exceeds,

(B) the aggregate of such of the corporation's allowable capital losses for the year from the disposition of property as may reasonably be considered to be a loss from a source within that jurisdiction outside Canada,

hereinafter in this section referred to as "foreign investment income"; or

(b) the corporation, having included in its income for the taxation year foreign investment income from sources within a jurisdiction outside Canada, also included income from a business carried on by it in that jurisdiction, hereinafter in this section referred to as "foreign business income",

and where,

(c) for the purposes of subsection 2 of section 126 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to a jurisdiction outside Ontario in accordance with the regulations made under sec-

tion 34 such foreign investment income has been excluded from the calculation of gross revenue or any part thereof; and

R.S.C. 1952,
c. 148

- (d) the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of subsection 5 of section 148 of the *Income Tax Act* (Canada),

the corporation may deduct from the tax otherwise payable under this Part for the taxation year an amount equal to the lesser of,

- (e) 12 per cent of that part of such foreign investment income that is income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 34; and

(f) the deficiency, if any, between,

- (i) the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause e, and

- (ii) the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 1 of section 126 of the *Income Tax Act* (Canada).

Idem

(2) For greater certainty, where the income of a corporation for a taxation year is in whole or in part from sources in more than one jurisdiction outside Canada, subsection 1 shall be read as providing for a separate deduction in respect of each jurisdiction outside Canada.

Small
business
incentives

36.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to 3 per cent of the amount determined under subsection 2.

(2) For the purposes of subsection 1, the amount determined under this subsection is that proportion of the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) for the taxation year, not exceeding \$150,000, that,

Idem

R.S.C. 1952,
c. 148

- (a) the amount of that portion of its taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada),

bears to,

- (b) the total amount of the portions of its taxable income for the taxation year that are deemed to have been earned in the provinces of Canada, measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada).

(3) In lieu of the deduction permitted under subsection 1, for the taxation year that ends after the 6th day of April, 1976, and that includes that day, there may be deducted from the tax otherwise payable under this Part for that taxation year the amount that would otherwise be deductible under section 106*a* as that section stood on the 6th day of April, 1976, determined on the assumption that that section applied to the whole of that taxation year.

Transitional
rule; alter-
native
deduction

(4) Where a corporation has made a deduction under subsection 1 for the taxation year that ends after the 6th day of April, 1976, and that includes that day, in addition to the amount deducted under subsection 1 there may be deducted from the tax otherwise payable under this Part for that taxation year the lesser of,

Transitional
rule;
additional
deduction

- (a) 3 per cent of the amount determined under subsection 2 for that taxation year; and
- (b) the amount that would have been deductible under subsection 3 of section 106*a* as that section stood on the 6th day of April, 1976 had that section applied to that taxation year.

(5) In this section, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 34 and 35, but before making any deduction under this section.

Interpre-
tation

Tax on tax

R.S.C. 1952,
c. 148

37. Where, under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

- (a) the tax payable by the corporation under Part II of this Act for the taxation year in or in respect of which such payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the taxation year plus,
 - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,
 - (A) the payment, and
 - (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and
 - (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the taxation year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and
- (b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a taxation year, such corporation is not entitled to deduct the amount determined under subclause ii of clause a.

DIVISION F—SPECIAL RULES APPLICABLE IN
CERTAIN CIRCUMSTANCES

Where
corporation
bankrupt

38. Where a corporation has become bankrupt, as defined in subsection 3 of section 128 of the *Income Tax Act* (Canada), the rules provided in the said section 128 are applicable for the purposes of this Act.

Investment Corporations

39.—(1) Where a corporation is, throughout a taxation year, an investment corporation, other than a mutual fund corporation, subsections 1, 2 and 3 of section 131 of the *Income Tax Act* (Canada) as made applicable by section 41 of this Act are applicable in respect of the corporation for the taxation year as if, ^{Application of s. 41} ^{R.S.C. 1952, c. 148}

- (a) the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation; and
- (b) its capital gains redemption for that and all previous taxation years ending after 1971, throughout which it would, but for the assumption made by clause *a*, not have been a mutual fund corporation, were nil.

(2) Subsection 6 of section 41 applies to a corporation to which this section applies. ^{Idem}

Mortgage Investment Corporations

40. Where a corporation was, throughout a taxation year, a mortgage investment corporation, as defined in subsection 6 of section 130.1 of the *Income Tax Act* (Canada), the rules provided in the said section 130.1 are applicable in computing its income for the taxation year for the purposes of this Act. ^{R.S.C. 1952, c. 158, s. 130.1, applicable}

Mutual Fund Corporations

41.—(1) Except as hereinafter provided, where a corporation is a mutual fund corporation, section 131 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act. ^{R.S.C. 1952, c. 148, s. 131, applicable}

(2) In the application of subparagraph i of paragraph *a* of subsection 2 of the said section 131 for the purposes of this Act, the reference therein to “20%” shall be read as a reference to “6%”. ^{Idem}

(3) In the application of subsection 3 of the said section 131 for the purposes of this Act, the reference therein to “this Act” shall be deemed to be a reference to this Act. ^{Idem}

(4) In the application of clause A of subparagraph i of paragraph *a* and clause C of subparagraph ii of paragraph *b*, ^{Idem}

of subsection 6 of the said section 131, for the purposes of this Act, the references therein to "5 times" shall be read as references to "16 $\frac{2}{3}$ times".

Idem

(5) In the application of paragraph *d* of subsection 6 of the said section 131 for the purposes of this Act, subparagraph *i* thereof shall be read without reference to clause C thereof, and the reference to "40%" in clauses A and B of the said subparagraph shall be read as references to "12 per cent".

Apportionment of capital gains refund

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 34 bears to its total taxable income or, where its taxable income is nil, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the corporation's taxable paid-up capital that is deemed to have been used in jurisdictions outside Ontario for that taxation year for the purposes of section 132 bears to its total taxable paid-up capital.

Exceptions
R.S.C. 1952,
c. 148

(7) Subsections 5 and 9 of section 131 of the *Income Tax Act* (Canada) and paragraph *c* of subsection 6 of the said section are not applicable for the purposes of this Act.

Non-Resident-Owned Investment Corporations

Computation of income

42.—(1) The income of a non-resident-owned investment corporation for a taxation year shall be computed as if its only income for the year was the amount, if any, by which its taxable capital gains for the year exceeds its allowable capital losses for the year, from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada.

Computation of taxable income

(2) The taxable income of a non-resident-owned investment corporation for a taxation year is its income determined under subsection 1, minus its net capital losses for taxation years preceding and the taxation year immediately following the taxation year, as determined in accordance with section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

R.S.C. 1952,
c. 148,
s. 133 (5, 7.1, 7.2),
applicable

(3) The provisions of subsections 5, 7.1 and 7.2 of section 133 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Patronage Dividends

43.—(1) Except as hereinafter provided, the provisions of section 135 of the *Income Tax Act* (Canada) with respect to the deduction from income of payments made pursuant to allocations in proportion to patronage and the inclusion in income of payments received pursuant to allocations in proportion to patronage are, in so far as they apply to corporations, applicable in computing income for the purposes of this Act. R.S.C. 1952, c. 148, s. 135, applicable

(2) Subsection 3 of the said section 135 is not applicable for the purposes of this Act. Non-application of s. 135 (3)

Credit Unions

44.—(1) Except as hereinafter provided, the provisions of section 137 of the *Income Tax Act* (Canada) are applicable in computing the income of credit unions for the purposes of this Act. R.S.C. 1952, c. 148, s. 137, applicable

(2) Subsections 3 and 4 of the said section 137 and paragraph *c* of subsection 6 of the said section 137 are not applicable for the purposes of this Act. Exceptions

Deposit Insurance Corporations

45.—(1) Except as hereinafter provided, the provisions of section 137.1 of the *Income Tax Act* (Canada) are applicable in computing the income of deposit insurance corporations and member institutions thereof for the purposes of this Act. R.S.C. 1952, c. 148, s. 137.1, applicable

(2) In the application of subsection 1 of the said section 137.1 for the purposes of this Act, the reference in paragraph *a* thereof to "this Part" shall be deemed to be a reference to Part II of this Act. Idem

(3) Subsection 9 of the said section 137.1 is not applicable for the purposes of this Act. Exception

Insurance Corporations

46.—(1) Notwithstanding any other provision of this Act, except as hereinafter provided, the taxable incomes of insurance corporations that carry on an insurance business in Ontario shall, for the purposes of this Act, be computed in accordance with the rules provided in sections 138, 140, 141, 141.1 and 142 of the *Income Tax Act* (Canada). Calculation of taxable income

Interpre-
tation

(2) In the application of subsection 1 of the said section 138 for the purposes of this Act, the reference in paragraph *d* thereof to "this Part" shall be deemed to be a reference to Part II of this Act.

Application
of rules
under
R.S.C. 1952,
c. 148

47. The rules provided in section 139 of the *Income Tax Act* (Canada), with respect to the conversion of a provincially incorporated life insurance corporation into a mutual corporation, are applicable for the purposes of this Act.

Amounts to
be included
in computing
policy-
holder's
income

48. Subsection 2 of section 142 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act.

DIVISION G—EXEMPTIONS

Exemptions

49.—(1) Except as hereinafter provided, no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was,

Charities
and other
corporations

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

Non-profit
organizations

(b) a club, society or association that, in the opinion of the Minister, was not a charity within the meaning given to that expression by subsection 1 of section 149.1 of the *Income Tax Act* (Canada) and that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, which has not in the taxation year or in any previous taxation year distributed any part of its income to any proprietor, member or shareholder thereof, or appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, unless the proprietor, member or shareholder was a club, society or association, the primary purpose and function of which was the promotion of amateur athletics in Canada; or

Farmers' and
fishermen's
insurers

(c) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen.

(2) Where a corporation described in clause *b* of subsection 1,

Tax payable
where distribution
made
to members or
shareholders

(a) has in the taxation year distributed any part of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, such corporation shall be liable to the taxes imposed under this Act for the taxation year in which the distribution is made and for subsequent taxation years, and in computing its income for the taxation year in which the distribution is made, it shall include the aggregate of its income of all previous taxation years; or

(b) has, after 1971, distributed any of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof on the winding up or discontinuance of its business, the corporation shall be deemed to have received income in that taxation year equal to the amount, if any, by which the amount of the funds and the value of the property distributed or appropriated, as the case may be, exceeds the aggregate of,

(i) amounts paid in by proprietors, members or shareholders on account of capital, and

(ii) that part of the corporation's surplus that is attributed to income that was exempt under this section other than taxable capital gains,

and the corporation shall be liable for the taxes imposed under this Act for the taxation year in which the distribution is made.

(3) For the purposes of clause *b* of subsection 1, in computing the part, if any, of any income that was distributed or otherwise appropriated for the benefit of any person, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein.

Income not
to include
taxable
capital
gains

(4) The rules provided in subsections 2, 3, 4, 6, 8, 9 and 10 of section 149 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Application
of rules
under
R.S.C. 1952,
c. 148

Idem
R.S.C. 1952,
c. 148

(5) In the application of subsection 2 of section 149 of the *Income Tax Act* (Canada) for the purposes of this Act, the said subsection shall be read without the reference therein to paragraph *l*.

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

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

(c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 1 and 8 of section 14 of this Act.

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, 1973, chapter 42, section 11, is repealed and the following substituted therefor:

(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

.

s. 127 (1) (b),
re-enacted

10.—(1) Clause *b* of subsection 1 of section 127 of the said Act is repealed and the following substituted therefor:

(b) the amount of the discount on the issue or sale of the shares of the corporation.

s. 127 (1) (c),
re-enacted

(2) Clause *c* of subsection 1 of the said section 127, as amended by the Statutes of Ontario, 1976, chapter 32, section 17, is repealed and the following substituted therefor:

Investments

(c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *d* which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total of the assets of the corporation remaining after the deductions of the amounts provided by clauses *a*, *b* and *d*, but,

SECTION 9. Subsection 1 of this section amends a cross-reference in clause *c* of subsection 1 of section 126 of the Act. This change is complementary to the amendments made by section 8 of the Bill. Subsection 2 of this section amends clause *d* of subsection 1 of the said section 126, which section defines the amounts required to be included in the calculation of paid-up capital. Clause *d* is amended by adding thereto the words "or by any person related to any of its shareholders" to make it clear that sums or credits advanced or loaned to the corporation by such persons are to be included in the paid-up capital of the corporation.

SECTION 10. This section amends section 127 of the Act. The changes contained in subsection 1 of section 127 extend the deduction from paid-up capital to all corporations which have issued their share of a discount. The deduction was previously limited to Ontario mining corporations incorporated before 1970. The changes contained in subsections 3 and 4 of this section are amendments to cross-references and are complementary to the amendments made by section 8 of the Bill. Subsection 2 of this section amends clause *c* of subsection 1 of section 127 of the Act for the purpose of clarification and to make it clear that the deduction permitted under that clause shall not exceed the cost of the investments with respect to which the deduction is claimed.

SECTION 11. This section amends subclause ii of clause *b* of subsection 1 of section 128 of the Act, relating to the calculation of paid-up capital employed in Canada by non-resident corporations. The subclause is amended to clarify the wording and to provide that loans from banks and loans made to the corporation by "any person related to any of its shareholders" will be taxable in the same way as such amounts are taxed as part of the paid-up capital of resident corporations under section 126.

- (i) the deduction under this clause shall in no case exceed the cost of the investments in respect of which the deduction is claimed, and
- (ii) cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under this Part are deemed not to be loans and advances to other corporations.

(3) Clause *d* of subsection 1 of the said section 127, as enacted by the Statutes of Ontario, 1976, chapter 32, section 17, is amended by striking out "section 63" in the fifth line and inserting in lieu thereof "section 20". s. 127 (1) (d),
amended

(4) Clause *d* of subsection 2 of the said section 127 is repealed and the following substituted therefor: s. 127 (2) (d),
re-enacted

- (*d*) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 1 and 8 of section 14 of this Act. R.S.C. 1952,
c. 148

11. Subclause ii of clause *b* of subsection 1 of section 128 of the said Act is repealed and the following substituted therefor: s. 128 (1) (b)
(ii),
re-enacted

- (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada, but excluding therefrom,
 - (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
 - (B) all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and

any other securities to which the property in Canada or any of it is subject,

s. 130,
amended

12. Section 130 of the said Act is amended by striking out "clause *c* of subsection 1 of section 75" in the seventh and eighth lines and inserting in lieu thereof "paragraph *c* of subsection 1 of section 81 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 24 of this Act".

s. 135,
re-enacted

13. Section 135 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 75, section 10, is repealed and the following substituted therefor:

Idem

135.—(1) Except as provided in subsection 10 of section 14, every corporation referred to in subsection 1 of section 49, other than a corporation referred to in paragraph *m* of subsection 1 of section 149 of the *Income Tax Act* (Canada), shall not be required to pay the taxes otherwise payable under section 131 or 133.

Idem

(2) Subject to subsection 3, every corporation referred to in clause *d* of subsection 1 of section 1, and sections 40 and 44 of this Act and paragraph *m* of subsection 1 of section 149 of the *Income Tax Act* (Canada) shall, in lieu of the tax payable under section 131 or 133, pay a tax of \$50.

Idem

(3) Subsection 2 does not apply in the case of a corporation referred to in clause *d* of subsection 1 of section 1 where, pursuant to subsection 2 of section 31 of the *Income Tax Act* (Canada) as made applicable by subsection 1 of section 14 of this Act, the Minister has determined that the chief source of income of the corporation for a taxation year is neither farming nor a combination of farming and some other source of income.

s. 137,
amended

14. Section 137 of the said Act is amended by striking out "section 122" in the first line and in the sixth line and inserting in lieu thereof in each instance "section 49".

s. 145,
amended

15. Section 145 of the said Act is amended by adding thereto the following subsection:

Trustees,
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a

SECTIONS 12 AND 14. These sections amend cross-references in sections 130 and 137 and are complementary to the amendments contained in section 8 of this Bill.

SECTION 13. This section re-enacts section 135 of the Act to amend cross-references and these amendments are complementary to the amendments contained in section 8 of the Bill. In addition, subsection 1 of section 135 is amended to provide that the corporations referred to, which were previously required to pay a tax of \$5 in lieu of the paid-up capital tax otherwise payable, will henceforth not be required to pay any paid-up capital tax.

SECTION 15. This section amends section 145 of the Act by adding thereto a new subsection 3 to provide that trustees in bankruptcy, assignees, liquidators, receivers and other persons administering or managing the property or business of the corporation be required to file the annual return where the corporation has not done so. This amendment is required as a result of the amendment to the definition of corporation, which definition previously dealt with this situation.

SECTION 16. This section amends section 148 of the Act. Subsection 1 of this section amends subsection 3 of section 148 of the Act, which provides the rules for the time of payment of tax, in order to parallel as much as possible the amendment to the corresponding section of the *Income Tax Act* (Canada). Clause *b* of subsection 3 of section 148 determines when the final payment of tax for a taxation year is to be made and subclause *i* previously provided that where a corporation had claimed the small business deduction under section 125 of the *Income Tax Act* (Canada) for the previous taxation year, it could make the final payment on or before the last day of the third month following the end of the taxation year in question (all other corporations are required to make the last payment on or before the last day of the second month following the end of the taxation year). The present amendment provides that a corporation may make the final payment on or before the last day of the third month following the end of the taxation year if it deducted an amount under the federal section 125 for that year, even though it may not have made a deduction for the previous year. Subsections 2 and 3 of this section amend cross-references contained in subsections 5 and 6 of the said section 148 and are complementary to the amendments contained in section 8 of the Bill.

SECTION 17. This section of the Bill amends a cross-reference contained in subsection 4 of section 149 of the Act and is complementary to the amendments contained in section 8 of the Bill.

SECTION 18. This section amends section 150 of the Act. Subsection 1 of this section amends subsection 1 of section 150 of the Act and enacts new subsections *1a* and *1b*, in line with the amendments to the corresponding section of the *Income Tax Act* (Canada). The amendments will require the Minister to determine the amount of the capital gains refunds to the mutual fund corporations, investment corporations and other corporations entitled to such refunds (subsection 1 of section 150) and allows the Minister to determine the amount of a corporation's non-capital loss, net capital loss or restricted farm loss (new subsection *1a* of section 150). In addition, it is provided that the sections relating to objections and appeals from assessments are applicable to such determinations (new subsection *1b* of section 150). Previously, a corporation could not appeal from such determination since they were not "assessments" to which the appeal provisions would apply. Subsections 2 and 3 of this section amend cross-references in subsections 4 and 5 of section 150 of the Act and are complementary to the amendments contained in section 8 of the Bill.

taxation year as required by this section shall file the return required by subsection 1 for that corporation for that year.

16.—(1) Subclause *i* of clause *b* of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor: ^{s. 148 (3) (b) (i), re-enacted}

- (i) on or before the last day of the third month of the taxation year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part I of that Act for the taxation year or the immediately preceding taxation year, or ^{R.S.C. 1952, c. 148}

(2) Clause *b* of subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19, is amended by striking out “subsections 2 and 2*a* of section 109” in the second and third lines and inserting in lieu thereof “section 41”. ^{s. 148 (5) (b), amended}

(3) Subsection 6 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19, is amended by striking out “subsections 2 and 2*a* of section 109” in the fourth and fifth lines and inserting in lieu thereof “section 41”. ^{s. 148 (6), amended}

17. Subsection 4 of section 149 of the said Act is amended by striking out “section 99” in the second line and in the twelfth line and inserting in lieu thereof in each instance “section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act”. ^{s. 149 (4), amended}

18.—(1) Subsection 1 of section 150 of the said Act is repealed and the following substituted therefor: ^{s. 150 (1), re-enacted}

(1) The Minister shall with all due despatch examine each return delivered under section 145, shall assess the tax for the taxation year and the interest and penalties, if any, payable and shall determine the amount of refund, if any, to which the corporation may be entitled by virtue of section 39 or 41 for the taxation year. ^{Assessment of returns}

(1*a*) The Minister may determine the amount of a corporation’s non-capital loss, net-capital loss or restricted farm loss for a taxation year where, in his opinion, the amount thereof is different from the amount reported by the corporation in its return delivered under section 145 for the taxation year. ^{Determination of loss}

Provisions applicable
R.S.C. 1952,
c. 148

(1b) The provisions of paragraph *l* of subsection 1 of section 56 and paragraph *o* of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part shall apply, *mutatis mutandis*, to a determination under subsection 1 or 1a.

s. 150 (4) (a)
(v),
re-enacted

(2) Subclause v of clause *a* of subsection 4 of the said section 150 is repealed and the following substituted therefor:

(v) has claimed a deduction under paragraph *s* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act; and

.

s. 150 (5),
amended

(3) Subsection 5 of the said section 150 is amended by striking out "section 99" in the sixth line and inserting in lieu thereof "section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act".

s. 152 (4),
amended

19.—(1) Subsection 4 of section 152 of the said Act is amended by inserting after "section 154" in the first line "or by virtue of a decision made under section 160b".

s. 152 (7),
amended

(2) Subsection 7 of the said section 152 is amended by striking out "section 99" in the second line and in the twelfth and thirteenth lines and inserting in lieu thereof in each instance "section 111 of the *Income Tax Act* (Canada), as made applicable by section 29 of this Act".

s. 153 (1),
amended

20. Subsection 1 of section 153 of the said Act is amended by striking out "to the extent that interest has been otherwise assessed under subsection 2 of section 149 except that under no circumstances shall the credit interest so allowed exceed the interest otherwise assessed under that section" in the ninth, tenth, eleventh, twelfth and thirteenth lines.

s. 154,
amended

21. Section 154 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 21, is further amended by adding thereto the following subsection:

Reassessment,
additional assessment or
determination does not in-
validate objection
or appeal

(6) Where a corporation has served a notice of objection to an assessment in accordance with this section or has instituted an appeal in accordance with section 155 and thereafter the Minister issues to the corporation,

(a) a reassessment or additional assessment of tax, interest or penalties under section 150; or

SECTION 19. This section amends section 152 of the Act. Subsection 1 of this section amends subsection 4 of the said section 152 to include therein a reference to the new section 160*b* enacted by section 24 of the Bill and is complementary to that amendment. Subsection 2 of this section amends a cross-reference to subsection 7 of section 152 and is complementary to the amendments contained in section 8 of the Bill.

SECTION 20. This section amends subsection 1 of section 153 of the Act to allow credit interest to be paid on overpayments of tax instalments. Previously such credit interest could only be used to offset interest charged on deficient instalments.

SECTION 21. This section of the Bill adds subsection 6 to section 154 of the Act relating to objections to assessments, and provides that a reassessment, additional assessment or determination for the same fiscal year in respect of which a notice of objection has already been served or an appeal taken, does not invalidate the notice of objection or the appeal. This amendment is similar to the amendment to the corresponding section of the *Income Tax Act* (Canada).

SECTION 22. This section amends section 155 of the Act relating to appeals to the Supreme Court.

Subsection 1 amends subsection 1 of section 155 in order to provide that the appeals shall not be instituted in the Divisional Court. Appeals to the Divisional Court are normally appeals from decisions of another tribunal in which the Divisional Court considers the transcripts of evidence in the other tribunal but does not really hold a new trial, whereas appeals to the Supreme Court under section 155 of the Act are in fact trials of the issues and it is more appropriate, therefore, that these appeals should be in the High Court rather than in the Divisional Court.

Subsection 2 repeals the provisions in section 155 of the Act requiring the payment into court of security for costs when an appeal is instituted. Section 155 will no longer require payment into court of security for costs.

SECTION 23. This section amends subsection 1 of section 157 of the Act which provides that on the filing in court of a notice of appeal and the reply of the Minister the matter is deemed to be an action in the court and ready for hearing. Because the rules of practice of the Supreme Court provide that once an action is ready for hearing no further interlocutory proceedings may be had, the phrase "and, unless the court otherwise orders, ready for hearing" would prohibit any interlocutory proceedings after the filing of the reply of the Minister. Those words are being removed so that such interlocutory proceedings as might otherwise be possible will not be prohibited by that rule.

SECTION 24. This section enacts two new sections to the Act.

Section 160a is added to the Act to permit the Minister to extend the time for serving a notice of objection or instituting an appeal. Previously there was no authority under the Act for the Minister or for the Court to allow an extension of the time, and there have been cases in which an extension of time could not be given even though there were compelling reasons for such an extension. This amendment will remove this harshness from the Act.

This section also adds section 160b to the Act which provides an alternative objection and appeal procedure. This section will apply where the assessment under *The Corporations Tax Act* is based on similar sections of the *Income Tax Act* (Canada) and the corporation wishes to object to both assessments and to raise the same issues in both objections. In such cases, the corporation may object to the assessment under *The Corporations Tax Act* simply by not filing the notice of objection under section 154. This procedure will apply only with respect to those assessments under *The Corporations Tax Act* that state on the face thereof that they are made pursuant to this section. Both the corporation and the Minister will be bound by the results of the federal objection; and the provisions of *The Corporations Tax Act* relating to objections and appeals will not be applicable. This procedure will therefore avoid the necessity of both a federal and provincial appeal on the same issues, which has in the past been to corporations a burdensome duplication of effort.

- (b) a determination of the amount of a refund or loss under subsection 1 or 1a of section 150,

for the taxation year in respect of which the notice of objection was served or the appeal instituted, and sends to the corporation a notice of such reassessment, additional assessment or determination,

- (c) the reassessment, additional assessment or determination does not invalidate the notice of objection or appeal, as the case may be; and
- (d) the corporation may, if section 160b does not apply, file an additional objection in respect of any new matters raised in the reassessments, additional assessment or determination, as the case may be.

22.—(1) Subsection 1 of section 155 of the said Act is amended by adding at the end thereof “and notwithstanding section 17 of *The Judicature Act* the appeal shall be heard and determined by a judge of the High Court and not by the Divisional Court”. s. 155 (1),
amended

(2) Subsections 5 and 6 of the said section 155 are repealed. s. 155 (5, 6),
repealed

23. Subsection 1 of section 157 of the said Act is amended by striking out “and, unless the court otherwise orders, ready for hearing” in the sixth and seventh lines. s. 157 (1),
amended

24. The said Act is further amended by adding thereto the following sections: ss. 160a, 160b,
enacted

160a. The time within which a notice of objection under subsection 1 of section 154 or a notice of appeal under subsection 1 of section 155 is to be served may be extended by the Minister if application for extension is made prior to the expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension
of time

160b.—(1) Where,

- (a) a notice of assessment is issued to a corporation under section 150 that states on the face thereof that the assessment or a designated part thereof has been made pursuant to this section (which assessment or part, as the case may be, is hereinafter referred to as the designated assessment);

- (b) a notice of assessment has been issued to the corporation under the *Income Tax Act* (Canada) based Alternative
objection and
appeal
procedure

R.S.C. 1952,
c. 148

on provisions in that Act corresponding to the provisions in this Act on which the designated assessment was based;

- (c) the corporation has served a notice of objection to the assessment referred to in clause *b* in which the same issues have been raised as would have been raised in an objection to the designated assessment and
- (d) the corporation has not served in accordance with section 154 a notice of objection to the designated assessment,

this section applies to the designated assessment, and in any such case, sections 154 to 160 do not apply, but those sections do apply to the part, if any, of the assessment referred to in clause *a* that is not a designated assessment.

Corporation
and Minister
bound

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies, be bound by,

- (a) the decision of the Minister of National Revenue for Canada from which no appeal is taken in accordance with the *Income Tax Act* (Canada); or
- (b) where an appeal is instituted, the final disposition of the appeal by the Tax Review Board or any court of competent jurisdiction; or
- (c) any minutes of settlement of the issues raised in the notice of objection to the assessment referred to in clause *b* of subsection 1 made between the corporation and the Minister of National Revenue for Canada at any stage of the proceedings following the service of that notice of objection,

R.S.C. 1952,
c. 148

and in any such case the Minister shall, where necessary, reassess the corporation in accordance therewith.

Idem

(3) Sections 154 to 160 do not apply to the reassessment referred to in subsection 2.

s. 167 (1, 2),
re-enacted

25. Subsections 1 and 2 of section 167 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 32 and 1975, chapter 17, section 66, are repealed and the following substituted therefor:

SECTION 25. This section amends section 167 of the Act relating to the statutory lien for taxes and other amounts owing under the Act.

Subsection 1 of section 167 is re-enacted to provide that only such arrears and other amounts for the period commencing after December 31, 1972 will give rise to the statutory lien. Previously the lien commenced after December 31, 1967.

Subsection 2 of section 167 is re-enacted to provide an automatic annual updating of the December 31, 1972 date for commencement of the lien. Previously subsection 2 of section 167 created a lien on the property of railway companies and that provision is repealed because it became obsolete and was redundant to subsection 1 of section 167. This section also enacts a new subsection 2*a* to section 167 to preserve the lien where a notice thereof is registered in the proper land registry office.

SECTION 26. This section is an omnibus amendment and changes the term "fiscal year" to "taxation year" wherever it occurs in the Act. This amendment is complementary to the tax simplification measures contained in the Bill.

(1) All taxes, interest, penalties, costs and other amounts imposed under this or any predecessor Act in respect of any taxation year of a corporation that commenced in any calendar year ending after the 31st day of December, 1972 are debts due to Her Majesty and, subject to the *Bankruptcy Act* (Canada), are a first lien and charge upon property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts.

Lien in respect of taxes and other amounts imposed

R.S.C. 1970, c. B-4

(2) At the expiry of each calendar year following 1977, the reference in subsection 1 to "1972" shall be advanced by one year.

Expiry of lien

(2a) Subsections 1 and 2 do not apply to extinguish or remove any lien or charge that is claimed under this or any predecessor Act in a Notice of Lien that is registered in the proper land registry office.

Exception re registered liens

26. The said Act is further amended by striking out "fiscal year" wherever it occurs and inserting in lieu thereof in each instance "taxation year".

Act amended

27.—(1) This Act, except clause *d* of subsection 7 and subsection 11 of section 14 of the said Act, subsection 5 of section 15 of the said Act, subsections 4, 5 and 6 of section 16 of the said Act, section 19 of the said Act, subsection 5 of section 25 of the said Act, and section 31 of the said Act, all as enacted by section 8 of this Act, subsection 1 of section 19 and sections 20, 21, 22, 23, 24, 25 and 26, of this Act, comes into force on the day it receives Royal Assent and applies to corporations in respect of all taxation years ending on or after that day.

Commencement and application

(2) Clause *d* of subsection 7 of section 14 of the said Act and section 19 of the said Act, both as enacted by section 8 of this Act, shall be deemed to have come into force on the 20th day of April, 1977 and apply to corporations in respect of all taxation years ending after the 19th day of April, 1977.

Idem

(3) Subsection 11 of section 14 of the said Act, subsection 5 of section 15 of the said Act, subsections 4, 5 and 6 of section 16 of the said Act, subsection 5 of section 25 of the said Act and section 31 of the said Act, all as enacted by section 8 of this Act, come into force on a day to be named by proclamation of the Lieutenant Governor, and when in force, apply to corporations in respect of all taxation years ending on or after the day that

Idem

1977, c. 10

Venture Investment Corporations Registration Act, 1977 comes into force.

- Idem (4) Subsection 1 of section 19 and sections 21, 22, 23, 24, 25 and 26 come into force on the day this Act receives Royal Assent.
- Idem (5) Section 20 of this Act comes into force on the day this Act receives Royal Assent and applies to instalments of tax payable in respect of all taxation years ending on or after that day.
- Idem
R.S.C. 1952.
c. 148. (6) The amendments to the *Income Tax Act* (Canada) made by,
- (a) an Act to amend the *Income Tax Act*, being chapter 106 of the Statutes of Canada, 1974-75-76; and
- (b) an Act to amend the *Income Tax Act*, being chapter 4 of the Statutes of Canada, 1976-77,
- 1972, c. 143 to sections of that Act which are by this Act made applicable for the purposes of *The Corporations Tax Act, 1972* shall be deemed to have come into force for the purposes of *The Corporations Tax Act, 1972* at the same time and to apply in the same manner as those amendments were brought into force and made applicable by the said Acts to amend the *Income Tax Act* (Canada).
- Short title **28.** The short title of this Act is *The Corporations Tax Amendment Act, 1977*.







An Act to amend
The Corporations Tax Act, 1972

1st Reading

November 1st, 1977

2nd Reading

November 29th, 1977

3rd Reading

THE HON. MARGARET SCRIVENER
Minister of Revenue

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

BILL 88

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

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

THE HON. MARGARET SCRIVENER
Minister of Revenue



**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. Section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, 1974, chapter 75, section 1, 1975, chapter 17, section 1 and 1976, chapter 32, section 1, is repealed and the following substituted therefor:

1.—(1) In this Act and in the application of the provisions of the *Income Tax Act* (Canada) that are by this Act made applicable for the purposes of this Act,

s.1.
re-enacted
Interpre-
tation
R.S.C. 1952.
c. 148

- (a) each of the interpretations contained in Part XVII of the *Income Tax Act* (Canada) are, except as hereinafter provided, applicable for the purposes of this Act;
- (b) the interpretations contained in the said Part XVII of the expressions "farming", "foreign resource property", "Minister", "paid-up capital", "regulations", "taxable income", "taxable income earned in Canada" and "tax payable" do not apply and in lieu thereof the following interpretations are applicable:
- (i) "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing, and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming and, for the purposes of subsection 2 of section 135 only, does not include the maintaining of horses for racing,

R.S.C. 1952,
c. 148

- (ii) "foreign resource property" has the meaning given to that expression by section 15 of this Act,
- (iii) "Minister" means, unless otherwise provided in this Act, the Minister of Revenue,
- (iv) "paid-up capital" has the meaning given to that expression by paragraph *c* of subsection 1 of section 89 of the *Income Tax Act* (Canada), but such meaning does not apply for the purposes of Part III of this Act,
- (v) "regulations" means regulations made under this Act,
- (vi) "tax payable" by a corporation under any part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 154 to 160*b*, as the case may be,
- (vii) "taxable income" has the meaning given to that expression by section 9 of this Act,
- (viii) "taxable income earned in Canada" has the meaning given to that expression by section 10 of this Act;

R.S.C. 1970,
cc. B-1, B-4

- (c) "bank" means a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies;
- (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) "farming assets" of a family farm corporation means,
- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming,
 - (ii) land, buildings, equipment, machinery, and live stock that are used chiefly in the operation of the farm by the corporation,
 - (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming,
 - (iv) the building in which a shareholder or member or members of his family reside who are engaged in the operation of the farm if that building is on land that is used or is contiguous to land used by that shareholder or member or members of his family in the operation of the farm,
 - (v) shares in another family farm corporation;
- (f) "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
- (g) "member of his family" means, with respect to an individual referred to in clause *d*,
- (i) his spouse,
 - (ii) his child,
 - (iii) his father, mother, brother or sister or any lawful descendant of such brother or sister,
 - (iv) the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

R.S.O. 1970.
c. 64

- (v) the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,
- (vi) his son-in-law or daughter-in-law,
- (vii) a person adopted by him under *The Child Welfare Act* or the spouse or any lawful descendant of such person, or
- (viii) his grandfather or grandmother;
- (h) "permanent establishment" has the meaning given to that expression by section 7;
- (i) "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada was obtained or derived, to the extent that such consideration is dependent upon, and computed by reference to, the amount of timber cut or taken.

Idem
R.S.C. 1952.
c. 148

(2) In the application of the sections of the *Income Tax Act* (Canada) that by this Act are made applicable for the purposes of this Act,

- (a) "capital cost" means the cost of property as determined for the purposes of this Act;
- (b) "undepreciated capital cost" means the undepreciated capital cost of depreciable property as determined for the purposes of this Act;
- (c) the references therein to,
 - (i) returns required to be filed under section 145 of that Act shall be deemed to be reference to the returns required to be filed under section 145 of this Act, and
 - (ii) assessments to be made under section 146 of that Act shall be deemed to be reference to assessments to be made under section 146 of this Act;
- (d) where a section of that Act has been made applicable for the purposes of this Act, and reference is made in that section to another provision (hereinafter referred to as "the other provision") of that Act,

after in this clause referred to as the "other provision") of that Act which,

- (i) does not apply for the purposes of this Act,
- (ii) does not apply for the purposes of this Act because a provision of this Act is enacted to apply in lieu thereof, or
- (iii) in respect of which the application for the purposes of this Act differs,

the following rules apply in the application of the section for the purposes of this Act,

- (iv) where subclause i applies, the section (except sections 20, 56, 60, paragraph *f* of subsection 1 of section 95 and section 138 of that Act) shall be read as if the reference to the other provision were deleted,
- (v) where subclause ii applies, the reference to the other provision shall be deemed to be a reference to the provision of this Act that applies in lieu thereof, and
- (vi) where subclause iii applies, the reference to the other provision shall be deemed to be a reference to the other provision as it applies for the purposes of this Act.

(3) Notwithstanding subsection 1, any regulation made pursuant to any provision of the *Income Tax Act* (Canada) that is by this Act made applicable for the purposes of this Act shall apply with necessary modifications for the purposes of this Act unless otherwise provided by this Act or by the regulations. Application of regulations under R.S.C. 1952, c. 148

(4) Any election or designation by a corporation which has been properly made for the purposes of the *Income Tax Act* (Canada), pursuant to any provision of that Act that is by this Act made applicable for the purposes of this Act, shall be deemed to have been properly made for the purposes of this Act, provided that, Elections R.S.C. 1952, c. 148

- (a) where an amount elected would be different from the amount determined in accordance with this Act, the amount determined in accordance with this Act shall apply; and

(b) the provisions in that Act imposing penalties for late filing of such elections are not applicable for the purposes of this Act.

Registered pension funds

(5) Any registered pension fund or plan that has been accepted for registration by the Minister of National Revenue for Canada shall be deemed to have been accepted for registration by the Minister of Revenue.

R.S.C. 1952, c. 148 applies as amended from time to time

(6) The sections of the *Income Tax Act* (Canada) by the Act made applicable for the purposes of this Act shall, unless otherwise provided in this Act, be deemed to be applicable as amended or re-enacted from time to time, and such amendments or re-enactments shall apply for the purposes of the Act in the same manner as they apply for the purposes of the *Income Tax Act* (Canada).

s. 2 (2) (c), re-enacted

2.—(1) Clause c of subsection 2 of section 2 of the said Act as amended by the Statutes of Ontario, 1973, chapter 42, section 1, is repealed and the following substituted therefor:

(c) disposed of taxable Canadian property within the meaning given to that expression by subsection of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of the Act were a reference to this section; or

R.S.C. 1952, c. 148

(d) carried on business in Ontario,

.

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

(2) Clause c of subsection 3 of the said section 2, as amended by the Statutes of Ontario, 1973, chapter 42, section 1, is repealed and the following substituted therefor:

(c) disposed of taxable Canadian property within the meaning given to that expression by subsection of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section; or

(d) carried on business in Ontario,

.

ss. 4, 5, repealed

3. Sections 4 and 5 of the said Act are repealed.

s. 6 (1), amended

4. Subsection 1 of section 6 of the said Act is amended by striking out "stock, mileage" in the third line and in the fifth line.

5. Section 11 of the said Act is repealed. s. 11.
repealed
6. Section 12 of the said Act is repealed and the following substituted therefor: s. 12.
re-enacted

12.—(1) Except as hereinafter provided, section 3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations. Basic
rules.
R.S.C. 1952.
c. 148, s. 3,
applicable

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph *c* thereof to "sub-division e" shall be deemed to be a reference to Subdivision D of Part II of this Act. Interpre-
tation

7. Section 13 of the said Act is repealed and the following substituted therefor: s. 13.
re-enacted

13. Except as hereinafter provided, section 4 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations. Income or
loss from
a source or
from sources
in a place
R.S.C. 1952.
c. 148

8. Part II of the said Act, exclusive of sections 8 to 13a, as amended by the Statutes of Ontario, 1973, chapter 42, sections 3 to 9, 1973, chapter 157, sections 2 to 11, 13 to 15 and 17 to 31, 1974, chapter 75, sections 3 to 6 and 8, 1975, chapter 17, sections 4 to 56 and 58 to 63, 1976, chapter 32, sections 2 to 16, 1976, chapter 63, section 1, 1976, chapter 80, section 1 and 1977, chapter 16, sections 1 and 2, is repealed and the following substituted therefor: Pt. II.
(ss. 14-49,
re-enacted).
(ss. 50-122,
repealed)

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

14.—(1) Except as hereinafter provided, the income or loss of a corporation for a taxation year from a business or property shall for the purposes of this Act be determined in accordance with subdivisions a and b of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivisions a and b are applicable to this Act in so far as the said subdivisions apply to corporations. Application
of
R.S.C. 1952.
c. 148

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act the amount determined for the purposes of the *Income Tax Act* (Canada) as the value of property described in an inventory is applicable for the purposes of this Act, except that, Inventory of
land

- (a) where land is included in an inventory of a corporation and the corporation has, in calculating its income for the taxation year or any previous taxation year, deducted an amount referred to in clause *c* of subsection 7 in respect of such land, the amount

so deducted shall not be included in determining the value of the inventory for the purposes of subsection 1; and

- (b) the Minister may determine the value of the property described in an inventory for the purposes of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation.

Payment or refund of a fee under Ontario Beef Calf Income Stabilization Program to be included in income

(3) In addition to any other amount required by virtue of subsection 1 to be included in computing the income of a corporation for a taxation year as income from a business or property, there shall be included any amount received by the corporation as a stabilization payment or refund of a fee under the Ontario Beef Calf Income Stabilization Program.

Disposition of depreciable property:

(4) In the application of section 13 of the *Income Tax Act* (Canada) for the purposes of this Act, the following rules apply,

Undepreciated capital cost

- (a) subsections 7.1 and 10 of the said section 13 and subparagraph vi of paragraph *f* of subsection 21 of the said section 13 are not applicable in determining the capital cost or the undepreciated capital cost of depreciable property of a prescribed class for the purposes of this Act and the regulations;

Reduction of capital cost by amount of government assistance

- (b) where a corporation has received or is entitled to receive a grant, subsidy, forgivable loan, investment allowance or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount,

- (i) authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Treasury Board of the Government of Canada in respect of scientific research expenditures incurred for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

- (ii) authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister, or

R.S.C. 1970,
c. I-10

1965, c. 12
(Can.)

- (iii) deducted as an allowance under section 65 of the *Income Tax Act* (Canada) or section 19 of this Act, ^{R.S.C. 1952. c. 148}

the capital cost of the property to the corporation shall be deemed to be the amount by which the aggregate of,

- (iv) the capital cost thereof to the corporation, otherwise determined, and
- (v) such part, if any, of the assistance as has been repaid by the corporation pursuant to an obligation to repay all or part of that assistance,

exceeds,

- (vi) the amount of assistance.

(5) In the application of section 17 of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 2 thereof does not apply in determining whether an amount shall be included in the income of a corporation in accordance with subsection 1 thereof. ^{Loan to non-resident person}

(6) Where an amount in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or a similar payment; or
- (c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

Management fee, rent and similar payment to non-resident to be included in income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/12ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph *a*, *d* or *e* of subsection 1 of section 212 of the *Income Tax Act* (Canada) or subsection 5 of that section, except that clause *b* does not apply where the non-resident person to whom the amount is paid or payable is a corporation liable to the taxes imposed under this Act by virtue of clause *b* of subsection 2 or clause *b* of subsection 3 of section 2.

Deductions
allowed
R.S.C. 1952,
c. 148

(7) Subsection 2 of section 18 of the *Income Tax Act* (Canada) and paragraphs *a* and *v.1* of subsection 1 of section 20 of that Act are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

Capital cost
of property

(a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, as is allowed by regulation;

Fee under
Ontario Beef
Calf Income
Stabilization
Program

(b) an amount paid by the corporation in the taxation year as a fee under the Ontario Beef Calf Income Stabilization Program;

Certain
interest
and property
taxes on land

(c) notwithstanding paragraph *c* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable to this Act but subject to subsection 3 of section 18 of the said Act, any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,

(i) interest on borrowed money used to acquire land or on an amount payable by the corporation for land, or

(ii) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land can reasonably be considered to have been, in that year,

(iii) included in the inventory of a business carried on by the corporation,

(iv) otherwise used in, or held in the course of, carrying on a business carried on by the corporation, or

(v) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

and if none of subclauses iii, iv and v is applicable, then the deduction under this clause is permitted only to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year;

- (d) such amount as is allowed to the corporation by ^{Resource allowance} regulation in respect of oil or gas resources in Canada, as defined by regulation.

(8) In the application of paragraph *n* of subsection 1 of ^{Deductions not allowed R.S.C. 1952, c. 148} section 20 of the *Income Tax Act* (Canada) for the purposes of this Act,

- (a) notwithstanding subsection 8 of section 20 of the ^{No deduction in respect of property in certain circumstances} *Income Tax Act* (Canada), the said paragraph *n* does not apply to allow a deduction in computing the income of a corporation for a taxation year from a business in respect of a property sold in the course of the business if the corporation at the end of the taxation year or at any time in the immediately following taxation year,

(i) was exempt from tax under any provision of this Part, or

(ii) ceased to have a permanent establishment in Canada; and

- (b) the said paragraph *n* does not apply to allow a ^{No deduction in respect of sale of property if security disposed of} deduction in computing the income of a corporation for a taxation year from a business where the corporation has, in the taxation year sold, pledged, assigned or in any way disposed of any security received by it as payment in whole or in part for the sale of property in respect of which the corporation has, in that or a previous taxation year, been allowed a deduction under that paragraph for the purposes of this Act.

(9) In the application of paragraph *s* of subsection 1 of ^{Interpretation} section 20 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "Minister" shall be deemed to be a reference to the Minister of National Revenue for Canada.

(10) Section 27 of the *Income Tax Act* (Canada) is not ^{Crown corporations} applicable for the purposes of this Act and in lieu thereof the following provisions shall apply:

Prescription

1. Where a corporation referred to in paragraph *d* of subsection 1 of section 149 of the *Income Tax Act* (Canada) is otherwise exempt under section 49 of this Act and subsection 1 of section 135 of this Act, such exemptions do not apply if the corporation is prescribed by regulation.

Transfers of land for disposition

2. Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation.

Loss on disposition of shares of a Venture Investment Corporation 1977, c. 10

(11) Where in a taxation year a corporation has incurred a loss, other than a capital loss, from the disposition of property that is shares of the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*, such loss shall not be allowed in computing the income or loss of the corporation from a business or property for the taxation year.

SUBDIVISION B—TAXABLE CAPITAL GAINS AND ALLOWABLE CAPITAL LOSSES

Application of R.S.C. 1952, c. 148

15.—(1) Except as hereinafter provided, the taxable capital gains and allowable capital losses of a corporation for a taxation year from the disposition of any property shall for the purposes of this Act be determined in accordance with subdivision c of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivision c is applicable to this Act in so far as the said subdivision applies to corporations.

Idem

(2) Paragraph *c* of subsection 1 of section 48 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Idem

(3) In the application of paragraph *a* of subsection 2 of section 40 of the *Income Tax Act* (Canada) for the purposes of this Act, subparagraph *i* thereof shall be read as though the words "was not resident" were deleted and the words "ceased to have a permanent establishment" were inserted in lieu thereof.

Adjustments to cost base

(4) In computing the adjusted cost base to a corporation of property in accordance with the provisions made applicable by subsection 1, the following rules apply for the purposes of this Act,

- (a) where the property is a foreign resource property, there shall be added to the cost of the property to the corporation that part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to the property that is not allowed as a deduction from income for purposes of this Act;
- (b) clause B of subparagraph ii of paragraph c of subsection 2 of section 53 of the *Income Tax Act* (Canada) shall apply as if the words "foreign exploration and development expenses" were deleted; ^{R.S.C. 1952, c. 148}
- (c) subparagraph i of paragraph k of subsection 2 of section 53 of the *Income Tax Act* (Canada) shall apply,
- (i) as if the words "deduction from tax" were deleted, and
- (ii) as if the reference in clause B thereof to section 65 were a reference to the said section 65 and to section 19 of this Act;
- (d) where the property is a foreign resource property, there shall be deducted in respect of such property any amount that has become receivable by the corporation at a particular time in a taxation year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services the original cost of which may reasonably be regarded as having been foreign exploration and development expenses.

(5) Notwithstanding the rules contained in subsection 1 of section 40 of the *Income Tax Act* (Canada) as made applicable by subsection 1 of this section, a corporation's capital loss from the disposition of property that is shares in the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977*, is the amount by which, ^{Capital loss on disposition of shares of a Venture Investment Corporation 1977, c. 10}

- (a) the capital loss in respect of such disposition, otherwise determined,

exceeds,

- (b) the amount in respect of such shares that was deducted under section 31 minus the amount included in income under subsection 4 of section 16.

Interpre-
tation

(6) In this Subdivision,

(a) "foreign exploration and development expenses" incurred by a corporation means,

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

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

(iii) any annual payment made by the corporation for the preservation of a foreign resource property, and

(iv) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period it was a member or partner thereof;

(b) "foreign 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 "in Canada" were references to "outside Canada" and were read without reference to the words "after 1971".

R.S.C. 1952.
c. 148

SUBDIVISION C—OTHER SOURCES OF INCOME

R.S.C. 1952.
c. 148
Part I (B) (d)
applicable

16.—(1) Except as hereinafter provided, subdivision d of Division B of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subdivision applies to corporations.

(2) In the application of subsection 1 of section 56 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference in subparagraph i of paragraph 1 thereof to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpretation
R.S.C. 1952,
c. 148

(3) Section 59 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act, and in lieu thereof the following provisions apply,

Disposition
of resource
property

(a) where a corporation disposes of,

Amount
receivable as
consideration
for disposition
of resource
property

(i) a Canadian resource property, or

(ii) any right, licence or privilege described in subsection 12 of section 58 of *The Corporations Tax Act*, as it read in its application to taxation years prior to 1972, that was acquired by the corporation,

(A) before 1972 in the case of,

1. a corporation that is a principal-business corporation within the meaning given to that expression by subsection 14 of section 20 or that was, at the time it acquired the property, such a principal-business corporation, or

2. an association, partnership or syndicate described in subsection 4 of section 83A of the *Income Tax Act* (Canada) as it read in its application to the 1971 taxation year, and

(B) after April 10, 1962 and before 1972, in any other case,

under an agreement or other contract or arrangement described therein,

the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year, to the extent that the proceeds become receivable in that year;

(b) there shall be included in computing a corporation's income for a taxation year any amount in respect of,

Amount
deducted
under s. 18
in preceding
year

- (i) a Canadian resource property, or
- (ii) any property referred to in subclause ii of clause *a* or in clause *c*,

that has been deducted under section 18 in computing the corporation's income for the immediately preceding taxation year;

Disposition of
resource
property
acquired
before 1972

- (c) where a corporation has made a disposition of property owned, or deemed to have been owned, by it on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subparagraphs i to vi of paragraph *c* of subsection 15 of section 66 of the *Income Tax Act* (Canada) and is not property described in subclause ii of clause *a*, the following rules apply,

R.S.C. 1952,
c. 148

- (i) the relevant percentage of the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year to the extent that the proceeds become receivable, and
- (ii) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this subsection and section 20,
 - (A) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of subclause i in respect of the disposition by the corporation of the property, and
 - (B) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof;

Interpre-
tation

- (d) in this subsection,

- (i) "relevant percentage" has the meaning given to that expression by subsection 4 of section 59 of the *Income Tax Act* (Canada),

- (ii) "disposition" and "proceeds of disposition" have the meaning given to those expressions by section 54 of the *Income Tax Act* (Canada). R.S.C. 1952, c. 148

(4) In addition to any other amount that is required to be included in computing the income of a corporation for a taxation year by virtue of the provisions of subdivision d of Division B of Part I of the *Income Tax Act* (Canada) that are made applicable by subsection 1 of this section, there shall be included the following amounts:

- (a) where, in a taxation year, shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* c. 10 have been disposed of by the corporation, an amount equal to the aggregate of,

(i) 250 per cent of the lesser of,

(A) the cost to the corporation of the said shares disposed of, and

(B) the proceeds of disposition of such shares, and

(ii) that proportion of the amount determined under subclause i that,

(A) the taxable income of the corporation for the year, determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(B) the amount by which the taxable income of the corporation for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A; and

- (b) where at a particular time in the taxation year the registration of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* (hereinafter in this subsection referred to as the V.I.C.) has been revoked pursuant to section 6 of that Act and at the particular time

the corporation owned shares of the capital stock of the V.I.C., an amount equal to the aggregate of,

- (i) 250 per cent of the cost to the corporation of the said shares, and
- (ii) that proportion of the amount determined under subclause i that,
 - (A) the taxable income of the corporation for the year, determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

- (B) the amount by which the taxable income of the corporation for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A.

Idem
1977, c. 10

(5) Where in a taxation year a corporation that owns shares in the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has ceased to have a permanent establishment in Ontario within the meaning of section 7, the corporation shall for the purposes of subsections 4 and 6 of this section be deemed to have disposed of the shares in that year for proceeds equal to the cost to the corporation of the shares.

Idem

(6) Where in a taxation year a corporation that owns shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has disposed of or is deemed to have disposed of any of those shares, or the registration of the corporation that is registered under *The Venture Investment Corporations Registration Act, 1977* has been revoked pursuant to section 6 of that Act, and all of the taxable income of the corporation for the year, determined without reference to this subsection, is deemed for the purposes of section 34 to have been earned in jurisdictions other than Ontario, the following rules apply,

- (a) the amount of the corporation's taxable income for the year shall be determined as if it has no income other than the amount determined under clause a or b of subsection 4, as the case may be;

- (b) the only amounts deductible under this Act by the corporation in determining its taxable income for the year shall be its undeducted eligible expenditures, within the meaning of section 31, as at the end of the immediately preceding taxation year; and
- (c) for the purposes of section 34, no portion of the corporation's taxable income as determined under clauses *a* and *b* shall be deemed to have been earned in jurisdictions other than Ontario.

SUBDIVISION D—DEDUCTIONS IN
COMPUTING INCOME

17.—(1) Except as hereinafter provided, section 60 of the *Income Tax Act* (Canada), is applicable for the purposes of this Act in so far as the said section applies to corporations.

Application
of
R.S.C. 1952,
c. 148, s. 60

(2) In the application of subparagraph *i* of paragraph *o* of the said section 60 for the purposes of this Act, the reference therein to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpre-
tation

R.S.C. 1952,
c. 148

(3) In addition to the deductions permitted by virtue of subsection 1, there may be deducted in computing the income of a corporation for a taxation year all corporation taxes payable in the taxation year by the corporation.

Corporation
taxes
deductible

(4) In this section,

Interpre-
tation

(a) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations;

(b) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax.

18.—(1) In computing a corporation's income for a taxation year, in this subsection referred to as the "current year", where,

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

- (a) by virtue of clause *a* or *c* of subsection 3 of section 16, subsection 11 of section 20, or clause *a* of subsection 12 of section 20, an amount has been included in computing the corporation's income for the current year or a previous taxation year; or
- (b) an amount referred to in paragraph *b* of subsection 1 of section 64 of the *Income Tax Act* (Canada) has been included in computing, for the purposes of this Act, the corporation's income for that previous taxation year,

in respect of the disposition of any property and that amount or a part thereof is not due until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the part thereof that is not due until a day that is after the end of the current year, not exceeding, where the property was disposed of in a taxation year preceding the current year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the taxation year immediately preceding the current year, and for greater certainty, no deduction may be made in respect of that amount under paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 14 of this Act.

R.S.C. 1952,
c. 148

Application of
subs. 1

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at any time in the taxation year or in the immediately following taxation year,

- (a) ceases to be a resident of Canada;
- (b) becomes exempt from tax under any provision of this Part; or
- (c) if a non-resident, ceases to have a permanent establishment in Canada.

Application
of section

(3) For the purpose of clause *d* of subsection 2 of section 1, this section applies in lieu of section 64 of the *Income Tax Act* (Canada).

Allowance for
oil or gas well,
mine or
timber limit

19.—(1) There may be deducted in computing a corporation's income for a taxation year such amount as an allowance, if any, in respect of,

- (a) an oil or gas well, mineral resource or timber limit;
or

- (b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource,

as is allowed by regulation.

(2) For greater certainty it is hereby declared that, in the ^{Regulations} case of a regulation made under subsection 1,

- (a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or

(ii) processing operations described in clause *b* of subsection 1 that are carried on by the corporation; and

- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

(3) Where a deduction is allowed under subsection 1 in ^{Lessee's share of allowance} respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions.

(4) For the purpose of clause *d* of subsection 2 of section 1, ^{Application} this section applies in lieu of section 65 of the *Income Tax Act* ^{R.S.C. 1952, c. 148} (Canada).

20.—(1) A principal-business corporation may deduct, in ^{Exploration and development expenses of principal-business corporations} computing its income for a taxation year, the lesser of,

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year, to the extent that they were not deductible in computing income for a previous taxation year; and

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 19, minus the deductions allowed for the taxation year by subsection 5 and by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

(2) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year to the extent they were not deductible in computing its income for a previous taxation year; and

(b) of that aggregate, the amount, if any, by which the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 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,

if no deductions were allowed under section 19,

exceeds,

- (iii) the amount of any deduction allowed by the *Corporations Tax Application Rules, 1972* in respect of this subclause in computing its income for the taxation year.

(3) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

Ontario
exploration
and
development
expenses:
corporation
other than
a principal-
business
corporation

- (a) the aggregate of such of its Ontario exploration and development expenses as were incurred by it before the end of the taxation year to the extent that they were not deducted in computing its income for a previous year, minus that portion of the deduction allowed, if any, in computing its income for the taxation year under subsection 2 which is reasonably attributable to Ontario exploration and development expenses; and

- (b) that portion of the amount determined under clause *a* equal to the amount of its income for the taxation year if no deductions were allowed under this section, minus,

- (i) that portion of the deduction allowed for the taxation year under subsection 2 which is reasonably attributable to Ontario exploration and development expenses, and

- (ii) the deduction allowed for the taxation year under sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act. R.S.C. 1952, c. 148

(4) Subsection 3 of section 16, section 18 and subsections 2 and 3 do not apply in computing the income for a taxation year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons. Dealers

Canadian
exploration
and
development
expenses
deductible
by successor
corporation
and second
successor
corporation
R.S.C. 1952,
c. 148

(5) There may be deducted in computing the income for taxation year of a corporation that is a successor corporation or a second successor corporation, as the case may be, with 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 the reference in paragraph *b* of each of the said subsections

- (a) to "this section" is deemed to be a reference to this section of this Act;
- (b) to section 65 is deemed to be a reference to section 65 of this Act;
- (c) to subsection 2 of section 66.1 does not apply; and
- (d) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*.

Joint
exploration
corporation:
renunciation
of its
exploration
and develop-
ment expenses
in favour
of shareholder
corporation

(6) The portion, if any, of its Canadian exploration and development expenses that a joint exploration corporation may renounce in favour of a shareholder corporation shall be determined in accordance with the rules provided in subsection 10 of section 66 of the *Income Tax Act* (Canada) and paragraphs *a* and *b* of the said subsection are applicable, except that for the purposes of this subsection,

- (a) the references in the said subsection to subsections 1 and 3 of that section shall be deemed to be references to subsections 1 and 2 of this section; and
- (b) the references in paragraph *b* of the said subsection to paragraph *a* of subsection 1 of that section shall be deemed to be a reference to clause *a* of subsection 1 of this section.

Control
change

(7) Subsection 11 of section 66 of the *Income Tax Act* (Canada) is applicable for the purposes of this section, except that, in its application for the purposes of this section, the said subsection shall be read without the reference therein to "cumulative Canadian exploration expense, cumulative Canadian development expense and foreign exploration and development expenses".

Computation
of explora-
tion and
development
expenses

(8) In computing the Canadian exploration and development expenses and Ontario exploration and development expenses of a corporation,

- (a) there shall be deducted the aggregate of all amounts paid to it after 1971 and before the 25th day of May, 1976,

- (i) under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
- (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development, or
- (iii) under the *Mineral Exploration Assistance Program* (Ontario),

to the extent that the amounts have been expended by the corporation as or on account of Canadian exploration and development expenses or Ontario exploration and development expenses, as the case may be; and

- (b) there shall be included any amount, except an amount in respect of interest, paid by the corporation, after 1971 in respect of amounts paid to it before the 25th day of May, 1976, under the Regulations referred to in subclause i of clause a to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario.

(9) Except as otherwise provided in this section, where a ^{Limitations} 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, 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.

(10) Notwithstanding subsection 9, a corporation that is ^{Idem} entitled to a deduction under both subsections 2 and 3 may, in addition to the deduction under subsection 2, deduct such additional amount as it may claim in respect of Ontario exploration and development expenses under subsection 3.

(11) Except as expressly otherwise provided in this Act, ^{Limitations of Canadian exploration and development expenses} where, as a result of a transaction occurring after the 6th day of May, 1974, an amount has become receivable by a corporation at a particular time in a taxation year and the consideration given by the corporation therefor was property (other than a property referred to in subsection 3 of section

16 or a share or interest therein or a right thereto) or services, the original cost of which to the corporation may reasonably be regarded as having been primarily Canadian exploration and development expenses of the corporation or would have been so regarded if they have been incurred by the corporation after 1971, there shall be included in its income for that taxation year the amount that became receivable by it at that time.

Unitized oil
or gas field
in Canada

(12) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1971 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

- (a) there shall, at that time, be included in computing the corporation's income for the taxation year the amount that became receivable by it; and
- (b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that person.

Amount
deemed
deductible
under this
Subdivision

(13) For the purposes of section 12, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision.

Interpre-
tation
R.S.C. 1952,
c. 148

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

- (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,
 - (i) any drilling or exploration expense, including any general geological or geophysical expense incurred by the corporation after 1971 on or after that time 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), ^{R.S.C. 1952, c. 148} 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 from a government, municipality or other public authority in respect of or related to its Canadian exploration and development expenses, 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;

R.S.C. 1952,
c. 148

- (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);
- (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) "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
 - (iii) "Canadian" were references to "Ontario";
- (f) "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";

(g) "principal-business corporation" has the meaning given to that expression by paragraph *h* of subsection 15 of section 66 of the *Income Tax Act* R.S.C. 1952, c. 148 (Canada);

(h) "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), except that subparagraph *ii* thereof shall, in its application for the purposes of this section, be read without the reference therein to "a Canadian exploration expense or a Canadian development expense".

(15) For the purposes of clause *d* of subsection 2 of section 1, this section applies in lieu of sections 66, 66.1 and 66.2 of the *Income Tax Act* (Canada). Application

21. Section 66.3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as that section applies to corporations. Shares taxed as inventory

SUBDIVISION E—RULES RELATING TO COMPUTATION OF INCOME

22.—(1) The rules provided in subdivision *f* of Division B of Part I of the *Income Tax Act* (Canada), relating to the computation of income are, in so far as the said rules apply to corporations, applicable in computing income for the purposes of this Act. R.S.C. 1952, c. 148, Part I (B) (f), applicable

(2) In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. General limitation re expenses

23.—(1) Section 245 of the *Income Tax Act* (Canada) is applicable in computing income for the purposes of this Act, except that, Artificial transactions

(a) paragraph *b* of subsection 2 thereof is not applicable; and

(b) the reference therein to Part I of that Act shall be deemed to be reference to Part II of this Act.

Dividend stripping

R.S.C. 1952, c. 148

(2) In computing the income of a corporation for a taxation year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act.

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

Amounts not included in income:

federal grants
1965, c. 12 (Can.)
R.S.C. 1970, c. 1-10, R-3 1970-71-72, c. 56 (Can.)

other amounts

24. There shall not be included in computing the income of a corporation for a taxation year,

(a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada), or the *Employment Support Act* (Canada); and

(b) an amount determined in accordance with the rules provided in paragraphs *b*, *c*, *l* and *m* of subsection 1 of section 81 of the *Income Tax Act* (Canada).

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA
AND THEIR SHAREHOLDERS

R.S.C. 1952, c. 148,
Part I (B) (h),
applicable

Amalgamations consideration for resource property disposition

25.—(1) Except as hereinafter provided, the rules provided in subdivision h of Division B of Part I of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

(2) In lieu of the rule provided in paragraph *p* of subsection 2 of section 87 of the *Income Tax Act* (Canada) with respect to amalgamations, the following rule is applicable for the purposes of this Act:

For the purpose of computing a deduction from the income of the new corporation for a taxation year under section 18, any amount that has been included in computing the income of a predecessor corporation for its last taxation year or a previous taxation year by virtue of clause *a* or *c* of subsection 3 of section 16, or subsection 11 or 12 of section 20, or by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act* as it read in its application to the taxation years prior to 1972, shall be deemed to have been included in computing the income of the new corporation for a previous taxation year by virtue thereof.

(3) Paragraph *z* of subsection 2 of the said section 87 is not applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 87 (2) (z),
not applicable

(4) Paragraph *e.2* of subsection 1 of section 88 of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraph *z* of subsection 2 of section 87 of the said Act, and as though the reference therein to paragraph *p* of the said subsection 2 were a reference to subsection 2 of this section.

R.S.C. 1952,
c. 148,
s. 88 (1) (e. 2),
applicable

(5) For the purposes of subsection 4 of section 16 and section 31, where a corporation (hereinafter in this section referred to as the "vendor") has transferred shares of the capital stock of a corporation registered under *The Venture Investment Corporations Registration Act, 1977* to another corporation (hereinafter in this section referred to as the "purchaser") pursuant to an amalgamation within the meaning of section 87 of the *Income Tax Act* (Canada) or the winding-up of a Canadian corporation within the meaning of section 88 of that Act, or the vendor and the purchaser have jointly elected under section 85 of that Act in respect of those shares, the following rules apply,

Transfer of
V.I.C.
shares on
amalgamation
or winding-up
1977, c. 10

- (a) the vendor shall be deemed to have disposed of the shares for proceeds of disposition equal to the cost to it of the shares; and
- (b) the purchaser shall be deemed to have acquired the shares at a cost equal to the amount determined under clause *a*.

(6) In the application of the said subdivision *h* for the purposes of this Act, the references in section 84.2, paragraphs *g* and *k* of subsection 1 of section 89 and subsection 3 of section 89 of the *Income Tax Act* (Canada), to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

"Minister"
deemed to
be Minister
of National
Revenue

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS NOT RESIDENT IN CANADA

26.—(1) The provisions of subdivision *i* of Division B of Part I of the *Income Tax Act* (Canada) are applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

R.S.C. 1952,
c. 148,
Part I (B) (i),
applicable

(2) In the application of the said subdivision *i* for the purposes of this Act, the references therein to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada.

Idem

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

R.S.C. 1952,
c. 148,
Part I (B) (j),
applicable

27.—(1) Except as hereinafter provided, the rules provided in subdivision j of Division B of Part I of the *Income Tax Act* (Canada) with respect to partnerships and their members, are applicable for the purposes of this Act in so far as the said rules apply to corporations.

Exception

(2) Subsection 1.6 of section 96 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Members of
partnerships
deemed to
have
permanent
establishment
in Ontario

(3) Where any activity in Ontario of a partnership in a taxation year is such that, if it were a corporation, it would be subject to subsection 2 or 3 of section 2, as the case may be, each corporation that is deemed to be a member of the partnership shall be deemed to be subject to subsection 2 or 3 of section 2, as the case may be, for that taxation year.

SUBDIVISION J—BENEFICIARIES OF TRUSTS

R.S.C. 1952,
c. 148,
Part I (B) (k),
applicable

28.—(1) In determining for the purposes of this Act the income of a corporation that is a beneficiary of a trust, subdivision k of Division B of Part I of the *Income Tax Act* (Canada) is applicable in so far as the said subdivision applies to corporations that are beneficiaries of trusts, and any amount included in or deducted from the income of a corporation for a taxation year by virtue of that subdivision shall be included or deducted, as the case may be, in computing its income for the taxation year for the purposes of this Act.

Idem

(2) In the application of the said subdivision for the purposes of this Act,

- (a) clause *d* of subsection 2 of section 1 of this Act does not apply; and
- (b) the references therein to “Minister” shall be deemed to be references to the Minister of National Revenue for Canada.

DIVISION C—COMPUTATION OF TAXABLE INCOME

R.S.C. 1952,
c. 148,
Part I (C),
applicable

29.—(1) Except as hereinafter in this Division provided, in computing the taxable income of a corporation for a taxation year, Division C of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said Division applies to deductions permitted to corporations.

(2) In the application of paragraphs *a*, *b* and *b.1* of sub-section 1 of section 110 of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "receipts" shall be deemed to mean receipts or photostatic reproductions thereof.

Receipts:
application of
R.S.C. 1952,
c. 148,
s. 110 (1)

(3) For the purposes of this Act, "registered amateur athletic association" and "registered charity" mean respectively an amateur athletic association or a charity that, unless otherwise designated by the Minister, has been registered by the Minister of National Revenue for Canada pursuant to subsection 8 of section 110 of the *Income Tax Act* (Canada) and, unless otherwise designated by the Minister, whose registration has not been revoked.

Interpre-
tation

(4) In the application, for the purposes of this Act, of subsection 3 of section 111 of the *Income Tax Act* (Canada), paragraph *a* thereof shall be read as if subparagraph ii thereof were deleted.

Losses:
application of
R.S.C. 1952,
c. 148,
s. 111 (3)

30.—(1) In computing a corporation's taxable income for a taxation year, there may be deducted the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as "the amount contributed") that are contributions for the purposes of *The Election Finances Reform Act, 1975* and that are contributed in the taxation year, and in any previous taxation year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that,

Election
contributions

1975, c. 12

- (a) subject to subsection 3, such deduction shall not exceed the least of,
 - (i) the amount contributed,
 - (ii) its taxable income computed without reference to this section, and
 - (iii) \$4,000; and
- (b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

Interpre-
tation

(2) In this section,

1975, c. 12

- (a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under *The Election Finances Reform Act, 1975*;
- (b) "registered candidate", with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;
- (c) "registered constituency association" means a registered constituency association within the meaning given to that expression by *The Election Finances Reform Act, 1975*;
- (d) "registered party" means a registered party within the meaning given to that expression by *The Election Finances Reform Act, 1975*.

Corporations
to which
s. 34 is
applicable

(3) In respect of a corporation to which section 34 is applicable, the amount deductible under clause *a* of subsection 1 is the aggregate of,

- (a) the amount which would otherwise be deducted under clause *a* of subsection 1; and
- (b) that proportion of the amount determined under clause *a* that,
 - (i) the taxable income of the corporation that is earned in jurisdictions other than Ontario (as computed for the purposes of section 34 and without reference to this section and section 31),

is to,

- (ii) the amount by which the taxable income of the corporation exceeds the amount referred to in subclause i.

31.—(1) In computing the taxable income of a corporation for a taxation year there may be deducted the lesser of,

Purchase
of shares
of Venture
Investment
Corporation

(a) the aggregate of,

(i) the corporation's "eligible expenditure" for the year determined under subsection 2, and

(ii) that proportion of the amount referred to in subclause i that,

(A) the proportion of the corporation's taxable income determined without reference to this section, that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

(B) the amount by which the corporation's taxable income for the year, determined without reference to this section, exceeds the amount determined under sub-subclause A; and

(b) the taxable income of the corporation for the year determined without reference to this section and section 30.

(2) In this section, a corporation's "eligible expenditure" for a taxation year means the aggregate of,

Interpre-
tation

(a) the amount of the corporation's "undeducted eligible expenditure" determined under subsection 3 for the immediately preceding taxation year; and

(b) an amount equal to 250 per cent of the cost incurred in the year for the acquisition of shares of the capital stock of a corporation that is registered under *The Venture Investment Corporations Registration Act, 1977*.^{1977, c. 10}

(3) For the purposes of subsection 2, a corporation's "undeducted eligible expenditures" means the amount by which,

Interpre-
tation

(a) its "eligible expenditure" for a taxation year determined under subsection 2,

exceeds,

- (b) the amount deducted for that year under subsection 1 minus the proportion thereof that,
- (i) the taxable income of the corporation for the year that would be deemed to have been earned in all jurisdictions other than Ontario for the purposes of section 34,

is of,

- (ii) the taxable income of the corporation for the year.

DIVISION D—TAXABLE INCOME EARNED IN CANADA
BY NON-RESIDENTS

Non-residents' taxable income earned in Canada

32. The taxable income earned in Canada for a taxation year of a corporation to which subsection 2 or 3 of section 2 applies shall be computed in accordance with the rules provided in section 115 of the *Income Tax Act* (Canada) in so far as the said rules apply to corporations, except that for the purposes of this Act,

- (a) there shall be included income from property that is real property situated in Canada or any interest therein, that arose from the sale or rental thereof or both; and
- (b) the amount of the income included in accordance with the said rules and clause *a* shall be determined in accordance with this Act.

DIVISION E—COMPUTATION OF INCOME TAX PAYABLE

Rate

33. The tax payable by a corporation under this Part upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the "amount taxable", is 12 per cent of the amount taxable.

Deduction from income tax

34. There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 12 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the taxation year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations.

Foreign tax deduction

35.—(1) Where a corporation has a permanent establishment in Ontario, and,

(a) the corporation has included in computing its income for the taxation year,

(i) income that was derived from sources within a jurisdiction outside Canada in the form of dividends, interest, rents or royalties received in the year,

(ii) income that is deemed to have been received in the form of dividends and interest from a jurisdiction outside Canada by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), or

R.S.C. 1952,
c. 148

(iii) the amount by which,

(A) the aggregate of that part of the corporation's taxable capital gains for the taxation year from the disposition of property as may reasonably be considered to be income from a source within a jurisdiction outside Canada,

exceeds,

(B) the aggregate of such of the corporation's allowable capital losses for the year from the disposition of property as may reasonably be considered to be a loss from a source within that jurisdiction outside Canada,

hereinafter in this section referred to as "foreign investment income"; or

(b) the corporation, having included in its income for the taxation year foreign investment income from sources within a jurisdiction outside Canada, also included income from a business carried on by it in that jurisdiction, hereinafter in this section referred to as "foreign business income",

and where,

(c) for the purposes of subsection 2 of section 126 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to a jurisdiction outside Ontario in accordance with the regulations made under sec-

tion 34 such foreign investment income has been excluded from the calculation of gross revenue or any part thereof; and

R.S.C. 1952.
c. 148

- (d) the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of subsection 5 of section 148 of the *Income Tax Act* (Canada),

the corporation may deduct from the tax otherwise payable under this Part for the taxation year an amount equal to the lesser of,

- (e) 12 per cent of that part of such foreign investment income that is income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 34; and
- (f) the deficiency, if any, between,
- (i) the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause e, and
- (ii) the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 1 of section 126 of the *Income Tax Act* (Canada).

Idem

(2) For greater certainty, where the income of a corporation for a taxation year is in whole or in part from sources in more than one jurisdiction outside Canada, subsection 1 shall be read as providing for a separate deduction in respect of each jurisdiction outside Canada.

Small
business
incentives

36.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to 3 per cent of the amount determined under subsection 2.

(2) For the purposes of subsection 1, the amount determined under this subsection is that proportion of the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) for the taxation year, not exceeding \$150,000, that,

Idem

R.S.C. 1952.
c. 148

- (a) the amount of that portion of its taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada),

bears to,

- (b) the total amount of the portions of its taxable income for the taxation year that are deemed to have been earned in the provinces of Canada, measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada).

(3) In lieu of the deduction permitted under subsection 1, for the taxation year that ends after the 6th day of April, 1976, and that includes that day, there may be deducted from the tax otherwise payable under this Part for that taxation year the amount that would otherwise be deductible under section 106*a* as that section stood on the 6th day of April, 1976, determined on the assumption that that section applied to the whole of that taxation year.

Transitional
rule; alter-
native
deduction

(4) Where a corporation has made a deduction under subsection 1 for the taxation year that ends after the 6th day of April, 1976, and that includes that day, in addition to the amount deducted under subsection 1 there may be deducted from the tax otherwise payable under this Part for that taxation year the lesser of,

Transitional
rule;
additional
deduction

- (a) 3 per cent of the amount determined under subsection 2 for that taxation year; and
- (b) the amount that would have been deductible under subsection 3 of section 106*a* as that section stood on the 6th day of April, 1976 had that section applied to that taxation year.

(5) In this section, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 34 and 35, but before making any deduction under this section.

Interpre-
tation

Tax on tax

R.S.C. 1952.
c. 148

37. Where, under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

(a) the tax payable by the corporation under Part II of this Act for the taxation year in or in respect of which such payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the taxation year plus,

(i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,

(A) the payment, and

(B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and

(ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the taxation year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and

(b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a taxation year, such corporation is not entitled to deduct the amount determined under subclause ii of clause a.

DIVISION F—SPECIAL RULES APPLICABLE IN CERTAIN CIRCUMSTANCES

Where
corporation
bankrupt

38. Where a corporation has become bankrupt, as defined in subsection 3 of section 128 of the *Income Tax Act* (Canada), the rules provided in the said section 128 are applicable for the purposes of this Act.

Investment Corporations

39.—(1) Where a corporation is, throughout a taxation year, an investment corporation, other than a mutual fund corporation, subsections 1, 2 and 3 of section 131 of the *Income Tax Act* (Canada) as made applicable by section 41 of this Act are applicable in respect of the corporation for the taxation year as if,

Application
of s. 41

R.S.C. 1952,
c. 148

- (a) the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation; and
- (b) its capital gains redemption for that and all previous taxation years ending after 1971, throughout which it would, but for the assumption made by clause *a*, not have been a mutual fund corporation, were nil.

(2) Subsection 6 of section 41 applies to a corporation to which this section applies.

Idem

Mortgage Investment Corporations

40. Where a corporation was, throughout a taxation year, a mortgage investment corporation, as defined in subsection 6 of section 130.1 of the *Income Tax Act* (Canada), the rules provided in the said section 130.1 are applicable in computing its income for the taxation year for the purposes of this Act.

R.S.C. 1952,
c. 158, s. 130.1,
applicable

Mutual Fund Corporations

41.—(1) Except as hereinafter provided, where a corporation is a mutual fund corporation, section 131 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 131,
applicable

(2) In the application of subparagraph i of paragraph *a* of subsection 2 of the said section 131 for the purposes of this Act, the reference therein to "20%" shall be read as a reference to "6%".

Idem

(3) In the application of subsection 3 of the said section 131 for the purposes of this Act, the reference therein to "this Act" shall be deemed to be a reference to this Act.

Idem

(4) In the application of clause A of subparagraph i of paragraph *a* and clause C of subparagraph ii of paragraph *b*,

Idem

of subsection 6 of the said section 131, for the purposes of this Act, the references therein to "5 times" shall be read as references to "16 $\frac{2}{3}$ times".

Idem

(5) In the application of paragraph *d* of subsection 6 of the said section 131 for the purposes of this Act, subparagraph *i* thereof shall be read without reference to clause C thereof, and the reference to "40%" in clauses A and B of the said subparagraph shall be read as references to "12 per cent".

Apportionment of capital gains refund

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 34 bears to its total taxable income or, where its taxable income is nil, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the corporation's taxable paid-up capital that is deemed to have been used in jurisdictions outside Ontario for that taxation year for the purposes of section 132 bears to its total taxable paid-up capital.

Exceptions
R.S.C. 1952,
c. 148

(7) Subsections 5 and 9 of section 131 of the *Income Tax Act* (Canada) and paragraph *c* of subsection 6 of the said section are not applicable for the purposes of this Act.

Non-Resident-Owned Investment Corporations

Computation of income

42.—(1) The income of a non-resident-owned investment corporation for a taxation year shall be computed as if its only income for the year was the amount, if any, by which its taxable capital gains for the year exceeds its allowable capital losses for the year, from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada.

Computation of taxable income

(2) The taxable income of a non-resident-owned investment corporation for a taxation year is its income determined under subsection 1, minus its net capital losses for taxation years preceding and the taxation year immediately following the taxation year, as determined in accordance with section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

R.S.C. 1952,
c. 148,
s. 133 (5, 7.1, 7.2),
applicable

(3) The provisions of subsections 5, 7.1 and 7.2 of section 133 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Patronage Dividends

43.—(1) Except as hereinafter provided, the provisions of section 135 of the *Income Tax Act* (Canada) with respect to the deduction from income of payments made pursuant to allocations in proportion to patronage and the inclusion in income of payments received pursuant to allocations in proportion to patronage are, in so far as they apply to corporations, applicable in computing income for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 135,
applicable

(2) Subsection 3 of the said section 135 is not applicable for the purposes of this Act.

Non-
application
of s. 135 (3)

Credit Unions

44.—(1) Except as hereinafter provided, the provisions of section 137 of the *Income Tax Act* (Canada) are applicable in computing the income of credit unions for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 137,
applicable

(2) Subsections 3 and 4 of the said section 137 and paragraph *c* of subsection 6 of the said section 137 are not applicable for the purposes of this Act.

Exceptions

Deposit Insurance Corporations

45.—(1) Except as hereinafter provided, the provisions of section 137.1 of the *Income Tax Act* (Canada) are applicable in computing the income of deposit insurance corporations and member institutions thereof for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 137.1,
applicable

(2) In the application of subsection 1 of the said section 137.1 for the purposes of this Act, the reference in paragraph *a* thereof to "this Part" shall be deemed to be a reference to Part II of this Act.

Idem

(3) Subsection 9 of the said section 137.1 is not applicable for the purposes of this Act.

Exception

Insurance Corporations

46.—(1) Notwithstanding any other provision of this Act, except as hereinafter provided, the taxable incomes of insurance corporations that carry on an insurance business in Ontario shall, for the purposes of this Act, be computed in accordance with the rules provided in sections 138, 140, 141, 141.1 and 142 of the *Income Tax Act* (Canada).

Calculation
of taxable
income

Interpre-
tation

(2) In the application of subsection 1 of the said section 138 for the purposes of this Act, the reference in paragraph *d* thereof to "this Part" shall be deemed to be a reference to Part II of this Act.

Application
of rules
under
R.S.C. 1952,
c. 148

47. The rules provided in section 139 of the *Income Tax Act* (Canada), with respect to the conversion of a provincially incorporated life insurance corporation into a mutual corporation, are applicable for the purposes of this Act.

Amounts to
be included
in computing
policy-
holder's
income

48. Subsection 2 of section 142 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act.

DIVISION G—EXEMPTIONS

Exemptions

49.—(1) Except as hereinafter provided, no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was,

Charities
and other
corporations

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

Non-profit
organizations

(b) a club, society or association that, in the opinion of the Minister, was not a charity within the meaning given to that expression by subsection 1 of section 149.1 of the *Income Tax Act* (Canada) and that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, which has not in the taxation year or in any previous taxation year distributed any part of its income to any proprietor, member or shareholder thereof, or appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, unless the proprietor, member or shareholder was a club, society or association, the primary purpose and function of which was the promotion of amateur athletics in Canada; or

Farmers' and
fishermen's
insurers

(c) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen.

(2) Where a corporation described in clause *b* of subsection 1,

Tax payable
where distribution made
to members or
shareholders

(a) has in the taxation year distributed any part of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, such corporation shall be liable to the taxes imposed under this Act for the taxation year in which the distribution is made and for subsequent taxation years, and in computing its income for the taxation year in which the distribution is made, it shall include the aggregate of its income of all previous taxation years; or

(b) has, after 1971, distributed any of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof on the winding up or discontinuance of its business, the corporation shall be deemed to have received income in that taxation year equal to the amount, if any, by which the amount of the funds and the value of the property distributed or appropriated, as the case may be, exceeds the aggregate of,

(i) amounts paid in by proprietors, members or shareholders on account of capital, and

(ii) that part of the corporation's surplus that is attributed to income that was exempt under this section other than taxable capital gains,

and the corporation shall be liable for the taxes imposed under this Act for the taxation year in which the distribution is made.

(3) For the purposes of clause *b* of subsection 1, in computing the part, if any, of any income that was distributed or otherwise appropriated for the benefit of any person, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein.

Income not
to include
taxable
capital
gains

(4) The rules provided in subsections 2, 3, 4, 6, 8, 9 and 10 of section 149 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Application
of rules
under
R.S.C. 1952,
c. 148

Idem
R.S.C. 1952,
c. 148

(5) In the application of subsection 2 of section 149 of the *Income Tax Act* (Canada) for the purposes of this Act, the said subsection shall be read without the reference therein to paragraph *l*.

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

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

(c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 1 and 8 of section 14 of this Act.

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, 1973, chapter 42, section 11, is repealed and the following substituted therefor:

(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

s. 127 (1) (b),
re-enacted

10.—(1) Clause *b* of subsection 1 of section 127 of the said Act is repealed and the following substituted therefor:

(b) the amount of the discount on the issue or sale of the shares of the corporation.

s. 127 (1) (c),
re-enacted

(2) Clause *c* of subsection 1 of the said section 127, as amended by the Statutes of Ontario, 1976, chapter 32, section 17, is repealed and the following substituted therefor:

Investments

(c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *d* which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total of the assets of the corporation remaining after the deductions of the amounts provided by clauses *a*, *b* and *d*, but,

- (i) the deduction under this clause shall in no case exceed the cost of the investments in respect of which the deduction is claimed, and
- (ii) cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under this Part are deemed not to be loans and advances to other corporations.

(3) Clause *d* of subsection 1 of the said section 127, as enacted s. 127 (1) (d),
amended by the Statutes of Ontario, 1976, chapter 32, section 17, is amended by striking out "section 63" in the fifth line and inserting in lieu thereof "section 20".

(4) Clause *d* of subsection 2 of the said section 127 is repealed s. 127 (2) (d),
re-enacted and the following substituted therefor:

- (*d*) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of R.S.C. 1952,
c. 148 subsections 1 and 8 of section 14 of this Act.

11. Subclause ii of clause *b* of subsection 1 of section 128 of the said Act is repealed s. 128 (1) (b)
(ii),
re-enacted and the following substituted therefor:

- (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada, but excluding therefrom,
 - (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
 - (B) all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and

any other securities to which the property in Canada or any of it is subject,

s. 130.
amended

- 12.** Section 130 of the said Act is amended by striking out "clause *c* of subsection 1 of section 75" in the seventh and eighth lines and inserting in lieu thereof "paragraph *c* of subsection 1 of section 81 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 24 of this Act".

s. 135.
re-enacted

- 13.** Section 135 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 75, section 10, is repealed and the following substituted therefor:

Idem

135.—(1) Except as provided in subsection 10 of section 14, every corporation referred to in subsection 1 of section 49, other than a corporation referred to in paragraph *m* of subsection 1 of section 149 of the *Income Tax Act* (Canada), shall not be required to pay the taxes otherwise payable under section 131 or 133.

Idem

(2) Subject to subsection 3, every corporation referred to in clause *d* of subsection 1 of section 1, and sections 40 and 44 of this Act and paragraph *m* of subsection 1 of section 149 of the *Income Tax Act* (Canada) shall, in lieu of the tax payable under section 131 or 133, pay a tax of \$50.

Idem

(3) Subsection 2 does not apply in the case of a corporation referred to in clause *d* of subsection 1 of section 1 where, pursuant to subsection 2 of section 31 of the *Income Tax Act* (Canada) as made applicable by subsection 1 of section 14 of this Act, the Minister has determined that the chief source of income of the corporation for a taxation year is neither farming nor a combination of farming and some other source of income.

s. 137.
amended

- 14.** Section 137 of the said Act is amended by striking out "section 122" in the first line and in the sixth line and inserting in lieu thereof in each instance "section 49".

s. 145.
amended

- 15.** Section 145 of the said Act is amended by adding thereto the following subsection:

Trustees,
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a

taxation year as required by this section shall file the return required by subsection 1 for that corporation for that year.

16.—(1) Subclause i of clause b of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor: s. 148 (3) (b) (i),
re-enacted

- (i) on or before the last day of the third month of the taxation year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part I of that Act for the taxation year or the immediately preceding taxation year, or R.S.C. 1952,
c. 148

(2) Clause b of subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19, is amended by striking out “subsections 2 and 2a of section 109” in the second and third lines and inserting in lieu thereof “section 41”. s. 148 (5) (b),
amended

(3) Subsection 6 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19, is amended by striking out “subsections 2 and 2a of section 109” in the fourth and fifth lines and inserting in lieu thereof “section 41”. s. 148 (6),
amended

17. Subsection 4 of section 149 of the said Act is amended by striking out “section 99” in the second line and in the twelfth line and inserting in lieu thereof in each instance “section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act”. s. 149 (4),
amended

18.—(1) Subsection 1 of section 150 of the said Act is repealed and the following substituted therefor: s. 150 (1),
re-enacted

(1) The Minister shall with all due despatch examine each return delivered under section 145, shall assess the tax for the taxation year and the interest and penalties, if any, payable and shall determine the amount of refund, if any, to which the corporation may be entitled by virtue of section 39 or 41 for the taxation year. Assessment
of returns

(1a) The Minister may determine the amount of a corporation's non-capital loss, net-capital loss or restricted farm loss for a taxation year where, in his opinion, the amount thereof is different from the amount reported by the corporation in its return delivered under section 145 for the taxation year. Deter-
mination
of loss

Provisions
applicable

R.S.C. 1952,
c. 148

(1*b*) The provisions of paragraph *l* of subsection 1 of section 56 and paragraph *o* of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part shall apply, *mutatis mutandis*, to a determination under subsection 1 or 1*a*.

s. 150 (4) (a)
(v),
re-enacted

(2) Subclause *v* of clause *a* of subsection 4 of the said section 150 is repealed and the following substituted therefor:

(v) has claimed a deduction under paragraph *s* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act; and

s. 150 (5),
amended

(3) Subsection 5 of the said section 150 is amended by striking out "section 99" in the sixth line and inserting in lieu thereof "section 111 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act".

s. 152 (4),
amended

19.—(1) Subsection 4 of section 152 of the said Act is amended by inserting after "section 154" in the first line "or by virtue of a decision made under section 160*b*".

s. 152 (7),
amended

(2) Subsection 7 of the said section 152 is amended by striking out "section 99" in the second line and in the twelfth and thirteenth lines and inserting in lieu thereof in each instance "section 111 of the *Income Tax Act* (Canada), as made applicable by section 29 of this Act".

s. 153 (1),
amended

20. Subsection 1 of section 153 of the said Act is amended by striking out "to the extent that interest has been otherwise assessed under subsection 2 of section 149 except that under no circumstances shall the credit interest so allowed exceed the interest otherwise assessed under that section" in the ninth, tenth, eleventh, twelfth and thirteenth lines.

s. 154,
amended

21. Section 154 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 21, is further amended by adding thereto the following subsection:

(6) Where a corporation has served a notice of objection to an assessment in accordance with this section or has instituted an appeal in accordance with section 155 and thereafter the Minister issues to the corporation,

(a) a reassessment or additional assessment of tax, interest or penalties under section 150; or

Reassess-
ment,
additional
assessment or
deter-
mination
does not in-
validate
objection
or appeal

- (b) a determination of the amount of a refund or loss under subsection 1 or 1a of section 150,

for the taxation year in respect of which the notice of objection was served or the appeal instituted, and sends to the corporation a notice of such reassessment, additional assessment or determination,

- (c) the reassessment, additional assessment or determination does not invalidate the notice of objection or appeal, as the case may be; and
- (d) the corporation may, if section 160b does not apply, file an additional objection in respect of any new matters raised in the reassessments, additional assessment or determination, as the case may be.

22.—(1) Subsection 1 of section 155 of the said Act is amended by adding at the end thereof “and notwithstanding section 17 of *The Judicature Act* the appeal shall be heard and determined by a judge of the High Court and not by the Divisional Court”. s. 155 (1), amended

(2) Subsections 5 and 6 of the said section 155 are repealed. s. 155 (5, 6), repealed

23. Subsection 1 of section 157 of the said Act is amended by striking out “and, unless the court otherwise orders, ready for hearing” in the sixth and seventh lines. s. 157 (1), amended

24. The said Act is further amended by adding thereto the following sections: ss. 160a, 160b, enacted

160a. The time within which a notice of objection under subsection 1 of section 154 or a notice of appeal under subsection 1 of section 155 is to be served may be extended by the Minister if application for extension is made prior to the expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension of time

160b.—(1) Where,

- (a) a notice of assessment is issued to a corporation under section 150 that states on the face thereof that the assessment or a designated part thereof has been made pursuant to this section (which assessment or part, as the case may be, is hereinafter referred to as the designated assessment);

- (b) a notice of assessment has been issued to the corporation under the *Income Tax Act* (Canada) based R.S.C. 1952, c. 148

Alternative objection and appeal procedure

on provisions in that Act corresponding to the provisions in this Act on which the designated assessment was based;

- (c) the corporation has served a notice of objection to the assessment referred to in clause *b* in which the same issues have been raised as would have been raised in an objection to the designated assessment; and
- (d) the corporation has not served in accordance with section 154 a notice of objection to the designated assessment,

this section applies to the designated assessment, and in any such case, sections 154 to 160 do not apply, but those sections do apply to the part, if any, of the assessment referred to in clause *a* that is not a designated assessment.

Corporation
and Minister
bound

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies, be bound by,

- (a) the decision of the Minister of National Revenue for Canada from which no appeal is taken in accordance with the *Income Tax Act* (Canada); or
- (b) where an appeal is instituted, the final disposition of the appeal by the Tax Review Board or any court of competent jurisdiction; or
- (c) any minutes of settlement of the issues raised in the notice of objection to the assessment referred to in clause *b* of subsection 1 made between the corporation and the Minister of National Revenue for Canada at any stage of the proceedings following the service of that notice of objection,

R.S.C. 1952,
c. 148

and in any such case the Minister shall, where necessary, reassess the corporation in accordance therewith.

Idem

(3) Sections 154 to 160 do not apply to the reassessment referred to in subsection 2.

s. 167 (1, 2),
re-enacted

25. Subsections 1 and 2 of section 167 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 32 and 1975, chapter 17, section 66, are repealed and the following substituted therefor:

(1) All taxes, interest, penalties, costs and other amounts imposed under this or any predecessor Act in respect of any taxation year of a corporation that commenced in any calendar year ending after the 31st day of December, 1972 are debts due to Her Majesty and, subject to the *Bankruptcy Act* (Canada), are a first lien and charge upon property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts.

Lien in respect of taxes and other amounts imposed

R.S.C. 1970, c. B-4

(2) At the expiry of each calendar year following 1977, the reference in subsection 1 to "1972" shall be advanced by one year.

Expiry of lien

(2a) Subsections 1 and 2 do not apply to extinguish or remove any lien or charge that is claimed under this or any predecessor Act in a Notice of Lien that is registered in the proper land registry office.

Exception re registered liens

26. The said Act is further amended by striking out "fiscal year" wherever it occurs and inserting in lieu thereof in each instance "taxation year".

Act amended

27.—(1) This Act, except clause *d* of subsection 7 and subsection 11 of section 14 of the said Act, subsection 5 of section 15 of the said Act, subsections 4, 5 and 6 of section 16 of the said Act, section 19 of the said Act, subsection 5 of section 25 of the said Act, and section 31 of the said Act, all as enacted by section 8 of this Act, subsection 1 of section 19 and sections 20, 21, 22, 23, 24, 25 and 26, of this Act, comes into force on the day it receives Royal Assent and applies to corporations in respect of all taxation years ending on or after that day.

Commencement and application

(2) Clause *d* of subsection 7 of section 14 of the said Act and section 19 of the said Act, both as enacted by section 8 of this Act, shall be deemed to have come into force on the 20th day of April, 1977 and apply to corporations in respect of all taxation years ending after the 19th day of April, 1977.

Idem

(3) Subsection 11 of section 14 of the said Act, subsection 5 of section 15 of the said Act, subsections 4, 5 and 6 of section 16 of the said Act, subsection 5 of section 25 of the said Act and section 31 of the said Act, all as enacted by section 8 of this Act, come into force on a day to be named by proclamation of the Lieutenant Governor, and when in force, apply to corporations in respect of all taxation years ending on or after the day that *The*

Idem

1977, c. 10

Venture Investment Corporations Registration Act, 1977 comes into force.

- Idem (4) Subsection 1 of section 19 and sections 21, 22, 23, 24, 25 and 26 come into force on the day this Act receives Royal Assent.
- Idem (5) Section 20 of this Act comes into force on the day this Act receives Royal Assent and applies to instalments of tax payable in respect of all taxation years ending on or after that day.
- Idem
R.S.C. 1952,
c. 148. (6) The amendments to the *Income Tax Act* (Canada) made by,
- (a) an Act to amend the *Income Tax Act*, being chapter 106 of the Statutes of Canada, 1974-75-76; and
- (b) an Act to amend the *Income Tax Act*, being chapter 4 of the Statutes of Canada, 1976-77,
- 1972, c. 143 to sections of that Act which are by this Act made applicable for the purposes of *The Corporations Tax Act, 1972* shall be deemed to have come into force for the purposes of *The Corporations Tax Act, 1972* at the same time and to apply in the same manner as those amendments were brought into force and made applicable by the said Acts to amend the *Income Tax Act* (Canada).
- Short title **28.** The short title of this Act is *The Corporations Tax Amendment Act, 1977*.







An Act to amend
The Corporations Tax Act, 1972

1st Reading

November 1st, 1977

2nd Reading

November 29th, 1977

3rd Reading

December 6th, 1977

THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Planning Act

MR. CUREATZ

EXPLANATORY NOTES

The purpose of this Bill is to provide a statement of the specific criteria that should guide a committee of adjustment, land division committee or the Minister when deciding whether to give a consent under section 29 of *The Planning Act*.

SECTION 1. The existing section 29 (12) of *The Planning Act* invokes considerations relating to subdivision agreements and applies them to the giving of consents. The section as amended contains a list of criteria that have particular reference to consents. Most of the considerations are developed from a list contained in section 33 (4) of *The Planning Act*. Another consideration is drawn from section 42 (3). The amendment also requires the committee of adjustment, land division committee and the Minister to consider the community needs for housing and commercial and industrial development.

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.—(1) Subsection 12 of section 29 of *The Planning Act*, being ^{s. 29 (12), re-enacted} chapter 349 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

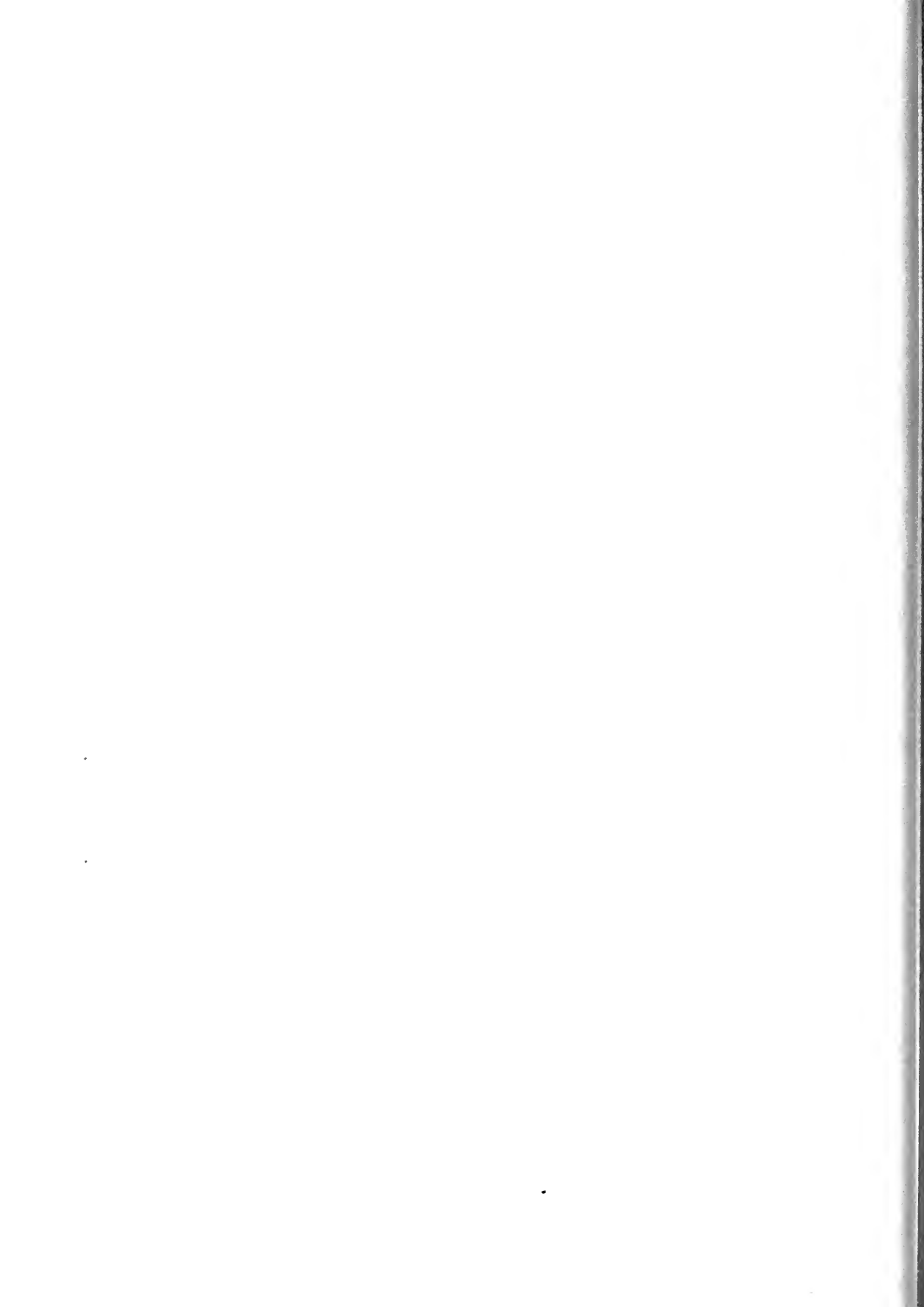
(12) A committee of adjustment, a land division committee and the Minister, in determining whether a consent is to be given, shall decide whether the consent is in the public interest and shall have regard to

- (a) the health, safety, convenience and welfare of the future inhabitants;
- (b) the official plan and adjacent plans of subdivision, if any;
- (c) the community's needs for housing and commercial and industrial development;
- (d) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands;
- (e) the dimensions and shape of the lot or lots and the geographic character of the surrounding land;
- (f) the adequacy of utilities and municipal services;
- (g) the adequacy of school sites;
- (h) the conservation of natural resources and flood control;

- (i) whether a plan of subdivision under section 33 of the land described in the application is necessary for the proper and orderly development of the municipality.
- s. 29,
amended
- (2) The said section 29, 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 and 1976, chapter 38, section 2, is further amended by adding thereto the following subsection:
- Power to
impose
conditions
- (12b) A committee of adjustment, a land division committee and the Minister have the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsections 5 and 8 of section 33, and shall require that all conditions imposed be fulfilled prior to the granting of a consent.
- s. 42 (3),
re-enacted
2. Subsection 3 of section 42 of the said Act is repealed and the following substituted therefor:
- Power of
committee
to give
consent
- (3) In addition to its powers under subsections 1 and 2 and subject to section 30, the committee, upon the application of the owner of any land or any person authorized in writing by such owner, may, notwithstanding any other Act, give a consent as mentioned in section 29.
- 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 Planning Amendment Act, 1977*.

Subsection 12*b* is a re-enactment of the latter portion of the existing section 29 (12) concerning the attachment of conditions to consents.

SECTION 2. The amendment deletes the words "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" in section 42 (3). The phrase is unnecessary because it has been included as one of the considerations listed in the amended section 29 (12).





An Act to amend
The Planning Act

1st Reading

November 1st, 1977

2nd Reading

3rd Reading

MR. CUREATZ

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act respecting Toxic and Hazardous Substances

MR. LEWIS

EXPLANATORY NOTE

The purpose of the Bill is,

- (1) to require that every new substance or new process be tested for toxic or hazardous characteristics by an independent research organization before it is introduced into the work place.
- (2) to enable the Minister of Labour to require any substance or process already in use be tested for toxic or hazardous characteristics by an independent research organization when the effect on the health of the employees is in question.
- (3) where toxic or hazardous characteristics are found through the testing procedure, the Minister can prohibit, severely limit or place conditions on its introduction.
- (4) to require an annual audit of the use by amount of toxic or hazardous substances and mixtures in each work place.

BILL 90

1977

An Act respecting Toxic and Hazardous Substances

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 Labour;
- (b) "substance" means any solid, liquid, gaseous or other substance or any component thereof and includes any combination, blending or mixture of substances;
- (c) "process" means any chemical, mechanical, electrical, catalytic or other process or any component thereof and includes any combination of chemical, mechanical, electrical, catalytic or other processes;
- (d) "new substance" means any substance not in commercial use on or before the date this Act comes into force;
- (e) "new process" means any process not in commercial use on or before the date this Act comes into force;
- (f) "manufacturer" includes any enterprise engaged in the use, distribution or sale of any substance or process, whether manufactured, purchased or imported in whole or in part by the enterprise;
- (g) "research organization" includes any independent research organization approved by the Minister.

2. No manufacturer shall use, distribute or sell any new substance or new process, whether manufactured, pur-

Minister
must approve
new sub-
stance or
process

chased or imported in whole or in part by the manufacturer without the approval of the Minister.

Notice to
Minister

3. A manufacturer who proposes to use, distribute or sell a new substance or a new process, whether manufactured, purchased or imported in whole or in part by the manufacturer, shall give notice of intention in writing to the Minister in the prescribed form.

Power of the
Minister to
approve or
order tests

4. The Minister upon receiving any notice of intention shall,

- (a) approve the use, distribution or sale of the new substance or new process whether manufactured, purchased or imported in whole or in part by the manufacturer, which is known to the Minister to be non-toxic or otherwise non-hazardous to any employee in a workplace; or
- (b) designate the research organization to test the new substance or new process whether manufactured, purchased or imported in whole or in part by the manufacturer which is not known to the Minister to be non-toxic or otherwise non-hazardous to any employee in a workplace.

Research
organization
to undertake
testing

5.—(1) The research organization designated by the Minister under section 4 (b) to test the new substance or new process shall undertake the prescribed tests and shall report to the Minister and to the manufacturer,

- (a) the results of the tests; and
- (b) the conclusions about the extent to which the new substance or new process is toxic or otherwise hazardous to human beings; and
- (c) the recommendations about the use, distribution or sale of the new substance or new process and the conditions of its use, distribution or sale.

Costs of
testing

(2) The reasonable costs incurred by the research organization designated under section 4 (b) for testing the new substance or new process and reporting thereon to the Minister and the manufacturer shall be borne by the manufacturer.

Where
Minister may
give approval

6.—(1) Where the results of the tests provided for in section 4 (b) indicate that the new substance or new process is not likely to be toxic or otherwise hazardous to the

health of any employee in a work place, the Minister may forthwith approve the use, distribution or sale of the new substance or process.

(2) Where the results of the tests provided for in section 4 (b) indicate that the new substance or new process may be toxic or otherwise hazardous to the health of any employee in a work place, the Minister shall make such order as, in his opinion, is necessary to provide for the safety of such employees including one or more of the following,

Where
Minister may
limit use of
substance

- (a) prohibiting the use, distribution or sale of the new substance or new process;
- (b) limiting the use, distribution or sale of the new substance or new process to a particular amount, use, concentration or emission level; or
- (c) requiring that the new substance or new process be marked with or accompanied by clear warnings and instructions concerning its use and disposal.

7. Notwithstanding that a substance or process was in use, distributed or sold before this Act came into force, or has been approved by the Minister under this Act, the Minister may order tests on any substance or process where, in the opinion of the Minister, such testing or further testing is required in the interests of the safety of employees in contact with the substance or process, and where such tests are ordered under this section, the provisions of this Act apply *mutatis mutandis* to the substance or process as if it were a new substance or new process.

Additional
power of
Minister to
order tests

8. Every manufacturer shall prepare and file an annual report in prescribed form in respect of the use of substances and processes with toxic or hazardous characteristics.

Annual
report

9. Nothing in this Act shall be construed to alter or affect the liability and obligation of the manufacturer as now exists in law.

Civil
liability
not affected

10.—(1) Every person who,

Offence

- (a) contravenes any of the provisions of this Act;
- (b) fails to comply with an order made under this Act; or
- (c) contravenes any provision of the regulations,

and every director or officer who knowingly concurs in such contravention or failure is guilty of an offence and on summary conviction is liable to a fine of not more than \$25,000.

Idem (2) Where a corporation is convicted of an offence under subsection 1, the maximum fine that may be imposed is \$100,000 and not as provided therein.

Regulations **11.** The Lieutenant Governor in Council may make regulations,

(a) prescribing tests to be carried out on new substances or new processes;

(b) prescribing forms and providing for their use;

(c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

**Commence-
ment** **12.** This Act comes into force on the day it receives Royal Assent.

Short title **13.** The short title of this Act is *The Toxic and Hazardous Substances Act, 1977*.



An Act respecting
Toxic and Hazardous Substances

1st Reading

November 1st, 1977

2nd Reading

3rd Reading

MR. LEWIS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Assessment Act

THE HON. MARGARET SCRIVENER
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. The addition of clause *d* to section 86 of the Act will postpone from 1977 to 1978 the return of assessments at market value. The addition of subsection 2 to section 86 of the Act will ensure that vacant buildings and structures, or portions thereof, that have not commenced to be used in 1977 will be included in the assessment for taxation in 1978 where the construction or improvement has increased the value of the real property by at least \$2,500. This will prevent the exclusion from assessment and taxation of significant amounts of real property that, although of considerable value, remain vacant and outside the provisions of clause *a* of section 43 of the Act.

The remaining amendments in section 1 of the Bill are consequential on the postponement of market value assessments.

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 86 of *The Assessment Act*, being chapter 32 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1976, chapter 65, section 1, is amended,

^{s. 86,}
^{amended}

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

(b) by adding thereto the following clause;

(d) subject to subsection 2, the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977,

.

(c) by striking out "1975 or 1976" in the twenty-eighth line and inserting in lieu thereof "1975, 1976 or 1977"; and

(d) by adding thereto the following subsection:

(2) Where the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof increases the value of any real property in a municipality or locality by at least \$2,500, and where such increase in value has not been, or is not liable to be, assessed pursuant to section 43, such increase in value shall be assessed and included in the assessment roll to be returned in the municipality or locality next after

^{Increases in}
^{value to be}
^{added to}
^{assessment}
^{roll}

such increase comes to the attention of, and the amount thereof has been determined by, the Assessment Commissioner.

s. 95.
re-enacted

2. Section 95 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 65, section 2, is repealed and the following substituted therefor:

Application

95. Section 90 ceases to be in force on the 19th day of December, 1978, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action which will affect taxes for the years 1971 to and including 1978.

s. 96.
re-enacted

3. Section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 41, section 31 and amended by 1976, chapter 65, section 3, is repealed and the following substituted therefor:

Application

96.—(1) Subject to section 97, subsection 6 of section 33 continues to be not in force and remains inoperative until the 1st day of January, 1978.

Idem

(2) Section 71 continues to be not in force and remains inoperative until the 1st day of January, 1979.

s. 97 (1),
amended

- 4.—(1) Subsection 1 of section 97 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 161, section 2 is amended by striking out "93, 94 or" in the seventeenth line.

s. 97 (2),
amended

- (2) Subsection 2 of the said section 97, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 2, section 3, is further amended by striking out "1977" as inserted in the third line by the said amendment, and inserting in lieu thereof "1979".

s. 97 (5),
amended

- (3) Subsection 5 of the said section 97, as amended by the Statutes of Ontario, 1973, chapter 148, section 5, is further amended by striking out "section 72" in the first line and in the fifteenth line and inserting in lieu thereof in each instance "section 507 of *The Municipal Act*".

Commence-
ment

- 5.—(1) This Act, except section 3, comes into force on the 1st day of December, 1977.

Idem

- (2) Section 3 shall be deemed to have come into force on the 1st day of January, 1977.

Short title

6. The short title of this Act is *The Assessment Amendment Act, 1977*.

SECTION 2. The changes made in the re-enactment of section 95 are consequential on the postponement of market value assessments.

Section 95 now reads:

95. *Section 90 ceases to be in force on the 20th day of December, 1977, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action which will affect taxes for the years 1971 to and including 1977.*

SECTION 3. The changes made in section 96 are consequential on the postponement of market value assessments.

Section 96 now reads:

96.—(1) *Subject to section 97, subsection 6 of section 33 continues to be not in force and remains inoperative until the 1st day of January, 1977.*

(2) *Section 71 continues to be not in force and remains inoperative until the 1st day of January, 1978.*

SECTION 4.—Subsection 1. The amendment deletes references to sections that were earlier repealed.

Subsection 2. The amendment is consequential on the postponement of market value assessments and the amendments to section 96 by section 3 of this Bill.

Subsection 3. The amendment reflects the repeal of section 72 of *The Assessment Act* and the enactment of similar provisions in section 507 of *The Municipal Act*, effective January 1st, 1976.



An Act to amend
The Assessment Act

1st Reading

November 3rd, 1977

2nd Reading

3rd Reading

THE HON. MARGARET SCRIVENER
Minister of Revenue

(Government Bill)

BILL 91

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Assessment Act

THE HON. MARGARET SCRIVENER
Minister of Revenue



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 86 of *The Assessment Act*, being chapter 32 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1976, chapter 65, section 1, is amended,

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

(b) by adding thereto the following clause;

(d) subject to subsection 2, the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977,

.

(c) by striking out "1975 or 1976" in the twenty-eighth line and inserting in lieu thereof "1975, 1976 or 1977"; and

(d) by adding thereto the following subsection:

(2) Where the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof increases the value of any real property in a municipality or locality by at least \$2,500, and where such increase in value has not been, or is not liable to be, assessed pursuant to section 43, such increase in value shall be assessed and included in the assessment roll to be returned in the municipality or locality next after

Increases in value to be added to assessment roll

such increase comes to the attention of, and the amount thereof has been determined by, the Assessment Commissioner.

s. 95,
re-enacted

2. Section 95 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 65, section 2, is repealed and the following substituted therefor:

Application

95. Section 90 ceases to be in force on the 19th day of December, 1978, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action which will affect taxes for the years 1971 to and including 1978.

s. 96,
re-enacted

3. Section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 41, section 31 and amended by 1976, chapter 65, section 3, is repealed and the following substituted therefor:

Application

96.—(1) Subject to section 97, subsection 6 of section 33 continues to be not in force and remains inoperative until the 1st day of January, 1978.

Idem

(2) Section 71 continues to be not in force and remains inoperative until the 1st day of January, 1979.

s. 97 (1),
amended

- 4.—(1) Subsection 1 of section 97 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 161, section 2, is amended by striking out "93, 94 or" in the seventeenth line.

s. 97 (2),
amended

- (2) Subsection 2 of the said section 97, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 2, section 3, is further amended by striking out "1977", as inserted in the third line by the said amendment, and inserting in lieu thereof "1979".

s. 97 (5),
amended

- (3) Subsection 5 of the said section 97, as amended by the Statutes of Ontario, 1973, chapter 148, section 5, is further amended by striking out "section 72" in the first line and in the fifteenth line and inserting in lieu thereof in each instance "section 507 of *The Municipal Act*".

Commence-
ment

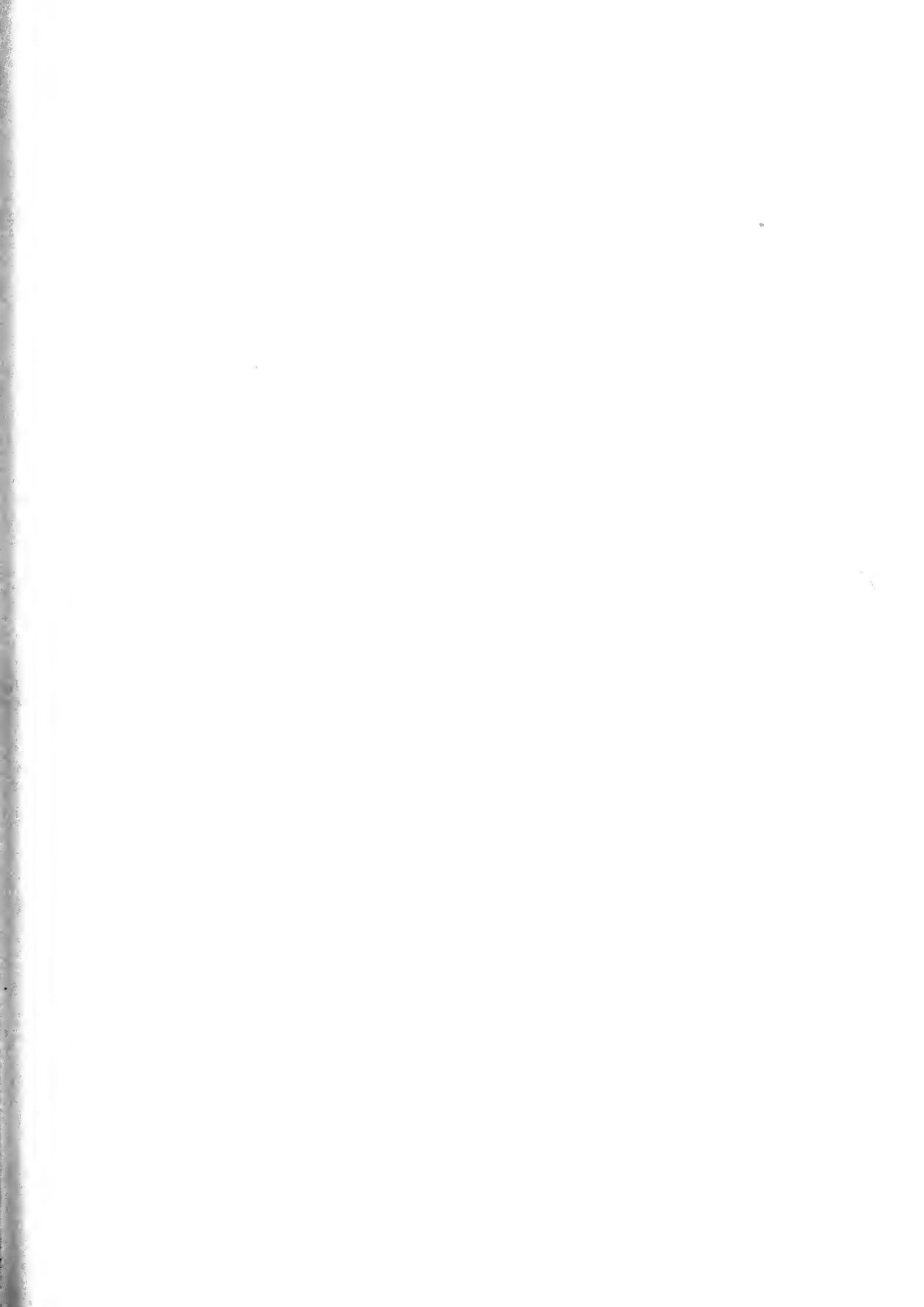
- 5.—(1) This Act, except section 3, comes into force on the 1st day of December, 1977.

Idem

- (2) Section 3 shall be deemed to have come into force on the 1st day of January, 1977.

Short title

6. The short title of this Act is *The Assessment Amendment Act, 1977*.







An Act to amend
The Assessment Act

1st Reading

November 3rd, 1977

2nd Reading

November 29th, 1977

3rd Reading

November 29th, 1977

THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Highway Traffic Act**

MR. NIXON

EXPLANATORY NOTE

The purpose of this Bill is to make it a requirement that a motor vehicle registered in Ontario be insured under a motor vehicle liability policy. The Bill requires that every owner provide proof of insurance protection at the time a motor vehicle permit is issued or validated.

In addition, the Registrar of Motor Vehicles must receive notice of every cancellation of a motor vehicle liability policy and may request an owner to provide further proof of insurance protection.

BILL 92

1977

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 1 of section 1 of *The Highway Traffic Act*, being ^{s. 1 (1),} chapter 202 of the Revised Statutes of Ontario, 1970, as ^{amended} amended by the Statutes of Ontario, 1973, chapter 45, section 1, 1973, chapter 167, section 1, 1974, chapter 123, section 1, 1975, chapter 78, section 1, 1976, chapter 37, section 1 and 1977, chapter 19, section 1, is further amended by adding thereto the following paragraph:

17a. "motor vehicle liability policy" means a motor vehicle liability policy in accordance with *The* ^{R.S.O. 1970,} *Insurance Act*. _{c. 224}
2. Subsection 3 of section 6 of the said Act, as re-enacted by ^{s. 6 (3),} the Statutes of Ontario, 1974, chapter 66, section 2, is repealed ^{re-enacted} and the following substituted therefor:

(3) Where the owner of a motor vehicle or trailer pays ^{Permits} the fee prescribed by the regulations and provides proof, ^{for vehicles} as prescribed in the regulations, that the motor vehicle is insured under a valid and subsisting motor vehicle liability policy, the Ministry or any person authorized by the Minister shall,

 - (a) issue for the motor vehicle or trailer a numbered permit and a number plate or number plates, in accordance with the regulations, bearing the number of the permit; or
 - (b) validate the permit issued for the motor vehicle or trailer and provide such evidence of the validation for display upon the motor vehicle or trailer as may be prescribed by the regulations.

s. 6a.
enacted

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

Motor
vehicle
insurance
required

6a.—(1) The owner of a motor vehicle shall not drive the motor vehicle or cause or permit the motor vehicle to be driven on a highway unless a valid and subsisting motor vehicle liability policy exists in respect of the motor vehicle.

Notice of
cancellation
to Registrar

(2) An insurer shall notify the Registrar of the cancellation of a motor vehicle liability policy at least fifteen days in advance of the day the policy lapses or is terminated by the insurer, but where the motor vehicle liability policy is terminated by an insured owner, the insurer shall notify the Registrar of the cancellation forthwith.

Where policy
deemed in
force

(3) Where an insurer fails to notify the Registrar of the cancellation of a motor vehicle liability policy, the liability of the insurer under the motor vehicle liability policy shall be deemed to continue until the Registrar is notified of the cancellation.

Idem

(4) The Registrar may at any time request a person to provide proof that a motor vehicle liability policy exists in respect of a motor vehicle owned by that person.

Uninsured
motor vehicle
fee
R.S.O. 1970,
c. 281

(5) A permit held by an owner at the time this Act comes into force, by reason of having paid the uninsured motor vehicle fee under *The Motor Vehicle Accident Claims Act* shall continue in operation until the period for which the fee was paid expires and thereafter the permit shall not be validated or replaced unless the owner provides to the Minister proof as prescribed in the regulations that there exists a valid and subsisting motor vehicle liability policy in respect of the motor vehicle.

Regulations

(6) The Lieutenant Governor in Council may make regulations prescribing the form of providing proof to the Minister and the Registrar that a valid and subsisting motor vehicle liability policy exists in respect of the motor vehicle.

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 Highway Traffic Amendment Act, 1977*.







An Act to amend
The Highway Traffic Act

1st Reading

November 3rd, 1977

2nd Reading

3rd Reading

MR. NIXON

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Employment Standards Act, 1974**

MR. O'NEIL

EXPLANATORY NOTE

The purpose of this Bill is to increase the time for notice to an employee whose employment is to be terminated where the employer plans to terminate the employment of fifty or more employees within a short period of time. The Bill also requires the employer, when requested, to confer with the Minister and any trade union that represents the employees to discuss alternative methods of reducing the number of terminations.

**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 2 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: ^{s. 40 (2), re-enacted}

(2) Notwithstanding subsection 1, the notice required by an employer to terminate the employment of fifty or more employees in any period of twelve weeks or less shall be not less than, ^{Notice of lay-off}

- (a) sixteen weeks notice if the employment of fifty or more persons and fewer than 200 persons is to be terminated at an establishment;
- (b) twenty-four weeks notice if the employment of 200 or more persons and fewer than 500 persons is to be terminated at an establishment; and
- (c) thirty-two weeks notice if the employment of 500 or more persons is to be terminated at an establishment,

and until the expiry of such notice the termination shall not take effect.

(2) The said section 40 is amended by adding thereto the following subsection: ^{s. 40, amended}

(2a) In the event of a termination referred to in subsection 2, an employer shall give notice at the same time that notice is given under subsection 2 to the Minister and any trade union that represents employees whose employment the employer proposes to terminate indicating, ^{Duty to confer}

(a) the number of employees whose employment will be terminated;

(b) a statement of the reasons for the terminations,

and, where the Minister or a trade union so requests, the employer shall confer with the Minister or trade union or a representative thereof with a view to considering in good faith alternative plans to reduce the number of terminations.

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 Employment Standards Amendment Act, 1977*.







An Act to amend
The Employment Standards Act, 1974

1st Reading

November 3rd, 1977

2nd Reading

3rd Reading

MR. O'NEIL

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Negligence Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The provisions being repealed save a driver or owner of a motor vehicle harmless from civil liability for injuries to a gratuitous passenger except where the injuries were caused by the gross negligence of the driver. The effect of the appeal is to re-establish absence of negligence as a standard of care to be exercised by drivers of motor vehicles towards gratuitous passengers.

The amendment to section 2 (1) of the Act is of a housekeeping nature to reflect the repeal of subsections 2 and 3 of section 2 of the Act.

Section 2 of the Bill serves to clarify that the right of action is preserved where the cause of action arose before this Bill comes into force.

An Act to amend The Negligence 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 2 of *The Negligence Act*, being ^{s. 2 (1),} chapter 296 of the Revised Statutes of Ontario, 1970, ^{amended} is amended by striking out “except as provided by subsections 2, 3 and 4” in the fourth line.
- (2) Subsections 2 and 3 of the said section 2 are repealed. ^{s. 2 (2, 3),} ^{repealed}
2. Section 1 does not apply in respect of any action brought ^{When s. 1} for any loss or damage resulting from bodily injury to, or ^{does not} the death of any person being carried in, or upon, or entering, ^{apply} or getting on to, or alighting from a motor vehicle other than a vehicle operated in the business of carrying passengers for compensation, where the cause of action arose before this Act comes into force.
3. This Act comes into force on the day it receives Royal Assent. ^{Commence-} ^{ment}
4. The short title of this Act is *The Negligence Amendment Act*, ^{Short title} 1977.

An Act to amend
The Negligence Act

1st Reading

November 4th, 1977

2nd Reading

3rd Reading

THE HON. R. McMURRY
Attorney General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Negligence Act

THE HON. R. MCMURTRY
Attorney General

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

EXPLANATORY NOTE

The provisions being repealed save a driver or owner of a motor vehicle harmless from civil liability for injuries to a gratuitous passenger except where the injuries were caused by the gross negligence of the driver. The effect of the appeal is to re-establish absence of negligence as a standard of care to be exercised by drivers of motor vehicles towards gratuitous passengers.

The amendment to section 2 (1) of the Act is of a housekeeping nature to reflect the repeal of subsections 2 and 3 of section 2 of the Act.

Section 2 of the Bill serves to clarify that the right of action is preserved where the cause of action arose before this Bill comes into force.

An Act to amend The Negligence 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 2 of *The Negligence Act*, being ^{s. 2 (1), amended} chapter 296 of the Revised Statutes of Ontario, 1970, is amended by striking out “except as provided by subsections 2, 3 and 4” in the fourth line.

(2) Subsections 2 and 3 of the said section 2 are repealed. ^{s. 2 (2, 3), repealed}
2. Section 1 does not apply in respect of any action brought ^{When s. 1 does not apply} for any loss or damage resulting from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting on to, or alighting from a motor vehicle other than a vehicle operated in the business of carrying passengers for compensation, where the cause of action arose before this Act comes into force.
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 Negligence Amendment Act*, ^{Short title} 1977.

An Act to amend
The Negligence Act

1st Reading

November 4th, 1977

2nd Reading

December 6th, 1977

3rd Reading

THE HON. R. MCMURTRY
Attorney General

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

BILL 94

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Negligence Act

THE HON. R. MCMURTRY
Attorney General



An Act to amend The Negligence 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 2 of *The Negligence Act*, being ^{s. 2 (1),} amended chapter 296 of the Revised Statutes of Ontario, 1970, is amended by striking out “except as provided by subsections 2, 3 and 4” in the fourth line.
- (2) Subsections 2 and 3 of the said section 2 are repealed. ^{s. 2 (2, 3),} repealed
2. Section 1 does not apply in respect of any action brought ^{When s. 1} for any loss or damage resulting from bodily injury to, or ^{does not} the death of any person being carried in, or upon, or entering, ^{apply} or getting on to, or alighting from a motor vehicle other than a vehicle operated in the business of carrying passengers for compensation, where the cause of action arose before this Act comes into force.
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 Negligence Amendment Act*, ^{Short title} 1977.

An Act to amend
The Negligence Act

1st Reading

November 4th, 1977

2nd Reading

December 6th, 1977

3rd Reading

December 6th, 1977

THE HON. R. McMURRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Assessment Act

MR. LELUK

EXPLANATORY NOTE

The Bill provides an exemption from municipal taxation for additions and improvements to real property that are designed to aid persons who are physically disabled.

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 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, 1977*.

s. 3.
amended

Equipment
to aid
physically
disabled

Commence-
ment

Short title

An Act to amend
The Assessment Act

1st Reading

November 7th, 1977

2nd Reading

3rd Reading

MR. LEUK

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to register
Condominium Property Management Firms**

MR. LELUK

EXPLANATORY NOTE

This Bill provides for the registration, bonding and inspection of condominium property management firms.

BILL 96

1977

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 ^{Voluntary cancellation} cancel a registration upon the request in writing of the registrant in the prescribed form surrendering its registration.

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, ^{Order effective, stay} but the Tribunal may grant a stay until disposition of the appeal.

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,

1971, c. 49

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.

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 ^{Idem} shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

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, 1977*.







An Act to register
Condominium Property
Management Firms

1st Reading

November 7th, 1977

2nd Reading

3rd Reading

MR. LELUK

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act respecting the Sandwich,
Windsor and Amherstburg Railway**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTE

The effect of the Bill is to change the name of the company that operates the public transportation system in the City of Windsor.

BILL 97

1977

An Act respecting the Sandwich, Windsor and Amherstburg Railway

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

1. The body corporate and politic created and constituted by section 3 of *The Sandwich, Windsor and Amherstburg Railway Act, 1930*, being chapter 17, under the name of the "Sandwich, Windsor and Amherstburg Railway Company" and re-created under that name by the Statutes of Ontario, 1939, chapter 43, section 3, is continued as a body corporate under the name of "Transit Windsor".

Corporation continued under name "Transit Windsor"

2. A reference in any general or special Act, or in any by-law, regulation, contract, agreement or other document to the Sandwich, Windsor and Amherstburg Railway Company shall be deemed to be a reference to Transit Windsor.

References in Acts, etc.

3. This Act shall be deemed to have come into force on the 15th day of October, 1977.

Commencement

4. The short title of this Act is *The Sandwich, Windsor and Amherstburg Railway Act, 1977*.

Short title

An Act respecting the Sandwich,
Windsor and Amherstburg Railway

1st Reading

November 8th, 1977

2nd Reading

3rd Reading

THE HON. W. D. MCKEUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 97

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act respecting the Sandwich,
Windsor and Amherstburg Railway**

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



BILL 97

1977

An Act respecting the Sandwich, Windsor and Amherstburg Railway

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

1. The body corporate and politic created and constituted by section 3 of *The Sandwich, Windsor and Amherstburg Railway Act, 1930*, being chapter 17, under the name of the "Sandwich, Windsor and Amherstburg Railway Company" and re-created under that name by the Statutes of Ontario, 1939, chapter 43, section 3, is continued as a body corporate under the name of "Transit Windsor". Corporation continued under name "Transit Windsor"

2. A reference in any general or special Act, or in any by-law, regulation, contract, agreement or other document to the Sandwich, Windsor and Amherstburg Railway Company shall be deemed to be a reference to Transit Windsor. References in Acts, etc.

3. This Act shall be deemed to have come into force on the 15th day of October, 1977. Commencement

4. The short title of this Act is *The Sandwich, Windsor and Amherstburg Railway Act, 1977*. Short title

An Act respecting the Sandwich,
Windsor and Amherstburg Railway

1st Reading

November 8th, 1977

2nd Reading

November 29th, 1977

3rd Reading

November 29th, 1977

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to revise
The Municipal Elections Act, 1972**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTE

The Bill revises the existing *Municipal Elections Act*, enacted in 1972 and extensively amended in 1974.

Among the principal changes incorporated in the Bill are the following:

1. When any proceeding relating to an election falls to be taken on a holiday as defined in *The Interpretation Act*, the proceeding shall be taken instead on the next preceding day that is not a holiday. (s. 1, par. 15; s. 120).
2. It is made clear that a candidate in an election is not eligible to be appointed a deputy returning officer or a poll clerk. (s. 4 (1)).
3. The clerk is empowered to delegate certain of his statutory duties and authority to his election assistants. (s. 4 (6)).
4. Polling day is changed from the first Monday in December to the second Monday in November. (s. 11).
5. All qualified electors are entitled to vote on money by-laws, rather than only owners of land and long-term tenants; the right of corporate nominees to vote on money by-laws is removed. (s. 16).
6. Nomination day is fixed as the Monday three weeks before polling day; in addition nominations may be filed in the office of the clerk during the week immediately preceding nomination day. (s. 35).
7. The occupation of a candidate will no longer be shown on nomination papers or ballots. (ss. 36, 43).
8. The requirement for the use of a poll book is removed and a duplicate polling list is to be used by the poll clerk in its stead. (s. 55).
9. Voting proxy certificates may be obtained from the clerk up to the Friday preceding polling day. (s. 67 (5)).
10. The clerk is given powers to adopt any necessary procedures for the conduct of the poll when an emergency situation arises on polling day. (s. 69).
11. Certain technical changes are made in respect of the procedure on recounts. (s. 83).
12. Notices required under the Act, may, at the option of the municipality, be printed in the French language in addition to the English language. (s. 119).
13. Amendments are made to *The Liquor Licence Act, 1975* to provide that the provisions of *The Municipal Elections Act, 1977* apply to the taking of a vote under the first-mentioned Act. At present, while the taking of a vote is generally to be held on the same day as the vote is taken under *The Municipal Elections Act, 1972* the provisions of *The Election Act* (that govern elections to the Assembly) apply in respect of such matters as the preparation and revision of the lists, the time and manner of holding of the poll, the forms and oaths to be used and administered and the powers and duties of returning officers. Confusion will be avoided if the same procedures apply in respect of the taking of the vote in both cases. (ss. 121-124).

BILL 98

1977

**An Act to revise
The Municipal Elections Act, 1972**

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

1. "advance poll" means a poll held under section 66;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate; R.S.O. 1970,
c. 32
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; R.S.C. 1970,
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act;

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
- R.S.O. 1970,
c. 32 14. "enumerated" means enumerated under *The Assessment Act*;
- R.S.O. 1970,
c. 225 15. "holiday" means a holiday as defined in *The Interpretation Act*;
- R.S.O. 1970,
c. 118 16. "local board" means a local board as defined in *The Municipal Affairs Act*;
- 1974, c. 109 17. "locality" means territory without municipal organization that is deemed a district municipality under *The Education Act, 1974*;
18. "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
19. "municipality" means a city, town, village or township;
20. "new election" means an election other than a regular election;
21. "nomination day" means the last day for filing nominations;
22. "oath" includes an affirmation;
23. "office" means an office, the election to which is governed by this Act;
24. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under *The Assessment Act*;
25. "polling day" means the day on which the poll is to be taken under this Act;
26. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk;

27. "polling place" means the area designated by the clerk in which the facilities for the conduct of the poll are situate;
28. "polling subdivision" means a polling subdivision established by the clerk under this Act;
29. "preliminary list" means a preliminary list of electors;
30. "prescribed" means prescribed by the Minister;
31. "public school elector" means an elector who is not a separate school elector;
32. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
33. "regular election" means an election required to be held under section 10 of this Act;
34. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
35. "scrutineer" means any person appointed as a scrutineer by a candidate or by a council under section 6;
36. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the spouse of such supporter and any person entitled to be a separate school elector under *The Education Act, 1974*. 1972, c. 95, s. 1; 1974. c. 109 1974, c. 32, s. 1, *amended*.

APPLICATION OF ACT

Application
of Act

2. Notwithstanding any other general or special Act, this Act applies to and governs all elections,

(a) to the offices of,

- (i) member of the council of a municipality,
- (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
- (iii) trustee of a police village,
- (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election. 1975, c. 95, s. 2 (1), *amended*.

ELECTION OFFICIALS

Returning
and
revising
officer

3.—(1) Subject to subsections 2 and 3, the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning
officer in
police
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

(b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause *a* who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 23 and 28 of section 57 and subsection 21 of section 110 of *The Education Act, 1974* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions. 1972, c. 95, s. 3, *amended*.

Clerks,
duties in
relation to
school
boards
1974, c. 109

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside but no candidate is eligible to be appointed as a deputy returning officer or poll clerk. 1972, c. 95, s. 4 (1), *amended*.

D.R.O. and
poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place.

Where
unable
to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place.

Non-
attendance
of D.R.O.,
poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. 1972, c. 95, s. 4 (2-4), *amended*.

Poll clerk
to act for
D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose, but no candidate is eligible for any such appointment. 1972, c. 95, s. 4 (5), *amended*.

Assistants

(6) The clerk may, in writing, delegate to the assistant returning officers and assistant revising officers appointed under subsection 5, such of his statutory rights and duties in relation to the preparation for and conduct of the election as he considers necessary. *New*.

Delegation
by clerk

- Duties of poll clerk (7) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders. 1972, c. 95, s. 4 (6).
- Oath (8) Every returning officer, deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form. 1972, c. 95, s. 4 (7); 1974, c. 32, s. 2.
- Oath of D.R.O. (9) The appointment and oath of the deputy returning officer under subsection 8 shall be endorsed upon or attached to the polling list maintained by the poll clerk for the polling place for which he is appointed. 1972, c. 95, s. 4 (8), *amended*.
- Who may administer oaths 5.—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in Ontario.
- Idem (2) The clerk may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk.
- No charge (3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. 1972, c. 95, s. 5.
- Scrutineers appointed by candidate 6.—(1) Each candidate may appoint in writing such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act. 1972, c. 95, s. 6 (1), *amended*.
- Limit on number present (2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection 1 at any time. 1972, c. 95, s. 6 (2).
- Scrutineers appointed by council (3) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question. 1972, c. 95, s. 7 (1).

7. A person appointed as a scrutineer under section 6, ^{Production of} before being admitted to a polling place shall, if so requested, ^{of} appointment produce and show his appointment to the deputy returning officer for the polling place. 1974, c. 32, s. 4, *amended*.

COSTS OF ELECTION

8.—(1) Except where otherwise specifically provided by ^{Cost of} this or any other special or general Act, the cost of an ^{election} election shall be borne by the municipality in which it is held.

(2) The reasonable expenses incurred by a clerk or any other ^{Expenses} officer for printing, providing ballot boxes, ballot papers, ^{of officers} materials for marking ballot paper, and balloting compartments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto. 1972, c. 95, s. 8 (1, 2).

(3) Where the clerk of a municipality is required to conduct ^{Expenses of} an election of a member or members of a local board other ^{by-election} than at a regular election, the board shall forthwith reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list. 1972, c. 95, s. 8 (3), *amended*.

TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act ^{Two-year} and except where otherwise specifically provided in this Act, the ^{term} term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year. 1972, c. 95, s. 9 (1), *amended*.

(2) The holders of offices hold office until their successors ^{Until new} are elected and the newly elected council or local board is ^{council} organized. 1972, c. 95, s. 9 (2).

BIENNIAL ELECTIONS

10.—(1) An election shall be held in accordance with this ^{Election} Act in each municipality in the year 1978 and in every ^{year}

second year thereafter for the purpose of electing persons to offices. 1972, c. 95, s. 10 (1), *amended*.

Vote on
question,
etc.

(2) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board or in the case of a question submitted under *The Liquor Licence Act, 1975*, unless the Liquor Licence Board approves the taking of the vote on some other day. 1972, c. 95, s. 10 (4), *amended*.

1975, c. 40

POLLING DAY

Polling
day

11. Polling day in a regular election shall be the second Monday in November in each election year. 1972, c. 95, s. 11, *amended*.

QUALIFICATION OF ELECTORS

Electors,
resident

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, he,

(a) is a resident in such municipality;

(b) is a Canadian citizen or other British subject; and

(c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1974, c. 32, s. 5, *part*.

Electors,
non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, but at any time during such period, he,

(a) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;

(b) is a Canadian citizen or other British subject; and

(c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1974, c. 32, s. 5, *part*.

14. No judge of any court is qualified to vote in any election. 1974, c. 32, s. 5, *part*. Judges not qualified to vote

15. For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to. 1972, c. 95, s. 14. Evidence of citizenship

QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

16. Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. 1972, c. 95, s. 15, *part*. Who may vote on money by-laws

POLLING SUBDIVISIONS

17. Subject to section 18, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of April in an election year inform the assessment commissioner of the boundaries of each subdivision. 1972, c. 95, s. 17 (1); 1974, c. 32, s. 8, *amended*. Polling subdivisions

18. A polling subdivision shall not, so far as is practicable, Size

- (a) contain more than 350 electors; or
- (b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly. 1972, c. 95, s. 17 (2).

PREPARATION OF PRELIMINARY LIST OF ELECTORS

19. An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the 30th day of September in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who meets the requirements for an elector under section 12 or 13 and such list shall signify opposite the name of an elector, Preliminary list of electors

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;

- 1974, c. 109
- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
 - (d) who is enumerated as a separate school elector in accordance with *The Education Act, 1974*, that he is a separate school elector;
 - (e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant. 1972, c. 95, s. 18; 1974, c. 32, s. 9, *amended*.

For polling
subdivision
where no
wards

20.—(1) In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one
polling
subdivision
only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision. 1972, c. 95, s. 19.

For polling
subdivision
where wards

21.—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality, for the polling subdivision in which he resides; or
- (b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

For one
polling
subdivision

(2) The name of an elector shall not be entered under this section in the preliminary list for more than one polling subdivision. 1972, c. 95, s. 20.

List
delivered
to clerk

22. The assessment commissioner shall deliver the list of electors prepared by him under sections 19, 20 and 21 to the clerk and, in respect of a locality, to the secretary of the school board on or before the thirty-first day after the commencement date of the enumeration period in an election year. 1972, c. 95, s. 21, *amended*.

Correction
of list if
manifest
errors in it

23. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 22 is not in conformity with the require-

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be, prior to the printing or reproduction of the list required under section 24, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections. 1974, c. 32, s. 10, *amended*.

PRELIMINARY LIST OF ELECTORS

24. Immediately after receipt of the list of electors delivered by the assessment commissioner under section 22, the clerk or secretary of the school board referred to in the said section 22, after making corrections, if any, under section 23, shall,

Printing
of list

- (a) cause the list to be printed or reproduced and such list shall be the preliminary list of electors;
- (b) fix the places at which and the times when revision of the list will be undertaken, and such revision shall commence no later than fourteen days after delivery of the list to the clerk under section 22;
- (c) post notice of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken in at least two conspicuous places in the municipality, and where there is a newspaper having general circulation in the municipality, publish the notice in such newspaper. 1974, c. 32, s. 11, *amended*.

REVISION OF PRELIMINARY LIST OF ELECTORS

25.—(1) Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall post one copy of the list in a conspicuous place in his office and in at least two other conspicuous public places in the municipality. 1972, c. 95, s. 23 (1); 1974, c. 32, s. 12 (1), *amended*.

Revision
of list

(2) The day of posting copies of the preliminary list and of publishing the notice under subsection 1 shall be at least five

Time for
posting

days before the last day for filing applications for revision. 1972, c. 95, s. 23 (2); 1974, c. 32, s. 12 (2), *amended*.

Last day
for filing
applications
for revision
of prelimin-
ary list

(3) The last day for the filing of applications for revision of the preliminary list shall be the seventeenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours. 1974, c. 32, s. 12 (3), *amended*.

Notice
affixed
to list

(4) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions. 1972, c. 95, s. 23 (3); 1974, c. 32, s. 12 (4).

Copies
of list

(5) At the time of posting a notice under subsection 1, the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality and every trustee of a police village all or part of which is in the municipality;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;
- (e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;

(f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate.

(6) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office. 1972, c. 95, s. 23 (4, 5). Candidates entitled to copies

26.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed on or before the last day for filing applications for revision of the list have been disposed of. 1974, c. 32, s. 13, *part, amended*. Revision of list

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 25 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them. 1974, c. 32, s. 13, *part*. When applications may be considered

27.—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. Application to enter name in list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be. 1972, c. 95, s. 25 (1, 2). Application and declaration

Application
filed person-
ally or by
agent

(3) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. 1974, c. 32, s. 14.

Interpreter

(4) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

Decision
to amend
list

(5) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application.

Refusal to
amend list

(6) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1972, c. 95, s. 25 (3-5).

Application
for deletion
of name

28.—(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing applications for revision thereof, any person may file with the clerk an application, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon. 1972, c. 95, s. 26 (1); 1974, c. 32, s. 15 (1).

Notice to
person
where name
objected to

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice.

Copy of
application
to be served

(3) A copy of the application shall accompany a notice served or sent under subsection 2.

Notice to
applicant

(4) The clerk shall notify the applicant of the time and place of the hearing.

Decision of
clerk, etc.

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall

attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if the clerk is satisfied of the validity of the application.

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list. 1974, c. 32, s. 15 (2).

Where person
objected to
does not
appear

29. Subject to section 33 or 56, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. 1972, c. 95, s. 27.

Decision
final

30. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsections 5 and 6 of section 25. 1974, c. 32, s. 16, *amended*.

Statement
of change

POLLING LIST

31. After compilation of the statement of additions, changes and deletions required under section 30, the clerk shall prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised. 1972, c. 95, s. 29 (1).

Polling list

32. Except as provided in sections 33, 51 and 56 no person is entitled to vote at an election unless his name appears in the polling list certified under section 31 for the polling subdivision in which he tenders his vote. 1972, c. 95, s. 30.

Only
persons
in list
entitled
to vote

Entry of name
on list by
D.R.O.

33.—(1) If a person whose name is omitted from a polling list certified under section 31, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised. 1974, c. 32, s. 18 (1).

Certificate
to be
produced

(3) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection 1 or 2. 1972, c. 95, s. 31 (3); 1974, c. 32, s. 18 (2).

Copy to
assessment
com-
missioner

(4) The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner before the first Monday in December. 1974, c. 32, s. 18 (3), *part, amended.*

Entry on
polling
list

(5) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 33 certificate".

Certificates
to be kept
in separate
envelope

(6) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1974, c. 32, s. 18 (3), *part, amended.*

NOMINATIONS

Who may be
nominated

34. Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office. 1972, c. 95, s. 32.

35.—(1) Nomination day for a regular election shall be ^{Nomination day} Monday, the twenty-first day before polling day. 1972, c. 95, s. 33 (1).

(2) Persons may be nominated as candidates in an ^{Period for nomination} election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours in the week immediately prior to nomination day. 1974, c. 32, s. 19 (2), *part, amended.*

(3) The clerk shall, at least six days prior to nomination day, post in at least two conspicuous places in the municipality notice of the date and times for filing nominations and of the offices for which persons may be nominated as candidates in the election, and, where there is a newspaper having general circulation in the municipality, publish at least six days prior to nomination day the notice in such newspaper. 1974, c. 32, s. 19 (2), *part, amended.* ^{Notice of time for filing nominations}

36.—(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, on the days and during the hours specified in subsection 2 of section 35, a nomination paper in prescribed form which, ^{How nominated}

(a) shall be signed by at least ten electors whose names are entered, or entitled to be entered under section 33, in the polling lists of electors entitled to vote in an election to such office;

(b) shall state the name and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is. 1974, c. 32, s. 20 (1), *amended.*

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated. 1972, c. 95, s. 34 (2). ^{Consent and declaration to be filed}

(3) A nomination paper nominating a person for an office ^{Public school nominators} the holder of which is required to be elected by public school electors shall be signed by public school electors only. 1972, c. 95, s. 34 (3); 1974, c. 32, s. 20 (2).

- Separate school nominators (4) A nomination paper nominating a person for an office the holder of which is required to be elected by separate school electors shall be signed by separate school electors only. 1972, c. 95, s. 34 (4); 1974, c. 32, s. 20 (3).
- Separate nomination papers (5) Each person to be nominated for election to an office shall be nominated by a separate nomination paper, but an elector may sign more than one nomination paper for the same person and the nomination papers of more than one person. 1972, c. 95, s. 34 (5), *amended*.
- Clerk to keep nomination paper (6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk.
- Onus on person nominated (7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. 1972, c. 95, s. 34 (6, 7).
- Endorsation by clerk **37.**—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing. 1972, c. 95, s. 35 (1).
- Certificate of clerk (2) Where a nomination paper is filed in the office of a clerk prior to nomination day, the paper shall be examined by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing. 1972, c. 95, s. 35 (2); 1974, c. 32, s. 21 (1).
- Posting (3) When the nomination papers have been certified by the clerk he shall cause the name and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public. 1972, c. 95, s. 35 (3), *amended*.
- Where filed on nomination day (4) Where a nomination paper is filed in the office of a clerk on nomination day,
- (a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection 3;
- (b) if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection im-

mediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing. 1972, c. 95, s. 35 (4); 1974, c. 32, s. 21 (2), *amended*.

(5) Certification by the clerk in accordance with subsection 2 ^{Certification by clerk} or 4 with respect to a nomination paper shall be conclusive evidence of the facts certified and shall not be open to challenge thereafter. 1972, c. 95, s. 35 (5), *amended*.

(6) The clerk shall establish and maintain in his office a ^{List of candidates} list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations and the list shall be completed no later than 4 o'clock in the afternoon of the day following nomination day. 1972, c. 95, s. 35 (6); 1974, c. 32, s. 21 (3), *amended*.

DEATH OF A CANDIDATE

38. If as a result of a candidate nominated for election to ^{Election on death of candidate} an office dying before the close of the poll for the election,

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated. 1972, c. 95, s. 36.

WITHDRAWAL OF NOMINATIONS

39.—(1) A person nominated as a candidate in an election ^{Withdrawal of nomination} may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day.

(2) Where a person has been nominated for more than one ^{Where nominated in more than one office} office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be

deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. 1972, c. 95, s. 37.

ACCLAMATIONS

Acclamation **40.**—(1) If no more candidates are nominated for any office than the number to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare that candidate or those candidates duly elected.

Idem (2) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected.

Vacancy (3) If the number of candidates declared to be elected to an office under subsection 1 or 2 is less than the number to be elected to such office so that there is a vacancy, a new election shall be held to fill the vacancy.

Where quorum not elected (4) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection 3 is held and the number of members of the council or local board equals or exceeds the quorum. 1972, c. 95, s. 38.

NOTICE OF POLL

Poll required **41.**—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office. 1972, c. 95, s. 39 (1).

Notice of poll (2) Notice of the time for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such

newspaper. 1972, c. 95, s. 39 (2); 1974, c. 32, s. 22, *amended*.

VOTING BY BALLOT

42.—(1) Where a poll is held in an election, the votes shall be given by ballot. 1972, c. 95, s. 40 (1); 1974, c. 32, s. 23 (1). Voting
by ballot

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed. 1974, c. 32, s. 23 (2), *part, amended*. Voting
machines,
etc.

(3) A by-law passed under subsection 2 or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held. *New*. Repealing
by-law

(4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. 1974, c. 32, s. 23 (2), *part, amended*. Minister's
order

PREPARATION AND FORM OF BALLOT

43.—(1) A clerk who is required to hold a poll under section 41 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election. Ballots

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 37. 1972, c. 95, s. 41 (1, 2). Nomination
of candidate
must be
certified

(3) Subject to subsection 5, the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type. 1972, c. 95, s. 41 (3), *amended*. Order of
names

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly Where
addresses
to be shown

identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate. 1972, c. 95, s. 41 (4), *amended*.

Nicknames
and titles

(5) Except as provided in subsection 4, no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate.

Space for
indicating
vote

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot. 1972, c. 95, s. 41 (5, 6).

Ballots
for same
office to
be alike

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. 1974, c. 32, s. 25, *part, amended*.

Number of
candidates
and name
of office

(8) A ballot shall contain instructions as to the number of candidates for which an elector may vote and the name of the office for which the election is being held. 1974, c. 32, s. 25, *part, amended*.

Ballots re
questions

(9) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. 1972, c. 95, s. 41 (9).

Wards in
municipality

44.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward.

General
vote in
city or town

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and

reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor.

(3) For an election in a township that constitutes a borough ^{Borough in Metro. Toronto} within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman.

(4) For an election in a village or township ^{Village or township} there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.

(5) The council of a town may by by-law provide that the ^{By-law providing for separate sets} ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets. 1972, c. 95, s. 42 (1-5).

(6) A by-law for the purposes mentioned in subsection 5 ^{When to be passed} shall be passed not later in the election year than the 1st day of October and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly. 1972, c. 95, s. 42 (6), *amended*.

(7) There shall also be separate sets of ballots, ^{Separate sets for controller, local board, by-laws, etc.}

(a) containing the names of the candidates for the office of,

(i) controller,

(ii) member of a local board,

(iii) trustee of a police village,

(iv) member of the council of a regional municipality, or

(v) member of the council of both an area municipality and a regional municipality;

(b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question re-

quired or authorized to be submitted to them at an election. 1972, c. 95, s. 42 (7); 1974, c. 32, s. 26.

More than one by-law, etc.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. 1972, c. 95, s. 42 (8).

Composite ballots

45.—(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed prior to the first day of October in an election year, authorize the use at a municipal election of composite ballots in such form subject to subsections 1 to 8 of section 43, as the by-law prescribes. 1972, c. 95, s. 43 (1); 1974, c. 32, s. 27, *amended*.

Contents

(2) A composite ballot may contain,

- (a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and
- (b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

Not to be given to elector not entitled to vote for office on ballot

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote.

By-law in force until repealed

(4) A by-law passed under this section remains in force from year to year until repealed. 1972, c. 95, s. 43 (2-4).

POLLING PLACES

Polling place

46.—(1) Subject to section 47, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision.

Idem

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality. 1972, c. 95, s. 44 (1, 2).

(3) Every polling place shall be furnished with compartments in which electors may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. 1972, c. 95, s. 44 (3), *amended*.

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions. 1972, c. 95, s. 44 (4).

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to the extent of the subdivision, the remoteness of any number of its electors from the polling place and number of electors that may conveniently vote at one polling place. 1972, c. 95, s. 44 (5), *amended*.

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly.

(7) In municipalities having more than 5,000 electors, the clerk shall mail or cause to be delivered to each dwelling unit in the municipality a notice advising the elector or electors therein of the location of the polling place in which that elector or those electors is or are to vote. 1972, c. 95, s. 44 (6, 7).

47.—(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only. 1974, c. 32, s. 28 (1).

Attendance
upon patients
to take
vote

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 63. 1972, c. 95, s. 45 (2).

SUPPLIES AND EQUIPMENT FOR POLLING PLACES

Supplies for
polling place

48.—(1) The clerk shall, before polling day, cause to be delivered to every deputy returning officer in his municipality,

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors in the polling list of his polling place;
- (c) a sufficient number of the prescribed directions for the guidance of electors for the purposes of the polling place;
- (d) two copies of the polling list for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed. 1972, c. 95, s. 46 (1), *amended*.

Ballot box

(2) A ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box.

Clerk to
certify
number of
ballots

(3) When delivering the ballots for a polling place to a deputy returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 78.

Directions
to be
placarded

(4) Every deputy returning officer before opening the poll, or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 1972, c. 95, s. 46 (2-4).

WHERE AND HOW OFTEN ELECTORS MAY VOTE

49. An elector whose name appears in the polling list for a polling subdivision or who presents a certificate to vote there under section 33, 50 or 56, is entitled to vote in an election in such subdivision in accordance with the following rules:

Number
of votes
that
may be
given by
an elector

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.
3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
 - i. if resident in the municipality, in the polling subdivision in which he resides; or
 - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,

for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.

5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled

to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question. 1972, c. 95, s. 47.

Voting of
D.R.O. and
poll clerk,
etc., where
employed

50.—(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate that he is entitled to vote at the polling place at which he is stationed during the polling day.

Where
municipality
divided into
wards

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate.

When
certificate
may be
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 33 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

Certificate

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

List of
certificates

(5) The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;

- (d) whether the certificate is granted to such person as deputy returning officer, poll clerk, election assistant or constable; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,

and the list shall be open to inspection by any candidate scrutineer or elector. 1972, c. 95, s. 48.

51.—(1) A person who produces a certificate given to him under section 50 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk, election assistant or constable during polling day. 1972, c. 95, s. 49 (1). Certificate entitles person to vote

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate". 1972, c. 95, s. 49 (2), *amended*. Entry on polling list

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot. Certificate to be given to D.R.O.

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1972, c. 95, s. 49 (3, 4). To be kept in envelope

PROCEDURE AT POLL

52. Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day. 1972, c. 95, s. 50. Hours poll to be open

53.—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll. When D.R.O. to attend poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll. 1972, c. 95, s. 51. Inspection of ballots before opening of poll

54. A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to Inspection, sealing of ballot box

such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 71. 1972, c. 95, s. 52.

Duties of
D.R.O. on
tender of
vote

55.—(1) Where a person enters the polling place and requests a ballot paper, the deputy returning officer shall proceed as follows:

1. He shall ascertain that the name of such person or a name apparently intended for it is entered in the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 33 or 50 and the poll clerk shall, on a separate polling list, delete the name of the said person on such polling list.
2. The poll clerk shall indicate on his polling list opposite the person's name the numerical order in which the person was given his ballot paper.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the words "*Objected to*" and the deputy returning officer shall require such person to take the prescribed oath, which oath shall indicate the name of the candidate by or on whose behalf the objection was made.
5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no

candidate or scrutineer has objected, he may require such person to take the prescribed oath.

6. If such a person having been required to take the oath refuses to do so, the deputy returning officer shall enter or cause it to be entered opposite the name of such person on the polling list maintained by the poll clerk the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.
7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name on the polling list maintained by the clerk the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting. 1972, c. 95, s. 53 (1), *amended*.

(2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.

Disqualifica-
tion of
prisoners,
mentally ill,
etc.

(3) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote. 1972, c. 95, s. 53 (2, 3).

Elector in
polling
place at
closing

56.—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear on the polling list or in a certificate issued under section 33 or 50 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer.

Entry of
name on
polling list
by D.R.O.

(2) The deputy returning officer shall enter or cause to be entered on the polling list and on the polling list maintained

idem

by the poll clerk the name of the elector. 1972, c. 95, s. 54, *amended*.

Copy to
clerk and
assessment
com-
missioner

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, furnish it to the assessment commissioner before the first Monday in December in an election year. 1974, c. 32, s. 29, *amended*.

Where it
appears
person voted
in place
of elector,
etc.

57. Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper. 1972, c. 95, s. 55 (1).

Inquiry

58. No inquiry shall be made of an elector who is required to take the oath under section 55 or 57 except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated in the polling list. 1972, c. 95, s. 56 (2); 1974, c. 32, s. 30 (2).

Procedure
on receipt
of ballot

59. Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer. 1972, c. 95, s. 57.

Duty of
D.R.O. on
receipt of
ballot

60.—(1) Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the

presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted. 1972, c. 95, s. 58 (1, 2). Person deemed to have voted

61.—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry on the polling list maintained by the poll clerk "*Forfeited Vote*" opposite the person's name, and in the case where a person returns his ballot declining to vote, the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk. 1972, c. 95, s. 59 (1), *amended*. Person not to take ballot from polling place

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk. 1972, c. 95, s. 59 (2). Ballot accidentally spoiled

62. Subject to section 63, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper. 1972, c. 95, s. 60. No other person in compartment while elector marking ballot

63.—(1) On the application of any elector who is unable to read or is handicapped by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his inability to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box. 1972, c. 95, s. 61 (1), *amended*. Elector handicapped by blindness, etc.

(2) The deputy returning officer shall either deal with an elector mentioned in subsection 1 in the manner provided therein or, at the request of any such elector who has taken the prescribed oath and is accompanied by a friend, shall Handicapped elector's ballot marked by friend

permit the friend to accompany the elector into the voting compartment and mark the elector's ballot for him.

Oath of friend

(3) Any friend who is permitted to mark the ballot of an elector under subsection 2 shall first be required to take the prescribed oath that he will keep secret the manner in which the elector voted.

May act as friend only once

(4) No person shall be allowed to act as the friend of more than one elector at any polling place other than a polling place established under section 47. 1972, c. 95, s. 61 (2-4).

Elector who cannot understand English

64. Where the deputy returning officer does not understand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. 1972, c. 95, s. 62.

Who may remain in polling place

65.—(1) The returning officer, the assistant returning officer, the deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. 1972, c. 95, s. 63; 1974, c. 32, s. 31.

No campaign literature in polling place

(2) No campaign material or literature of any nature whatsoever of any candidate in the election shall be displayed within the polling place. *New.*

ADVANCE POLLS

Advance poll

66.—(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56. 1974, c. 32, s. 32 (1), *part.*

Additional advance poll

(2) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk

of additional advance polls for the same purposes as provided in subsection 1. 1974, c. 32, s. 32 (1), *part.*

(3) The advance poll shall be open from 9 o'clock in the forenoon until 8 o'clock in the afternoon on each day it is held and polling shall be held so far as possible in the same manner as polling at a regular election. 1972, c. 95, s. 64 (2); 1974, c. 32, s. 32 (2), *amended.*

When poll
to be
open

(4) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place. 1972, c. 95, s. 64 (3).

Polling
places

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

List of
persons
voting

(6) Upon receiving the list mentioned in subsection 5, the clerk shall,

Duties of
clerk on
receiving
list

(a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears in such list and whose vote has been received at an advance poll, showing that such elector has voted; or

(b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed in the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted. 1972, c. 95, s. 64 (5, 6).

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any

Sealing
of box

ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it, along with all other election documents used at the poll, personally to the clerk for safe keeping. 1972, c. 95, s. 64 (7), *amended*.

Opening of
ballot boxes
for advance
poll

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election and their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. 1972, c. 95, s. 64 (8).

PROXY VOTING

Who may
vote by
proxy

67.—(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 entitling him to vote and who is,

- (a) a person other than one described in section 47 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;
- (b) a person absent from his regular residence by reason of attending an educational institution and who is entered in the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or
- (c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision. 1972, c. 95, s. 65 (1); 1974, c. 32, s. 33 (1).

Who may be
proxy

(2) Any person who is entitled to vote by proxy pursuant to subsection 1 may appoint in writing in the prescribed form as his voting proxy any other person who is eligible as an elector in the municipality. 1972, c. 95, s. 65 (2), *amended*.

May be
proxy once
only

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the

person voting by proxy is the parent, grandparent, child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy. 1972, c. 95, s. 65 (3); 1974, c. 32, s. 33 (2).

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day. 1972, c. 95, s. 65 (4). Term of appointment

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of the Friday preceding polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote. 1972, c. 95, s. 65 (5), *amended*. Application for certificate to vote by proxy

(6) The clerk may take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualification of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is authorized to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect. 1972, c. 95, s. 65 (6); 1974, c. 32, s. 33 (3), *amended*. When certificate to be given

(7) Not more than one voting proxy may be appointed on behalf of any person at any election. Not more than one proxy

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection 6 and takes the prescribed oath. 1972, c. 95, s. 65 (7, 8). Oath on voting

(9) Where a voting proxy has voted, the deputy returning officer shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose. 1972, c. 95, s. 65 (9), *amended*. Record of voting proxy

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy. 1972, c. 95, s. 65 (10). Proxy may vote in own right

KEEPING OF PEACE: EMERGENCY SITUATIONS

Assistance of constables

68. A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he considers necessary. 1972, c. 95, s. 66.

Declaration of emergency by clerk

69.—(1) If any circumstances arise in the municipality, that, in the opinion of the clerk are of such a nature as to prevent or delay the opening of any polling place or cause the discontinuance of polling at any polling place, the clerk may declare an emergency situation to be in effect and such emergency situation shall continue until the clerk otherwise declares.

Arrangements by clerk

(2) Where an emergency situation is declared under subsection 1, the clerk shall make such arrangements as he considers advisable for the conduct of the poll, the safe-keeping of the ballot boxes and all election documents and the counting of the votes.

Not open to question

(3) The arrangements made by the clerk under subsection 2, in good faith, shall not be open to question, or be quashed, set aside or declared invalid on account of their unreasonableness or supposed unreasonableness. *New.*

COUNTING THE VOTES

Duties of D.R.O. after close of poll

70. Immediately after the close of the poll, the deputy returning officer at each polling place shall,

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear on the polling list maintained by the poll clerk to have voted and make an entry at the end thereof:—
“The number of electors who voted at this election in this polling place is (stating the number)” and sign his name thereto. 1972, c. 95, s. 68, *amended.*

Counting of votes

71.—(1) After compliance with section 70, the deputy returning officer shall, in the presence and in full view of the

persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot.

(2) In counting the votes, the deputy returning officer shall ^{Rejection of ballots} reject all ballots,

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

(3) Where a ballot contains the names of candidates for ^{Idem} more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection 2, the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted.

(4) Where in a composite ballot,

Composite
ballots

- (a) votes are cast for more candidates for any office than are to be elected to such office; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection 2, the

votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

Where part
of votes
rejected

(5) Where part of the votes cast in any ballot are rejected under subsection 3 or 4, the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot. 1972, c. 95, s. 69.

Objection
by candidate,
etc.

72.—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 71 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

Objections to
be listed

(2) The deputy returning officer shall list all objections under subsection 1 to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number. 1972, c. 95, s. 70.

How votes
counted

73. The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question. 1972, c. 95, s. 71.

Ballots to
be placed
in separate
packets

74. Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets,

- (a) all used ballots that have not been objected to and have been counted in whole or in part ;
- (b) all used ballots that have been objected to but which have been counted in whole or in part ;
- (c) all rejected ballots ;
- (d) all ballots used but unmarked. 1972, c. 95, s. 72.

D.R.O. to
endorse
packets

75. The deputy returning officer shall endorse every packet of ballots made up by him under clause *a* of section 70 or section 74 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet. 1972, c. 95, s. 73.

76. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. 1972, c. 95, s. 74. Oath of poll clerk

STATEMENT AND MATERIALS RETURNED TO CLERK

77.—(1) The deputy returning officer shall make out a statement in duplicate of the number of, Statement of D.R.O.

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) electors whose ballots have been marked by the deputy returning officer under sections 47 and 63. 1972, c. 95, s. 75 (1), *amended*.

(2) The duplicate statement shall be attached to the polling list maintained by the poll clerk and the original statement enclosed in a special packet shall be delivered to the clerk as provided herein. 1972, c. 95, s. 75 (2), *amended*. Statement attached to polling list

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their scrutineers as are present and desire to sign it. Statement signed by D.R.O., etc.

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots. 1972, c. 95, s. 75 (3, 4). Certificate re ballots counted and rejected

78.—(1) The deputy returning officer shall place in the ballot box, the polling lists, the packets containing the ballots and all other documents or packets that served at the election, except, What to be placed in ballot box

- (a) the original statement;
- (b) the oath of the poll clerk;

(c) the oath of the person, if any, chosen to deliver the ballot box to the clerk; and

(d) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 56. 1972, c. 95, s. 76 (1); 1974, c. 32, s. 34, *amended*.

Box to be locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection 1 personally to the clerk.

Oath of D.R.O.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk.

Delivery of ballot box, etc., to clerk

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection 1 owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath.

Right of candidate, etc., to be present

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk pursuant to this section. 1972, c. 95, s. 76 (2-5).

D.R.O. not to take box to home, etc.

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. 1972, c. 95, s. 76 (6), *amended*.

Clerk to add up votes

79.—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 78, shall, without opening any of the ballot boxes, cast up from the original statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question. 1972, c. 95, s. 77 (1), *amended*.

Declaration of result

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no

town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. 1972, c. 95, s. 77 (2, 3).

Delay in
adding up
votes

80.—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 78, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. 1972, c. 95, s. 78 (1).

Safekeeping
of box and
documents

(2) Where the documents specified in subsection 1 of section 78 are in error placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk. 1972, c. 95, s. 78 (2), *amended*.

Opening of
box when
documents
placed in
box in
error

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 78, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes. 1972, c. 95, s. 78 (3).

Where D.R.O.
fails to
deliver
statement

81. If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or

Where ballot
box lost,
etc.

question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question. 1972, c. 95, s. 79.

Equality
of votes

82.—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or the question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question.

Application
of ss. 83-90

(2) In such proceedings, sections 83 to 90 apply *mutatis mutandis*. 1972, c. 95, s. 80.

RECOUNT

Interpre-
tation

83.—(1) In this section and in sections 84 to 86, “judge” means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate. 1972, c. 95, s. 81 (1).

Where
recount
desirable

(2) If, within fourteen days after the declaration by a clerk of the result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender, or if at any time within four weeks after such declaration the council of a municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition. 1972, c. 95, s. 81 (2); 1974, c. 32, s. 35, *amended*.

(3) At least six days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election. 1972, c. 95, s. 81 (3), *amended*.

Notice of
recount

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount. 1972, c. 95, s. 81 (4).

Who may be
present

(5) Where a recount relates to the election of a candidate, the recount shall be of the votes cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the votes cast for him to be recounted or the votes cast for him to be finally added. 1972, c. 95, s. 81 (5), *amended*.

What ballots
involved in
recount

(6) Notwithstanding subsection 5, the judge conducting the recount may order the recount of the votes cast for any other candidate whose election or right to any other office may be affected in any way by the recount conducted under subsection 5. *New*.

Judge may
order recount,
etc., of votes
cast for other
candidates

(7) At the date, time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots. 1972, c. 95, s. 81 (6), *amended*.

Procedure
by judge

(8) Subject to subsection 9, the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Rules to
govern
proceedings

Judge may hear any evidence necessary for proper recount

(9) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office. 1972, c. 95, s. 81 (7, 8).

Judge to notify clerk of result of recount or final addition

(10) Upon the completion of a recount, or final addition, the judge shall forthwith notify in writing the result of the recount or final addition to the clerk and announce the results to persons present at the recount, and, immediately after the expiry of the appeal period specified in section 88, all the ballots and statements shall be sealed in separate packets in the manner prescribed by the judge. 1972, c. 95, s. 81 (9), *amended*.

Clerk of court

(11) The judge may require the clerk of the county or district court to be present at the time and place appointed. 1972, c. 95, s. 81 (10).

If no appeal, clerk to declare result

84. If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question. 1972, c. 95, s. 82 (2).

Equality of votes

85.—(1) In the case of an equality of votes for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk. 1972, c. 95, s. 83, *amended*.

Method of conducting lot

(2) For the purposes of this section, "lot" means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper placed in a box and one name being drawn by a person chosen by the clerk. *New*.

Costs of recount

86.—(1) The costs of a recount under section 83 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid. 1972, c. 95, s. 84 (1).

Awarding of costs

(2) The judge may in his discretion award costs of a recount or final addition to or against any person who is a party

to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court. 1972, c. 95, s. 84 (2), *amended*.

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board. 1972, c. 95, s. 84 (3); 1974, c. 32, s. 36 (1). Where no provision as to costs

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 83 shall be paid out to the party entitled to such costs, so far as necessary. Payment of deposit

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. 1972, c. 95, s. 84 (4, 5). Enforcement of payment of costs

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board. 1972, c. 95, s. 84 (6); 1974, c. 32, s. 36 (2). Expenses of judge

87.—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been taken, the judge shall cause packets, sealed in accordance with subsection 10 of section 83, to be returned to the custody of the clerk. Where no appeal packets to be returned to clerk

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the packets of ballots and such of the original statements as are not required for the purpose of the appeal to be returned to the custody of the clerk. 1972, c. 95, s. 85, *amended*. Documents not required on appeal

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

88.—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a Appeal from decision of judge

decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of
notice

(2) The notice may be served upon the other parties personally, or as a judge of the Supreme Court may direct. 1972, c. 95, s. 86 (1, 2).

Ballots, etc.,
to be for-
warded to
Registrar
of Supreme
Court

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall forward the sealed packets of the ballots or statements that are the subject of appeal, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 83 to the clerk. 1972, c. 95, s. 86 (3), *amended*.

Appointment
for hearing

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Procedure on
appeal

(5) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk.

Costs of
appeal

(6) The judge of the Supreme Court may direct by and to whom, the costs of the appeal shall be paid.

Idem

(7) Where the judge of the Supreme Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk, shall be paid by the municipality. 1972, c. 95, s. 86 (4-7).

DISPOSITION OF ELECTION RECORDS

Disposition
of ballots

89.—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of

the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

(2) Subject to subsection 1, the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them. 1972, c. 95, s. 87. Disposition
of other
documents

90.—(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge. 1974, c. 32, s. 37. Inspection
of ballots

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return. 1972, c. 95, s. 88 (2). Order of
judge

91. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement. 1972, c. 95, s. 89. Production
of documents
by clerk

NEW ELECTIONS

92.—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which, New
election

- (a) a directive is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law; or
- (c) the clerk receives from the secretary of a school board notice,

that such an election is required. 1972, c. 95, s. 90 (1), *amended*.

- Procedure (2) The procedure including the period for filing nominations at a new election shall be the procedure and period applicable at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day.
- Polling (3) The polling required to fill a vacancy in an office by this section shall so far as possible be held in the same manner and by the same officers and take place at the same places, in so far as practicable, at which the polling took place at the last regular election. 1972, c. 95, s. 90 (2, 3).
- List of electors (4) Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules:
1. Where a new election is required under clause *a* of section 38 or subsection 3 of section 40, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the polling day for the last regular election.
 2. Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 111.
 3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the directive, by-law or notice specified in clause *a*, *b* or *c* of subsection 1.

4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. 1974, c. 32, s. 38 (1), amended. R.S.O. 1970. c. 284

(5) Where in the year following an election year the annual enumeration under *The Assessment Act* has, prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election. 1972, c. 95, s. 90 (5). Idem R.S.O. 1970. c. 32

(6) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 31 and to entry of names in the list under sections 33 and 56. 1974, c. 32, s. 38 (2), *part*. Certification of list

(7) Where a vacancy occurs in any office and an election is to be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the nomination day for the new election, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds. 1972, c. 95, s. 90 (6). Eligibility of member to be candidate for other office

(8) Notwithstanding anything in this or any other general or special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year. 1972, c. 95, s. 90 (7). Vacancy after March 31st of election year

(9) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. 1974, c. 32, s. 38 (2), *part*. Revision of partial list

Council may
meet not-
withstanding
vacancy

93. Notwithstanding that a new election becomes necessary, meetings of the council may be held if a quorum of the council is present. 1972, c. 95, s. 91.

EFFECT OF IRREGULARITIES

Irregularities
not to offset
result

94. No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. 1972, c. 95, s. 92.

SECRECY OF PROCEEDINGS

Secrecy of
proceedings

95.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Interference
with
elector

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted.

Communica-
tion as to
voting

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted.

Inducing
person to
show ballot

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it so as to make known to any person how he has voted.

Voter not
to show
ballot

(5) Subject to section 63, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted.

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 1972, c. 95, s. 93.

No one compellable to disclose his vote

OFFENCES, PENALTIES AND ENFORCEMENT

96. Every person who, at an election,

Voting when not qualified, etc.

- (a) not being qualified to vote, votes;
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 94.

97. Every person who,

Improper voting by proxy

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 95.

98. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 96.

Wilful miscount of ballots

99. Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1972, c. 95, s. 97.

Neglect of duties

Offences
relating to
ballot
papers

100. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 98.

False
information
to authorized
persons

101. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 99.

Offences of
inducing un-
qualified
person to vote
or publishes
false state-
ment of with-
drawal of
candidate

102. Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 100.

Bribery:

bribing
elector or
procuring
bribery by
money

103.—(1) Every person who,

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or

offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or by gift or offer or promise of employment
- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or to induce anyone to procure return of candidate or endeavour to procure
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or receiving bribe to procure return of candidate
- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or advancing money to be spent in corrupt practices
- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the applying for money or employment in consideration of voting

gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or

receiving money, office, etc., for having voted

(g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or

receiving money corruptly after election

(h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or

giving or promising office to candidate to stand or withdraw

(i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

Personal expenses of candidate

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act.

Posting of provisions as to corrupt practices

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place. 1972, c. 95, s. 101.

General offence

104. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1972, c. 95, s. 102.

105.—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll. Disqualification of persons guilty of corrupt practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection 1. 1972, c. 95, s. 103. Limitation

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

106.—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated. Validity of election, etc., determined by action

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 96 to 102. 1972, c. 95, s. 104 (1, 2). Penalties for corrupt practice

(3) Any elector entitled to vote at an election referred to in subsection 1 may commence an action under this section in relation to such election. 1972, c. 95, s. 104 (3), *amended*. Who may commence action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection 1. 1972, c. 95, s. 104 (4). Time for commencing action

107.—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 106 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means. Mode of trial

(2) Subject to subsection 1 and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 106. Idem

(3) The action shall be tried by a judge without a jury. 1972, c. 95, s. 105. Judge without jury

- Security for costs** **108.**—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein.
- Idem** (2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. 1972, c. 95, s. 106.
- Abatement of action** **109.**—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.
- Liability for costs** (2) The abatement of an action does not affect any liability for costs previously incurred.
- Substitution of plaintiff** (3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff. 1972, c. 95, s. 107.
- Substitution for unqualified person** **110.** Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if, within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. 1972, c. 95, s. 108.
- Successful candidate guilty of corrupt practice** **111.**—(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant.
- Unseating and seating of another elected candidate** (2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held.
- Where commission of corrupt practice affected result of election** (3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held.

(4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.

Where act of election official affected result of election

(5) Where a new election is to be held, the court may make such order as it considers just against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act for the compensation of candidates at the void election not exceeding \$2,000 per candidate.

Compensation of candidates where election void

(6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality. 1972, c. 95, s. 109.

Judgment to clerk

112.—(1) If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board. 1972, c. 95, s. 110.

Where election set aside and appeal entered

(2) The decisions of a council reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. *New.*

Decisions of council not affected by reason of subsequent disqualification

113. A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal. 1972, c. 95, s. 111.

New election not to be held pending appeal

114.—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Appeal to Divisional Court

(2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment or new trial

Appeal from
decision on
new trial

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section. 1972, c. 95, s. 112.

Disclaimer
before
complaint

115. Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

"I, A.B., hereby disclaim all right to the office of
.....for the.....of
.....in the.....of
.....and all defence of any right I may
have to the same. Dated.....day of
....., 19.... A.B."

1972, c. 95, s. 113.

Disclaimer
after
complaint

116. A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

"I, A.B., upon whom a writ, authorized by *The Municipal Elections Act, 1972*, has been served for the purpose of contesting my right to the office
of....., in the county (or district)
of....., hereby disclaim the office, and
all defence of any right I may have to the same.
Dated.....day of....., 19....
A.B."

1972, c. 95, s. 114.

Duplicate
of disclaimer
to clerk

117.—(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. 1972, c. 95, s. 115 (1); 1974, c. 32, s. 39.

(2) A disclaimer in accordance with section 115 or 116 ^{Operates as resignation} operates as a resignation.

(3) A disclaimer in accordance with section 116 ^{Relief from costs} relieves the person making it from all liability for costs in an action under section 104. 1972, c. 95, s. 115 (2, 3).

118. Proceedings for the removal from office of a person ^{Procedure substituted for quo warranto proceedings} whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council or as trustee of a police village or as member of a local board, as the case may be, determined shall be had and taken only under the provisions of this Act. 1972, c. 95, s. 116; 1974, c. 32, s. 40, *amended*.

119.—(1) The Minister may by order prescribe the forms ^{Forms} required for the purposes of this Act, which forms may be in both the English and French languages. 1975, c. 23, s. 1, *part*.

(2) Any notices required to be posted, published or mailed ^{Notices in French language} under this Act may, in addition to being printed in the English language, be printed in the French language.

(3) The use in a municipality of forms prescribed in the ^{Determination by council of French-language forms, etc.} French language under subsection 1 or the printing of notices in the French language under subsection 2 shall be determined by by-law of the council of the municipality. *New*.

120. Where any day specified in this Act for the under-^{Holidays} taking of any proceeding pertaining to an election falls on a holiday, the day specified shall be deemed to be the immediately preceding day which is not a Sunday or a holiday. *New*.

121. Subsection 1 of section 27 of *The Liquor Licence Act*, ^{1975, c. 40, s. 27 (1).} 1975, being chapter 40, is repealed and the following sub-^{re-enacted}stituted therefor:

(1) The council of a municipality may submit one or ^{Submission by council to vote} more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote.

(1a) The council of a municipality shall submit to a ^{Idem} vote such questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality as are requested by petition signed by at least 25 per cent of the persons appearing on

the list of electors, as revised, prepared for the previous municipal election.

1975, c. 40,
s. 30,
repealed

122. Section 30 of the said Act is repealed.

1975, c. 40,
ss. 31-33,
re-enacted

123. Sections 31, 32 and 33 of the said Act are repealed and the following substituted therefor:

Day of
polling
1977, c. ...

31. The day fixed for taking the vote on any question or questions shall be the day upon which, under *The Municipal Elections Act, 1977*, a poll would be held at the election of members of the council of the municipality unless the council, with the approval of the Board, fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be.

Who may
vote

32.—(1) The persons qualified to vote upon a question or questions are such persons as would be eligible to vote at an election held on that day pursuant to *The Municipal Elections Act, 1977*.

1977, c. ...

Qualification
period for
determining
eligibility
of electors

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, the termination of the qualification period for determining the eligibility of electors under paragraph 4 of subsection 4 of section 92 of *The Municipal Elections Act, 1977* is the date of the approval given by the Board as required by section 31.

Application
of
1977, c. ...

33. The provisions of *The Municipal Elections Act, 1977* apply to the taking of a vote under this Act.

Return to
Board

33a. The returning officer shall make his return to the Board showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Board shall give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions.

124. Subsection 2 of section 34 of the said Act is repealed and the following substituted therefor: 1975, c. 40.
s. 34 (2),
re-enacted

- (2) The persons qualified to sign a petition pursuant to section 27 or 28 are the persons whose names appeared on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be. Who entitled
to sign
petition
- (3) The persons qualified to vote upon a question or questions are the persons who would be eligible to vote at an election held in the municipality amalgamated or municipality or part annexed, as the case may be, held pursuant to *The Municipal Elections Act, 1977*. Who
entitled
to vote
1977, c. ...

125. The following are repealed: Repeals

1. *The Municipal Elections Act, 1972*, being chapter 95.
2. *The Municipal Elections Amendment Act, 1974*, being chapter 32.
3. *The Municipal Elections Amendment Act, 1975*, being chapter 23.

126. This Act comes into force on the 1st day of January, 1978. Commence-
ment

127. The short title of this Act is *The Municipal Elections Act, 1977*. Short title





An Act to revise
The Municipal Elections Act, 1972

1st Reading

November 8th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to revise
The Municipal Elections Act, 1972**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

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



EXPLANATORY NOTE

The Bill revises the existing *Municipal Elections Act*, enacted in 1972 and extensively amended in 1974.

Among the principal changes incorporated in the Bill are the following:

1. When any proceeding relating to an election falls to be taken on a holiday as defined in *The Interpretation Act*, the proceeding shall be taken instead on the next preceding day that is not a holiday. But see note 1 below for special provision re polling day. (s. 1, par 15; s 120)
2. It is made clear that a candidate in an election is not eligible to be appointed a deputy returning officer or a poll clerk. (s. 4 (1)).
3. The clerk is empowered to delegate certain of his statutory duties and authority to his election assistants. (s. 4 (6)).
4. Polling day is changed from the first Monday in December to the second Monday in November; however, if that Monday is a holiday, polling day shall be the next following day. (s. 11)
5. All qualified electors are entitled to vote on money by-laws, rather than only owners of land and long-term tenants; the right of corporate nominees to vote on money by-laws is removed. (s. 16).
6. Nomination day is fixed as the Monday three weeks before polling day; in addition nominations may be filed in the office of the clerk during the week immediately preceding nomination day. (s. 35).
7. Where insufficient nominations are received by the end of nomination day to fill vacancies to which candidates may be elected, additional nominations may be received by the clerk up to 5 p.m. on the Wednesday following nomination day. (s. 37 (5)).
8. The occupation of a candidate will no longer be shown on nomination papers or ballots. (ss. 36, 43).
9. Employees must be afforded 3 consecutive hours off work while the polls are open for voting. (s. 49 (2, 3)).
10. The requirement for the use of a poll book is removed and a duplicate polling list is to be used by the poll clerk in its stead. (s. 55).
11. Voting proxy certificates may be obtained from the clerk up to 5 p.m. on polling day. (s. 67 (5)).
12. The clerk is given powers to adopt any necessary procedures for the conduct of the poll when an emergency situation arises on polling day. (s. 69).
13. Certain technical changes are made in respect of the procedure on recounts. (s. 83).
14. Notices required under the Act, may, at the option of the municipality, be printed in the French language in addition to the English language. (s. 119).

15. Municipalities may provide for limitations on election expenditures and require disclosure of contributions. (s. 121).

16. Amendments are made to *The Liquor Licence Act, 1975* to provide that the provisions of *The Municipal Elections Act, 1977* apply to the taking of a vote under the first-mentioned Act. At present, while the taking of a vote is generally to be held on the same day as the vote is taken under *The Municipal Elections Act, 1972* the provisions of *The Election Act* (that govern elections to the Assembly) apply in respect of such matters as the preparation and revision of the lists, the time and manner of holding of the poll, the forms and oaths to be used and administered and the powers and duties of returning officers. Confusion will be avoided if the same procedures apply in respect of the taking of the vote in both cases. (ss. 122-125).

BILL 98

1977

**An Act to revise
The Municipal Elections Act, 1972**

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

1. "advance poll" means a poll held under section 66;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate;
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act;

R.S.O. 1970,
c. 32

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

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
- R.S.O. 1970,
c. 32 14. "enumerated" means enumerated under *The Assessment Act*;
- R.S.O. 1970,
c. 225 15. "holiday" means a holiday as defined in *The Interpretation Act*;
- R.S.O. 1970,
c. 118 16. "local board" means a local board as defined in *The Municipal Affairs Act*;
- 1974, c. 109 17. "locality" means territory without municipal organization that is deemed a district municipality under *The Education Act, 1974*;
18. "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
19. "municipality" means a city, town, village or township;
20. "new election" means an election other than a regular election;
21. "nomination day" means the last day for filing nominations;
22. "oath" includes an affirmation;
23. "office" means an office, the election to which is governed by this Act;
24. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under *The Assessment Act*;
25. "polling day" means the day on which the poll is to be taken under this Act;
26. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk;

27. "polling place" means the area designated by the clerk in which the facilities for the conduct of the poll are situate;
28. "polling subdivision" means a polling subdivision established by the clerk under this Act;
29. "preliminary list" means a preliminary list of electors;
30. "prescribed" means prescribed by the Minister;
31. "public school elector" means an elector who is not a separate school elector;
32. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
33. "regular election" means an election required to be held under section 10 of this Act;
34. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
35. "scrutineer" means any person appointed as a scrutineer by a candidate or by a council under section 6;
36. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the spouse of such supporter and any person entitled to be a separate school elector under *The Education Act, 1974*. 1972, c. 95, s. 1; 1974, c. 109 1974, c. 32, s. 1, *amended*.

APPLICATION OF ACT

Application
of Act

2. Notwithstanding any other general or special Act, this Act applies to and governs all elections,

(a) to the offices of,

- (i) member of the council of a municipality,
- (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
- (iii) trustee of a police village,
- (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election. 1975, c. 95, s. 2 (1), *amended*.

ELECTION OFFICIALS

Returning
and
revising
officer

3. —(1) Subject to subsections 2 and 3, the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning
officer in
police
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

(b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause *a* who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 23 and 28 of section 57 and subsection 21 of section 110 of *The Education Act, 1974* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions. 1972, c. 95, s. 3, *amended*.

Clerks,
duties in
relation to
school
boards
1974, c. 109

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside but no candidate is eligible to be appointed as a deputy returning officer or poll clerk. 1972, c. 95, s. 4 (1), *amended*.

D.R.O. and
poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place.

Where
unable
to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place.

Non-
attendance
of D.R.O.,
poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. 1972, c. 95, s. 4 (2-4), *amended*.

Poll clerk
to act for
D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose, but no candidate is eligible for any such appointment. 1972, c. 95, s. 4 (5), *amended*.

Assistants

(6) The clerk may, in writing, delegate to the assistant returning officers and assistant revising officers appointed under subsection 5, such of his statutory rights and duties in relation to the preparation for and conduct of the election as he considers necessary. *New*.

Delegation
by clerk

- Duties of poll clerk (7) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders. 1972, c. 95, s. 4 (6).
- Oath (8) Every returning officer, deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form. 1972, c. 95, s. 4 (7); 1974, c. 32, s. 2.
- Oath of D.R.O. (9) The appointment and oath of the deputy returning officer under subsection 8 shall be endorsed upon or attached to the polling list maintained by the poll clerk for the polling place for which he is appointed. 1972, c. 95, s. 4 (8), *amended*.
- Who may administer oaths **5.**—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in Ontario.
- Idem (2) The clerk may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk.
- No charge (3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. 1972, c. 95, s. 5.
- Scrutineers appointed by candidate **6.**—(1) Each candidate may appoint in writing such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act. 1972, c. 95, s. 6 (1), *amended*.
- Limit on number present (2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection 1 at any time. 1972, c. 95, s. 6 (2).
- Scrutineers appointed by council (3) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question. 1972, c. 95, s. 7 (1).

7. A person appointed as a scrutineer under section 6, ^{Production of appointment} before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place. 1974, c. 32, s. 4, *amended*.

COSTS OF ELECTION

8.—(1) Except where otherwise specifically provided by ^{Cost of election} this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.

(2) The reasonable expenses incurred by a clerk or any other ^{Expenses of officers} officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compartments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto. 1972, c. 95, s. 8 (1, 2).

(3) Where the clerk of a municipality is required to conduct ^{Expenses of by-election of local board} an election of a member or members of a local board other than at a regular election, the board shall forthwith reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list. 1972, c. 95, s. 8 (3), *amended*.

TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act ^{Two-year term} and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year. 1972, c. 95, s. 9 (1), *amended*.

(2) The holders of offices hold office until their successors ^{Until new council organized} are elected and the newly elected council or local board is organized. 1972, c. 95, s. 9 (2).

BIENNIAL ELECTIONS

10.—(1) An election shall be held in accordance with this ^{Election year} Act in each municipality in the year 1978 and in every

second year thereafter for the purpose of electing persons to offices. 1972, c. 95, s. 10 (1), *amended*.

Vote on
question,
etc.

(2) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board or in the case of a question submitted under *The Liquor Licence Act, 1975*, unless the Liquor Licence Board approves the taking of the vote on some other day. 1972, c. 95, s. 10 (4), *amended*.

1975, c. 40

POLLING DAY

Polling
day

11.—(1) Polling day in a regular election shall be the second Monday in November in each election year. 1972, c. 95, s. 11, *amended*.

Idem

(2) Where polling day as specified in subsection 1 falls on a holiday, polling day shall be the next succeeding day that is not a holiday, but the day for the undertaking of any other proceeding pertaining to the election shall not be affected thereby. *New*.

QUALIFICATION OF ELECTORS

Electors.
resident

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Friday in October that precedes polling day by seventeen days, he,

- (a) is a resident in such municipality;
- (b) is a Canadian citizen or other British subject; and
- (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1974, c. 32, s. 5, *part, amended*.

Electors,
non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Friday in October that precedes polling day by seventeen days, but at any time during such period, he,

- (a) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;

- (b) is a Canadian citizen or other British subject; and
- (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1974, c. 32, s. 5, *part, amended*.

14. No judge of any court is qualified to vote in any election. 1974, c. 32, s. 5, *part*. Judges not qualified to vote

15. For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to. 1972, c. 95, s. 14. Evidence of citizenship

QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

16. Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. 1972, c. 95, s. 15, *part*. Who may vote on money by-laws

POLLING SUBDIVISIONS

17. Subject to section 18, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of April in an election year inform the assessment commissioner of the boundaries of each subdivision. 1972, c. 95, s. 17 (1); 1974, c. 32, s. 8, *amended*. Polling subdivisions

18. A polling subdivision shall not, so far as is practicable, Size

- (a) contain more than 350 electors; or
- (b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly. 1972, c. 95, s. 17 (2).

PREPARATION OF PRELIMINARY LIST OF ELECTORS

19. An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the 30th day of September in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who meets the requirements for an elector under section 12 or 13 and such list shall signify opposite the name of an elector, Preliminary list of electors

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;

- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
- 1974, c. 109 (d) who is enumerated as a separate school elector in accordance with *The Education Act, 1974*, that he is a separate school elector;
- (e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant. 1972, c. 95, s. 18; 1974, c. 32, s. 9, *amended*.

For polling subdivision where no wards

20.—(1) In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one polling subdivision only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision. 1972, c. 95, s. 19.

For polling subdivision where wards

21.—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality, for the polling subdivision in which he resides; or
- (b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

For one polling subdivision

(2) The name of an elector shall not be entered under this section in the preliminary list for more than one polling subdivision. 1972, c. 95, s. 20.

List delivered to clerk

22. The assessment commissioner shall deliver the list of electors prepared by him under sections 19, 20 and 21 to the clerk and, in respect of a locality, to the secretary of the school board on or before the thirty-first day after the commencement date of the enumeration period in an election year. 1972, c. 95, s. 21, *amended*.

Correction of list if manifest errors in it

23. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 22 is not in conformity with the require-

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be, prior to the printing or reproduction of the list required under section 24, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections. 1974, c. 32, s. 10, *amended*.

PRELIMINARY LIST OF ELECTORS

24. Immediately after receipt of the list of electors delivered by the assessment commissioner under section 22, the clerk or secretary of the school board referred to in the said section 22, after making corrections, if any, under section 23, shall, ^{Printing of list}

- (a) cause the list to be printed or reproduced and such list shall be the preliminary list of electors;
- (b) fix the places at which and the times when revision of the list will be undertaken, and, subject to subsection 2 of section 25, such revision shall commence no later than fourteen days after delivery of the list to the clerk under section 22;
- (c) post notice of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken in at least two conspicuous places in the municipality, and where there is a newspaper having general circulation in the municipality, publish the notice in such newspaper. 1974, c. 32, s. 11, *amended*.

REVISION OF PRELIMINARY LIST OF ELECTORS

25.—(1) Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall post one copy of the list in a conspicuous place in his office and in at least two other conspicuous public places in the municipality. 1972, c. 95, s. 23 (1); 1974, c. 32, s. 12 (1), *amended*. ^{Revision of list}

(2) The day of posting copies of the preliminary list under subsection 1 and of giving notice under section 24 shall be at least five days before the last day for filing applications for revision. 1972, c. 95, s. 23 (2); 1974, c. 32, s. 12 (2), *amended*. ^{Time for posting}

Last day
for filing
applications
for revision
of prelimin-
ary list

(3) The last day for the filing of applications for revision of the preliminary list shall be the seventeenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours. 1974, c. 32, s. 12 (3), *amended*.

Notice
affixed
to list

(4) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions. 1972, c. 95, s. 23 (3); 1974, c. 32, s. 12 (4).

Copies
of list

(5) At the time of posting a notice under subsection 1, the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality and every trustee of a police village all or part of which is in the municipality;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;
- (e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;

(f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate.

(6) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office. 1972, c. 95, s. 23 (4, 5). Candidates entitled to copies

26.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed on or before the last day for filing applications for revision of the list have been disposed of. 1974, c. 32, s. 13, *part, amended*. Revision of list

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 25 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them. 1974, c. 32, s. 13, *part*. When applications may be considered

27.—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. Application to enter name in list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be. 1972, c. 95, s. 25 (1, 2). Application and declaration

Application
filed person-
ally or by
agent

(3) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. 1974, c. 32, s. 14.

Interpreter

(4) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

Decision
to amend
list

(5) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application.

Refusal to
amend list

(6) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1972, c. 95, s. 25 (3-5).

Application
for deletion
of name

28.—(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing applications for revision thereof, any person may file with the clerk an application, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon. 1972, c. 95, s. 26 (1); 1974, c. 32, s. 15 (1).

Notice to
person
where name
objected to

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice.

Copy of
application
to be served

(3) A copy of the application shall accompany a notice served or sent under subsection 2.

Notice to
applicant

(4) The clerk shall notify the applicant of the time and place of the hearing.

Decision of
clerk, etc.

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall

attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if the clerk is satisfied of the validity of the application.

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list. 1974, c. 32, s. 15 (2). Where person objected to does not appear

(7) Where for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56. *New.* Where name deleted from preliminary list

29. Subject to section 33 or 56, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. 1972, c. 95, s. 27. Decision final

30. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsections 5 and 6 of section 25. 1974, c. 32, s. 16, *amended.* Statement of change

POLLING LIST

31. After compilation of the statement of additions, changes and deletions required under section 30, the clerk shall Polling list

prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised. 1972, c. 95, s. 29 (1).

Only
persons
in list
entitled
to vote

32. Except as provided in sections 33, 51 and 56 no person is entitled to vote at an election unless his name appears in the polling list certified under section 31 for the polling subdivision in which he tenders his vote. 1972, c. 95, s. 30.

Entry of name
on list by
D.R.O.

33.—(1) If a person whose name is omitted from a polling list certified under section 31, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised. 1974, c. 32, s. 18 (1).

Certificate
to be
produced

(3) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection 1 or 2. 1972, c. 95, s. 31 (3); 1974, c. 32, s. 18 (2).

Copy to
assessment
com-
missioner

(4) The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner before the first Monday in December in an election year. 1974, c. 32, s. 18 (3), *part, amended*.

Entry on
polling
list

(5) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk

opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 33 certificate".

(6) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1974, c. 32, s. 18 (3), *part, amended*. Certificates to be kept in separate envelope

NOMINATIONS

34. Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office. 1972, c. 95, s. 32. Who may be nominated

35.—(1) Nomination day for a regular election shall be Monday, the twenty-first day before polling day. 1972, c. 95, s. 33 (1). Nomination day

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours in the week immediately prior to nomination day. 1974, c. 32, s. 19 (2), *part, amended*. Period for nomination

(3) The clerk shall, at least seven days prior to nomination day, post in at least two conspicuous places in the municipality notice of the date and times for filing nominations and of the offices for which persons may be nominated as candidates in the election, and, where there is a newspaper having general circulation in the municipality, publish at least seven days prior to nomination day the notice in such newspaper. 1974, c. 32, s. 19 (2), *part, amended*. Notice of time for filing nominations

36.—(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, on the days and during the hours specified in subsection 2 of section 35, a nomination paper in prescribed form which, How nominated

(a) shall be signed by at least ten electors whose names are entered, or entitled to be entered under section 33, in the polling lists of electors entitled to vote in an election to such office;

(b) shall state the name and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is. 1974, c. 32, s. 20 (1), *amended*.

Consent and
declaration
to be filed

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated. 1972, c. 95, s. 34 (2).

Public
school
nominators

(3) A nomination paper nominating a person for an office the holder of which is required to be elected by public school electors shall be signed by public school electors only. 1972, c. 95, s. 34 (3); 1974, c. 32, s. 20 (2).

Separate
school
nominators

(4) A nomination paper nominating a person for an office the holder of which is required to be elected by separate school electors shall be signed by separate school electors only. 1972, c. 95, s. 34 (4); 1974, c. 32, s. 20 (3).

Separate
nomination
papers

(5) Each person to be nominated for election to an office shall be nominated by a separate nomination paper, but an elector may sign more than one nomination paper for the same person and the nomination papers of more than one person. 1972, c. 95, s. 34 (5), *amended*.

Clerk
to keep
nomination
paper

(6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk.

Onus on
person
nominated

(7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. 1972, c. 95, s. 34 (6, 7).

Endorsation
by clerk

37.—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing. 1972, c. 95, s. 35 (1).

Certificate
of clerk

(2) Where a nomination paper is filed in the office of a clerk prior to nomination day, the paper shall be examined

by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing. 1972, c. 95, s. 35 (2); 1974, c. 32, s. 21 (1).

(3) When the nomination papers have been certified by the clerk he shall cause the name and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public. 1972, c. 95, s. 35 (3), *amended*.

Posting

(4) Where a nomination paper is filed in the office of a clerk on nomination day,

Where filed on nomination day

(a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection 3;

(b) if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing. 1972, c. 95, s. 35 (4); 1974, c. 32, s. 21 (2), *amended*.

(5) Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which the candidates may be elected, on the Wednesday following nomination day the clerk may, between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon, receive and certify additional nominations for the office in respect of which there was an insufficient number of candidates. *New*.

Where number of candidates nominated insufficient

(6) Certification by the clerk in accordance with subsection 2 or 4 with respect to a nomination paper shall be conclusive evidence of the facts certified and shall not be open to challenge thereafter. 1972, c. 95, s. 35 (5), *amended*.

Certification by clerk

(7) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the

List of candidates

order of certification and copies of this list shall be prominently displayed in one or more locations and the list shall be completed no later than 4 o'clock in the afternoon of the day following nomination day provided that where the clerk has received additional nominations under subsection 5, a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later than 4.00 o'clock in the afternoon of the Thursday following nomination day. 1972, c. 95, s. 35 (6); 1974, c. 32, s. 21 (3), *amended*.

DEATH OF A CANDIDATE

Election on
death of
candidate

38. If as a result of a candidate nominated for election to an office dying before the close of the poll for the election,

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated. 1972, c. 95, s. 36.

WITHDRAWAL OF NOMINATIONS

Withdrawal
of nomina-
tion

39.—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day.

Where
nominated
in more
than one
office

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. 1972, c. 95, s. 37.

ACCLAMATIONS

Acclamation

40.—(1) If no more candidates are nominated for any office than the number to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare that candidate or those candidates duly elected.

(2) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected. ^{Idem}

(3) If the number of candidates declared to be elected to an office under subsection 1 or 2 is less than the number to be elected to such office so that there is a vacancy, a new election shall be held to fill the vacancy. ^{Vacancy}

(4) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection 3 is held and the number of members of the council or local board equals or exceeds the quorum. ^{Where quorum not elected}
1972, c. 95, s. 38.

NOTICE OF POLL

41.—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office. ^{Poll required}
1972, c. 95, s. 39 (1).

(2) Notice of the time for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper. ^{Notice of poll} 1972, c. 95, s. 39 (2); 1974, c. 32, s. 22, *amended*.

VOTING BY BALLOT

42.—(1) Where a poll is held in an election, the votes shall be given by ballot. ^{Voting by ballot} 1972, c. 95, s. 40 (1); 1974, c. 32, s. 23 (1).

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders or other voting ^{Voting machines, etc.}

devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed. 1974, c. 32, s. 23 (2), *part, amended*.

Repealing
by-law

(3) A by-law passed under subsection 2 or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held. *New*.

Minister's
order

(4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. 1974, c. 32, s. 23 (2), *part, amended*.

PREPARATION AND FORM OF BALLOT

Ballots

43.—(1) A clerk who is required to hold a poll under section 41 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election.

Nomination
of candidate
must be
certified

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 37. 1972, c. 95, s. 41 (1, 2).

Order of
names

(3) Subject to subsection 5, the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type. 1972, c. 95, s. 41 (3), *amended*.

Where
addresses
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate. 1972, c. 95, s. 41 (4), *amended*.

Nicknames
and titles

(5) Except as provided in subsection 4, no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate.

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot. 1972, c. 95, s. 41 (5, 6). Space for indicating vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. 1974, c. 32, s. 25, *part, amended*. Ballots for same office to be alike

(8) A ballot shall contain instructions as to the number of candidates for which an elector may vote and the name of the office for which the election is being held. 1974, c. 32, s. 25, *part, amended*. Number of candidates and name of office

(9) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. 1972, c. 95, s. 41 (9). Ballots re questions

44.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward. Wards in municipality

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor. General vote in city or town

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman. Borough in Metro. Toronto

- Village or township (4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.
- By-law providing for separate sets (5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets. 1972, c. 95, s. 42 (1-5).
- When to be passed (6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the election year than the 1st day of October and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly. 1972, c. 95, s. 42 (6), *amended*.
- Separate sets for controller, local board, by-laws, etc. (7) There shall also be separate sets of ballots,
 - (a) containing the names of the candidates for the office of,
 - (i) controller,
 - (ii) member of a local board,
 - (iii) trustee of a police village,
 - (iv) member of the council of a regional municipality, or
 - (v) member of the council of both an area municipality and a regional municipality;
 - (b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election. 1972, c. 95, s. 42 (7); 1974, c. 32, s. 26.
- More than one by-law, etc. (8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. 1972, c. 95, s. 42 (8).
- Composite ballots **45.**—(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed prior to the first day of October in an election year, authorize the use at a municipal election of composite ballots in such form subject to subsections 1 to 8 of section 43, as the by-law prescribes. 1972, c. 95, s. 43 (1); 1974, c. 32, s. 27, *amended*.

(2) A composite ballot may contain,

Contents

- (a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices ; and
- (b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote.

Not to be given to elector not entitled to vote for office on ballot

(4) A by-law passed under this section remains in force from year to year until repealed. 1972, c. 95, s. 43 (2-4).

By-law in force until repealed

POLLING PLACES

46.—(1) Subject to section 47, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision.

Polling place

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality. 1972, c. 95, s. 44 (1, 2).

Idem

(3) Every polling place shall be furnished with compartments in which electors may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. 1972, c. 95, s. 44 (3), *amended*.

Compartments

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions. 1972, c. 95, s. 44 (4).

United subdivisions

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to

Additional places

the extent of the subdivision, the remoteness of any number of its electors from the polling place and number of electors that may conveniently vote at one polling place. 1972, c. 95, s. 44 (5), *amended*.

Designation
of places

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly.

Notice of
location of
polling
place

(7) In municipalities having more than 5,000 electors, the clerk shall mail or cause to be delivered to each dwelling unit in the municipality a notice advising the elector or electors therein of the location of the polling place in which that elector or those electors is or are to vote. 1972, c. 95, s. 44 (6, 7).

Polling
places in
institutions

47.—(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only. 1974, c. 32, s. 28 (1).

Attendance
upon patients
to take
vote

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 63. 1972, c. 95, s. 45 (2).

SUPPLIES AND EQUIPMENT FOR POLLING PLACES

Supplies for
polling place

48.—(1) The clerk shall, before polling day, cause to be delivered to every deputy returning officer in his municipality,

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors in the polling list of his polling place;
- (c) a sufficient number of the prescribed directions for the guidance of electors for the purposes of the polling place;
- (d) two copies of the polling list for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed. 1972, c. 95, s. 46 (1), *amended*.

(2) A ballot box shall be made of durable material, provided Ballot box with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box.

(3) When delivering the ballots for a polling place to a deputy Clerk to certify number of ballots returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 78.

(4) Every deputy returning officer before opening the poll, Directions to be placarded or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 1972, c. 95, s. 46 (2-4).

WHERE AND HOW OFTEN ELECTORS MAY VOTE

49.—(1) An elector whose name appears in the polling list Number of votes that may be given by an elector for a polling subdivision or who presents a certificate to vote there under section 33, 50 or 56, is entitled to vote in an election in such subdivision in accordance with the following rules:

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.

3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
 - i. if resident in the municipality, in the polling subdivision in which he resides; or
 - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,
 for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.
5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question. 1972, c. 95, s. 47.

Employees
to have
three
consecutive
hours for
voting

(2) Where, by reason of the hours of his employment, an employee who is a qualified elector will not have three consecutive hours to vote while the polls are open on a

polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours.

(3) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. *New.*

Deduction
from pay
prohibited

50.—(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate that he is entitled to vote at the polling place at which he is stationed during the polling day.

Voting of
D.R.O. and
poll clerk.
etc., where
employed

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate.

Where
municipality
divided into
wards

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 33 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

When
certificate
may be
given

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

Certificate

(5) The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,

List of
certificates

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;

(d) whether the certificate is granted to such person as deputy returning officer, poll clerk, election assistant or constable; and

(e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,

and the list shall be open to inspection by any candidate scrutineer or elector. 1972, c. 95, s. 48.

Certificate entitles person to vote

51.—(1) A person who produces a certificate given to him under section 50 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk, election assistant or constable during polling day. 1972, c. 95, s. 49 (1).

Entry on polling list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate". 1972, c. 95, s. 49 (2), *amended*.

Certificate to be given to D.R.O.

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

To be kept in envelope

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1972, c. 95, s. 49 (3, 4).

PROCEDURE AT POLL

Hours poll to be open

52. Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day. 1972, c. 95, s. 50.

When D.R.O. to attend poll

53.—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll.

Inspection of ballots before opening of poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll. 1972, c. 95, s. 51.

Inspection, sealing of ballot box

54. A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to

such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 71. 1972, c. 95, s. 52.

55.—(1) Where a person enters the polling place and requests a ballot paper, the deputy returning officer shall proceed as follows: Duties of D.R.O. on tender of vote

1. He shall ascertain that the name of such person or a name apparently intended for it is entered in the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 33 or 50 and the poll clerk shall, on a separate polling list, delete the name of the said person on such polling list.
2. The poll clerk shall indicate on his polling list opposite the person's name the numerical order in which the person was given his ballot paper.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the words "*Objected to*" and the deputy returning officer shall require such person to take the prescribed oath, which oath shall indicate the name of the candidate by or on whose behalf the objection was made.
5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no

candidate or scrutineer has objected, he may require such person to take the prescribed oath.

6. If such a person having been required to take the oath refuses to do so, the deputy returning officer shall enter or cause it to be entered opposite the name of such person on the polling list maintained by the poll clerk the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.
7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name on the polling list maintained by the clerk the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting. 1972, c. 95, s. 53 (1), *amended*.

Disqualifica-
tion of
prisoners,
mentally ill,
etc.

(2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.

Elector in
polling
place at
closing

(3) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote. 1972, c. 95, s. 53 (2, 3).

Entry of
name on
polling list
by D.R.O.

56.—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear on the polling list or in a certificate issued under section 33 or 50 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer.

Idem

(2) The deputy returning officer shall enter or cause to be entered on the polling list and on the polling list maintained

by the poll clerk the name of the elector. 1972, c. 95, s. 54, amended.

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, furnish it to the assessment commissioner before the first Monday in December in an election year. 1974, c. 32, s. 29, amended.

Copy to clerk and assessment commissioner

57. Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper. 1972, c. 95, s. 55 (1).

Where it appears person voted in place of elector, etc.

58. No inquiry shall be made of an elector who is required to take the oath under section 55 or 57 except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated in the polling list. 1972, c. 95, s. 56 (2); 1974, c. 32, s. 30 (2).

Inquiry

59. Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

Procedure on receipt of ballot

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer. 1972, c. 95, s. 57.

60.—(1) Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the

Duty of D.R.O. on receipt of ballot

presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

Person deemed to have voted

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted. 1972, c. 95, s. 58 (1, 2).

Person not to take ballot from polling place

61.—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry on the polling list maintained by the poll clerk "*Forfeited Vote*" opposite the person's name, and in the case where a person returns his ballot declining to vote, the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk. 1972, c. 95, s. 59 (1), *amended*.

Ballot accidentally spoiled

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk. 1972, c. 95, s. 59 (2).

No other person in compartment while elector marking ballot

62. Subject to section 63, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper. 1972, c. 95, s. 60.

Elector blind or handicapped

63.—(1) On the application of any elector who is unable to read or is blind or is handicapped by other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his inability to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box. 1972, c. 95, s. 61 (1), *amended*.

Handicapped elector's ballot marked by friend

(2) The deputy returning officer shall either deal with an elector mentioned in subsection 1 in the manner provided therein or, at the request of any such elector who has taken the prescribed oath and is accompanied by a friend, shall

permit the friend to accompany the elector into the voting compartment and mark the elector's ballot for him.

(3) Any friend who is permitted to mark the ballot of an elector under subsection 2 shall first be required to take the prescribed oath that he will keep secret the manner in which the elector voted. Oath of friend

(4) No person shall be allowed to act as the friend of more than one elector at any polling place other than a polling place established under section 47. 1972, c. 95, s. 61 (2-4). May act as friend only once

64. Where the deputy returning officer does not understand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. 1972, c. 95, s. 62. Elector who cannot understand English

65.—(1) The returning officer, the assistant returning officer, the deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. 1972, c. 95, s. 63; 1974, c. 32, s. 31. Who may remain in polling place

(2) No campaign material or literature of any nature whatsoever of any candidate in the election shall be displayed within the polling place. *New.* No campaign literature in polling place

ADVANCE POLLS

66.—(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56. 1974, c. 32, s. 32 (1), *part.* Advance poll

(2) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk Additional advance poll

of additional advance polls for the same purposes as provided in subsection 1. 1974, c. 32, s. 32 (1), *part.*

When poll
to be
open

(3) The advance poll shall be open from 9 o'clock in the forenoon until 8 o'clock in the afternoon on each day it is held and polling shall be held so far as possible in the same manner as polling at a regular election. 1972, c. 95, s. 64 (2); 1974, c. 32, s. 32 (2), *amended.*

Polling
places

(4) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place. 1972, c. 95, s. 64 (3).

List of
persons
voting

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

Duties of
clerk on
receiving
list

(6) Upon receiving the list mentioned in subsection 5, the clerk shall,

- (a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears in such list and whose vote has been received at an advance poll, showing that such elector has voted; or
- (b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed in the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted. 1972, c. 95, s. 64 (5, 6).

Sealing
of box

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any

ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it, along with all other election documents used at the poll, personally to the clerk for safe keeping. 1972, c. 95, s. 64 (7), *amended*.

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election and their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. 1972, c. 95, s. 64 (8). Opening of
ballot boxes
for advance
poll

PROXY VOTING

67.—(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 entitling him to vote and who is, Who may
vote by
proxy

- (a) a person other than one described in section 47 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;
- (b) a person absent from his regular residence by reason of attending an educational institution and who is entered in the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or
- (c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision. 1972, c. 95, s. 65 (1); 1974, c. 32, s. 33 (1).

(2) Any person who is entitled to vote by proxy pursuant to subsection 1 may appoint in writing in the prescribed form as his voting proxy any other person who is eligible as an elector in the municipality. 1972, c. 95, s. 65 (2), *amended*. Who may be
proxy

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the May be
proxy once
only

person voting by proxy is the parent, grandparent, child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy. 1972, c. 95, s. 65 (3); 1974, c. 32, s. 33 (2).

Term of appointment

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day. 1972, c. 95, s. 65 (4).

Application for certificate to vote by proxy

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote. 1972, c. 95, s. 65 (5), *amended*.

When certificate to be given

(6) The clerk may take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualification of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is authorized to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect. 1972, c. 95, s. 65 (6); 1974, c. 32, s. 33 (3), *amended*.

Not more than one proxy

(7) Not more than one voting proxy may be appointed on behalf of any person at any election.

Oath on voting

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection 6 and takes the prescribed oath. 1972, c. 95, s. 65 (7, 8).

Record of voting proxy

(9) Where a voting proxy has voted, the deputy returning officer shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose. 1972, c. 95, s. 65 (9), *amended*.

Proxy may vote in own right

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy. 1972, c. 95, s. 65 (10).

KEEPING OF PEACE: EMERGENCY SITUATIONS

68. A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he considers necessary. 1972, c. 95, s. 66.

Assistance of constables

69.—(1) If any circumstances arise in the municipality, that, in the opinion of the clerk are of such a nature as to prevent or delay the opening of any polling place or cause the discontinuance of polling at any polling place, the clerk may declare an emergency situation to be in effect and such emergency situation shall continue until the clerk otherwise declares.

Declaration of emergency by clerk

(2) Where an emergency situation is declared under subsection 1, the clerk shall make such arrangements as he considers advisable for the conduct of the poll, the safe-keeping of the ballot boxes and all election documents and the counting of the votes.

Arrangements by clerk

(3) The arrangements made by the clerk under subsection 2, in good faith, shall not be open to question, or be quashed, set aside or declared invalid on account of their unreasonableness or supposed unreasonableness. *New.*

Not open to question

COUNTING THE VOTES

70. Immediately after the close of the poll, the deputy returning officer at each polling place shall,

Duties of D.R.O. after close of poll

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear on the polling list maintained by the poll clerk to have voted and make an entry at the end thereof:—
“The number of electors who voted at this election in this polling place is (stating the number)” and sign his name thereto. 1972, c. 95, s. 68, *amended.*

71.—(1) After compliance with section 70, the deputy returning officer shall, in the presence and in full view of the

Counting of votes

persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot.

Rejection of
ballots

(2) In counting the votes, the deputy returning officer shall reject all ballots,

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

Idem

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection 2, the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted.

Composite
ballots

(4) Where in a composite ballot,

- (a) votes are cast for more candidates for any office than are to be elected to such office; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection 2, the

votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

(5) Where part of the votes cast in any ballot are rejected under subsection 3 or 4, the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot. 1972, c. 95, s. 69.

Where part
of votes
rejected

72.—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 71 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

Objection
by candidate,
etc.

(2) The deputy returning officer shall list all objections under subsection 1 to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number. 1972, c. 95, s. 70.

Objections to
be listed

73. The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question. 1972, c. 95, s. 71.

How votes
counted

74. Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets,

Ballots to
be placed
in separate
packets

- (a) all used ballots that have not been objected to and have been counted in whole or in part;
- (b) all used ballots that have been objected to but which have been counted in whole or in part;
- (c) all rejected ballots;
- (d) all ballots used but unmarked. 1972, c. 95, s. 72.

75. The deputy returning officer shall endorse every packet of ballots made up by him under clause *a* of section 70 or section 74 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet. 1972, c. 95, s. 73.

D.R.O. to
endorse
packets

Oath of
poll clerk

76. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. 1972, c. 95, s. 74.

STATEMENT AND MATERIALS RETURNED TO CLERK

Statement
of D.R.O.

77.—(1) The deputy returning officer shall make out a statement in duplicate of the number of,

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) electors whose ballots have been marked by the deputy returning officer under sections 47 and 63. 1972, c. 95, s. 75 (1), *amended*.

Statement
attached to
polling list

(2) The duplicate statement shall be attached to the polling list maintained by the poll clerk and the original statement enclosed in a special packet shall be delivered to the clerk as provided herein. 1972, c. 95, s. 75 (2), *amended*.

Statement
signed by
D.R.O., etc.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their scrutineers as are present and desire to sign it.

Certificate
re ballots
counted and
rejected

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots. 1972, c. 95, s. 75 (3, 4).

What to be
placed in
ballot box

78.—(1) The deputy returning officer shall place in the ballot box, the polling lists, the packets containing the ballots and all other documents or packets that served at the election, except,

- (a) the original statement;
- (b) the oath of the poll clerk;

- (c) the oath of the person, if any, chosen to deliver the ballot box to the clerk; and
- (d) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 56. 1972, c. 95, s. 76 (1); 1974, c. 32, s. 34, *amended*.

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection 1 personally to the clerk. Box to be locked, etc.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk. Oath of D.R.O.

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection 1 owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath. Delivery of ballot box, etc., to clerk

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk pursuant to this section. 1972, c. 95, s. 76 (2-5). Right of candidate, etc., to be present

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. 1972, c. 95, s. 76 (6), *amended*. D.R.O. not to take box to home, etc.

79.—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 78, shall, without opening any of the ballot boxes, cast up from the original statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question. 1972, c. 95, s. 77 (1), *amended*. Clerk to add up votes

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no Declaration of result

town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

Delay in
adding up
votes

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. 1972, c. 95, s. 77 (2, 3).

Safekeeping
of box and
documents

80.—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 78, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. 1972, c. 95, s. 78 (1).

Opening of
box when
documents
placed in
box in
error

(2) Where the documents specified in subsection 1 of section 78 are in error placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk. 1972, c. 95, s. 78 (2), *amended*.

Where D.R.O.
fails to
deliver
statement

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 78, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes. 1972, c. 95, s. 78 (3).

Where ballot
box lost,
etc.

81. If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or

question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question. 1972, c. 95, s. 79.

82.—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question. ^{Equality of votes}

(2) In such proceedings, sections 83 to 90 apply *mutatis mutandis*. 1972, c. 95, s. 80. ^{Application of ss. 83-90}

RECOUNT

83.—(1) In this section and in sections 84 to 86, "judge" means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate. 1972, c. 95, s. 81 (1). ^{Interpretation}

(2) If, within fourteen days after the declaration by a clerk of the result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender, or if at any time within four weeks after such declaration the council of a municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition. 1972, c. 95, s. 81 (2); 1974, c. 32, s. 35, *amended*. ^{Where recount desirable}

Notice of
recount

(3) At least six days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election. 1972, c. 95, s. 81 (3), *amended*.

Who may be
present

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount. 1972, c. 95, s. 81 (4).

What ballots
involved in
recount

(5) Where a recount relates to the election of a candidate, the recount shall be of the votes cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the votes cast for him to be recounted or the votes cast for him to be finally added. 1972, c. 95, s. 81 (5), *amended*.

Judge may
order recount,
etc., of votes
cast for other
candidates

(6) Notwithstanding subsection 5, the judge conducting the recount may order the recount of the votes cast for any other candidate whose election or right to any other office may be affected in any way by the recount conducted under subsection 5. *New*.

Procedure
by judge

(7) At the date, time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots. 1972, c. 95, s. 81 (6), *amended*.

Rules to
govern
proceedings

(8) Subject to subsection 9, the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

(9) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office. 1972, c. 95, s. 81 (7, 8).

Judge may hear any evidence necessary for proper recount

(10) Upon the completion of a recount, or final addition, the judge shall forthwith notify in writing the result of the recount or final addition to the clerk and announce the results to persons present at the recount, and, immediately after the expiry of the appeal period specified in section 88, all the ballots and statements shall be sealed in separate packets in the manner prescribed by the judge. 1972, c. 95, s. 81 (9), *amended*.

Judge to notify clerk of result of recount or final addition

(11) The judge may require the clerk of the county or district court to be present at the time and place appointed. 1972, c. 95, s. 81 (10).

Clerk of court

84. If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question. 1972, c. 95, s. 82 (2).

If no appeal, clerk to declare result

85.—(1) In the case of an equality of votes for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk. 1972, c. 95, s. 83, *amended*.

Equality of votes

(2) For the purposes of this section, "lot" means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper placed in a box and one name being drawn by a person chosen by the clerk. *New*.

Method of conducting lot

86.—(1) The costs of a recount under section 83 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid. 1972, c. 95, s. 84 (1).

Costs of recount

(2) The judge may in his discretion award costs of a recount or final addition to or against any person who is a party

Awarding of costs

to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court. 1972, c. 95, s. 84 (2), *amended*.

Where no provision as to costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board. 1972, c. 95, s. 84 (3); 1974, c. 32, s. 36 (1).

Payment of deposit

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 83 shall be paid out to the party entitled to such costs, so far as necessary.

Enforcement of payment of costs

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. 1972, c. 95, s. 84 (4, 5).

Expenses of judge

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board. 1972, c. 95, s. 84 (6); 1974, c. 32, s. 36 (2).

Where no appeal packets to be returned to clerk

87.—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been taken, the judge shall cause packets, sealed in accordance with subsection 10 of section 83, to be returned to the custody of the clerk.

Documents not required on appeal

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the packets of ballots and such of the original statements as are not required for the purpose of the appeal to be returned to the custody of the clerk. 1972, c. 95, s. 85, *amended*.

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

Appeal from decision of judge

88.—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a

decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

(2) The notice may be served upon the other parties personally, or as a judge of the Supreme Court may direct. 1972, c. 95, s. 86 (1, 2). Service of notice

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall forward the sealed packets of the ballots or statements that are the subject of appeal, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 83 to the clerk. 1972, c. 95, s. 86 (3), *amended*. Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(5) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk. Procedure on appeal

(6) The judge of the Supreme Court may direct by and to whom, the costs of the appeal shall be paid. Costs of appeal

(7) Where the judge of the Supreme Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk, shall be paid by the municipality. 1972, c. 95, s. 86 (4-7). Idem

DISPOSITION OF ELECTION RECORDS

89.—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of Disposition of ballots

the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

Disposition
of other
documents

(2) Subject to subsection 1, the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them. 1972, c. 95, s. 87.

Inspection
of ballots

90.—(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge. 1974, c. 32, s. 37.

Order of
judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return. 1972, c. 95, s. 88 (2).

Production
of documents
by clerk

91. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement. 1972, c. 95, s. 89.

NEW ELECTIONS

New
election

92.—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which,

- (a) a directive is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law; or
- (c) the clerk receives from the secretary of a school board notice,

that such an election is required. 1972, c. 95, s. 90 (1), *amended*.

(2) The procedure including the period for filing nominations ^{Procedure} at a new election shall be the procedure and period applicable at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day.

(3) The polling required to fill a vacancy in an office by this ^{Polling} section shall so far as possible be held in the same manner and by the same officers and take place at the same places, in so far as practicable, at which the polling took place at the last regular election. 1972, c. 95, s. 90 (2, 3).

(4) Unless a new preliminary list of electors has been ^{List of electors} furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause *a* of section 38 or subsection 3 of section 40, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the polling day for the last regular election.
2. Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 111.
3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the directive, by-law or notice specified in clause *a*, *b* or *c* of subsection 1.

- R.S.O. 1970.
c. 284
4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. 1974, c. 32, s. 38 (1), *amended*.
- Idem
R.S.O. 1970.
c. 32
- (5) Where in the year following an election year the annual enumeration under *The Assessment Act* has, prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election. 1972, c. 95, s. 90 (5).
- Certification
of list
- (6) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 31 and to entry of names in the list under sections 33 and 56. 1974, c. 32, s. 38 (2), *part*.
- Eligibility
of member
to be
candidate
for other
office
- (7) Where a vacancy occurs in any office and an election is to be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the nomination day for the new election, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds. 1972, c. 95, s. 90 (6).
- Vacancy
after
March 31st
of election
year
- (8) Notwithstanding anything in this or any other general or special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year. 1972, c. 95, s. 90 (7).
- Revision of
partial list
- (9) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. 1974, c. 32, s. 38 (2), *part*.

93. Notwithstanding that a new election becomes necessary, meetings of the council may be held if a quorum of the council is present. 1972, c. 95, s. 91. Council may meet notwithstanding vacancy

EFFECT OF IRREGULARITIES

94. No election shall be declared invalid,

Irregularities not to offset result

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. 1972, c. 95, s. 92.

SECRECY OF PROCEEDINGS

95.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting. Secrecy of proceedings

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted. Interference with elector

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted. Communication as to voting

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it so as to make known to any person how he has voted. Inducing person to show ballot

(5) Subject to section 63, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted. Voter not to show ballot

No one com-
pellable to
disclose
his vote

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 1972, c. 95, s. 93.

OFFENCES, PENALTIES AND ENFORCEMENT

Voting when
not qualified,
etc.

96. Every person who, at an election,

- (a) not being qualified to vote, votes;
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 94.

Improper
voting by
proxy

97. Every person who,

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 95.

Wilful
miscount
of ballots

98. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 96.

Neglect of
duties

99. Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1972, c. 95, s. 97.

100. Every person who,Offences
relating to
ballot
papers

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 98.

101. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 99.

False
information
to authorized
persons**102.** Every person who,Offences of
inducing un-
qualified
person to vote
or publishes
false state-
ment of with-
drawal of
candidate

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 100.

103.—(1) Every person who,

Bribery:

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or

bribing
elector or
procuring
bribery by
money

offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

by gift or offer or promise of employment

(b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

to induce anyone to procure return of candidate or endeavour to procure

(c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or

receiving bribe to procure return of candidate

(d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or

advancing money to be spent in corrupt practices

(e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or

applying for money or employment in consideration of voting

(f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the

gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or

- (g) before or during an election, directly or indirectly, ^{receiving money, office, etc., for having voted} himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or
- (h) after an election, directly or indirectly, himself or by ^{receiving money corruptly after election} any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or
- (i) in order to induce a person to allow himself to be ^{giving or promising office to candidate to stand or withdraw} nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

(2) The actual personal expenses of a candidate, his ^{Personal expenses of candidate} reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act.

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place. 1972, c. 95, s. 101. ^{Posting of provisions as to corrupt practices}

104. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1972, c. 95, s. 102. ^{General offence}

Disqualifi-
cation of
persons
guilty of
corrupt
practice

105.—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll.

Limitation

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection 1. 1972, c. 95, s. 103.

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

Validity of
election,
etc.,
determined
by action

106.—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated.

Penalties
for corrupt
practice

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 96 to 102. 1972, c. 95, s. 104 (1, 2).

Who may
commence
action

(3) Any elector entitled to vote at an election referred to in subsection 1 may commence an action under this section in relation to such election. 1972, c. 95, s. 104 (3), *amended*.

Time for
commencing
action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection 1. 1972, c. 95, s. 104 (4).

Mode of
trial

107.—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 106 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means.

Idem

(2) Subject to subsection 1 and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 106.

Judge
without
jury

(3) The action shall be tried by a judge without a jury. 1972, c. 95, s. 105.

108.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein. Security for costs

(2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. 1972, c. 95, s. 106. Idem

109.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs. Abatement of action

(2) The abatement of an action does not affect any liability for costs previously incurred. Liability for costs

(3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff. 1972, c. 95, s. 107. Substitution of plaintiff

110. Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if, within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. 1972, c. 95, s. 108. Substitution for unqualified person

111.—(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant. Successful candidate guilty of corrupt practice

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held. Unseating and seating of another elected candidate

(3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held. Where commission of corrupt practice affected result of election

Where act of election official affected result of election (4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.

Compensation of candidates where election void (5) Where a new election is to be held, the court may make such order as it considers just against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act for the compensation of candidates at the void election not exceeding \$2,000 per candidate.

Judgment to clerk (6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality. 1972, c. 95, s. 109.

Where election set aside and appeal entered **112.**—(1) If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board. 1972, c. 95, s. 110.

Decisions of council not affected by reason of subsequent disqualification (2) The decisions of a council reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. *New.*

New election not to be held pending appeal **113.** A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal. 1972, c. 95, s. 111.

Appeal to Divisional Court **114.**—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Judgment or new trial (2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section. 1972, c. 95, s. 112.

Appeal from decision on new trial

115. Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

Disclaimer before complaint

"I, A.B., hereby disclaim all right to the office of
.....for the.....of
.....in the.....of
.....and all defence of any right I may
have to the same. Dated.....day of
....., 19.... A.B."

1972, c. 95, s. 113.

116. A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

Disclaimer after complaint

"I, A.B., upon whom a writ, authorized by *The Municipal Elections Act, 1972*, has been served for the purpose of contesting my right to the office
of....., in the county (or district)
of....., hereby disclaim the office, and
all defence of any right I may have to the same.

Dated.....day of....., 19....
A.B."

1972, c. 95, s. 114.

117.—(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. 1972, c. 95, s. 115 (1); 1974, c. 32, s. 39.

Duplicate of disclaimer to clerk

- Operates as resignation (2) A disclaimer in accordance with section 115 or 116 operates as a resignation.
- Relief from costs (3) A disclaimer in accordance with section 116 relieves the person making it from all liability for costs in an action under section 104. 1972, c. 95, s. 115 (2, 3).
- Procedure substituted for *quo warranto* proceedings **118.** Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council or as trustee of a police village or as member of a local board, as the case may be, determined shall be had and taken only under the provisions of this Act. 1972, c. 95, s. 116; 1974, c. 32, s. 40, *amended*.
- Forms **119.**—(1) The Minister may by order prescribe the forms required for the purposes of this Act, which forms may be in both the English and French languages. 1975, c. 23, s. 1, *part*.
- Notices in French language (2) Any notices required to be posted, published or mailed under this Act may, in addition to being printed in the English language, be printed in the French language.
- Determination by council of French-language forms, etc. (3) The use in a municipality of forms prescribed in the French language under subsection 1 or the printing of notices in the French language under subsection 2 shall be determined by by-law of the council of the municipality. *New*.
- Holidays **120.** Subject to subsection 2 of section 11, where any day specified in this Act for the undertaking of any proceeding pertaining to an election falls on a holiday, the day specified shall be deemed to be the immediately preceding day which is not a Sunday or a holiday. *New*.
- Limitation on election expenditures **121.** The council of a municipality may by by-law provide for limitations on elections expenditures by or on behalf of a candidate and require the disclosure by a candidate of all election contributions to his campaign in excess of \$100 in the form of money and goods and services. *New*.
- 1975, c. 40, s. 27 (1), re-enacted **122.** Subsection 1 of section 27 of *The Liquor Licence Act, 1975*, being chapter 40, is repealed and the following substituted therefor:
- Submission by council to vote (1) The council of a municipality may submit one or more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote.

(1a) The council of a municipality shall submit to a ^{Idem} vote such questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality as are requested by petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election.

123. Section 30 of the said Act is repealed. 1975, c. 40.
s. 30.
repealed

124. Sections 31, 32 and 33 of the said Act are repealed and the following substituted therefor: 1975, c. 40.
ss. 31-33.
re-enacted

31. The day fixed for taking the vote on any question or questions shall be the day upon which, under *The Municipal Elections Act, 1977*, a poll would be held at the election of members of the council of the municipality unless the council, with the approval of the Board, fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be. Day of
polling
1977, c. ...

32.—(1) The persons qualified to vote upon a question or questions are such persons as would be eligible to vote at an election held on that day pursuant to *The Municipal Elections Act, 1977*. Who may
vote

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, the termination of the qualification period for determining the eligibility of electors under paragraph 4 of subsection 4 of section 92 of *The Municipal Elections Act, 1977* is the date of the approval given by the Board as required by section 31. Qualification
period for
determining
eligibility
of electors

33. The provisions of *The Municipal Elections Act, 1977* apply to the taking of a vote under this Act. Application
of
1977, c. ...

33a. The returning officer shall make his return to the Board showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Return to
Board

Board shall give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions.

1975, c. 40,
s. 34 (2),
re-enacted

125. Subsection 2 of section 34 of the said Act is repealed and the following substituted therefor:

Who entitled
to sign
petition

(2) The persons qualified to sign a petition pursuant to section 27 or 28 are the persons whose names appeared on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be.

Who
entitled
to vote

(3) The persons qualified to vote upon a question or questions are the persons who would be eligible to vote at an election held in the municipality amalgamated or municipality or part annexed, as the case may be, held pursuant to *The Municipal Elections Act, 1977*.

1977, c. ...

Repeals

126. The following are repealed:

1. *The Municipal Elections Act, 1972*, being chapter 95.
2. *The Municipal Elections Amendment Act, 1974*, being chapter 32.
3. *The Municipal Elections Amendment Act, 1975*, being chapter 23.

Commence-
ment

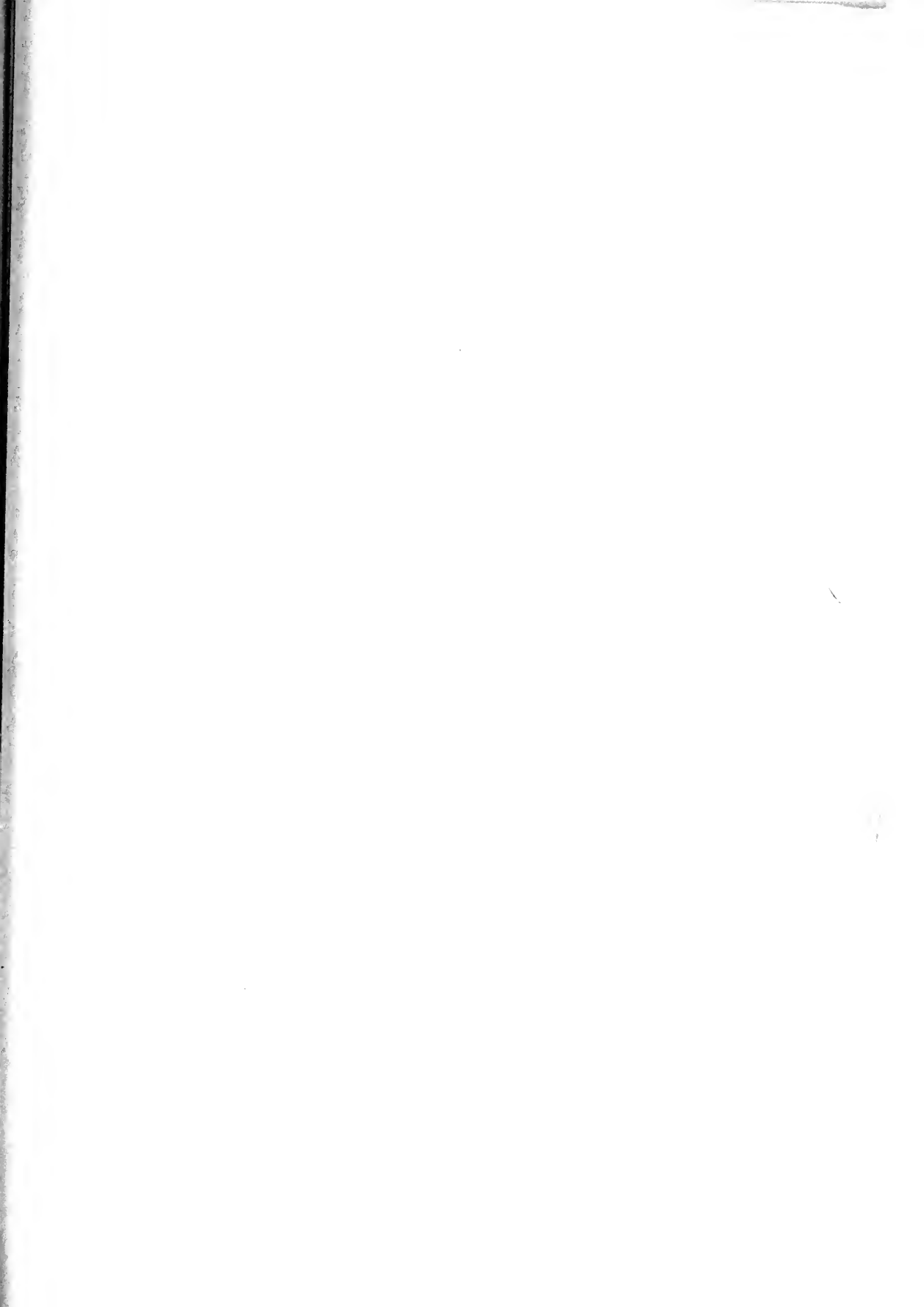
127. This Act comes into force on the 1st day of January, 1978.

Short title

128. The short title of this Act is *The Municipal Elections Act, 1977*.







An Act to revise
The Municipal Elections Act, 1972

1st Reading

November 8th, 1977

2nd Reading

November 22nd, 1977

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

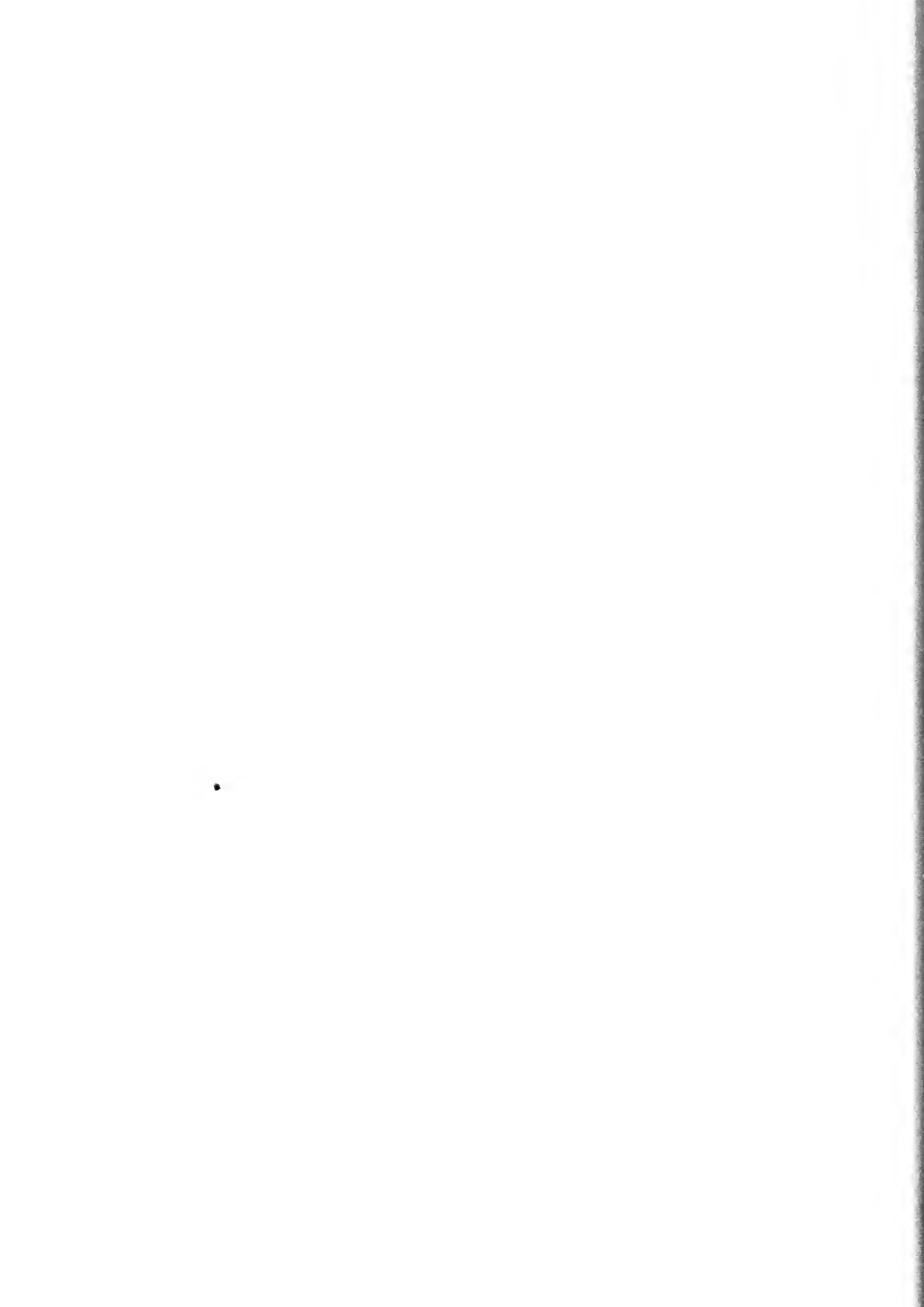
*(Reprinted as amended by the
Committee of the Whole House)*

BILL 98

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to revise
The Municipal Elections Act, 1972**

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



BILL 98

1977

**An Act to revise
The Municipal Elections Act, 1972**

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

1. "advance poll" means a poll held under section 66;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate ; R.S.O. 1970,
c. 32
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act ; R.S.C. 1970,
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act ;

10. "election" means an election governed by this Act ;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election ;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act ;
13. "elector" means a person entitled under this Act to vote in an election ;
- R.S.O. 1970,
c. 32 14. "enumerated" means enumerated under *The Assessment Act* ;
- R.S.O. 1970,
c. 225 15. "holiday" means a holiday as defined in *The Interpretation Act* ;
- R.S.O. 1970,
c. 118 16. "local board" means a local board as defined in *The Municipal Affairs Act* ;
- 1974, c. 109 17. "locality" means territory without municipal organization that is deemed a district municipality under *The Education Act, 1974* ;
18. "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs ;
19. "municipality" means a city, town, village or township ;
20. "new election" means an election other than a regular election ;
21. "nomination day" means the last day for filing nominations ;
22. "oath" includes an affirmation ;
23. "office" means an office, the election to which is governed by this Act ;
24. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under *The Assessment Act* ;
25. "polling day" means the day on which the poll is to be taken under this Act ;
26. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk ;

27. "polling place" means the area designated by the clerk in which the facilities for the conduct of the poll are situate;
28. "polling subdivision" means a polling subdivision established by the clerk under this Act;
29. "preliminary list" means a preliminary list of electors;
30. "prescribed" means prescribed by the Minister;
31. "public school elector" means an elector who is not a separate school elector;
32. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
33. "regular election" means an election required to be held under section 10 of this Act;
34. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
35. "scrutineer" means any person appointed as a scrutineer by a candidate or by a council under section 6;
36. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the spouse of such supporter and any person entitled to be a separate school elector under *The Education Act, 1974*. 1972, c. 95, s. 1; 1974, c. 109 1974, c. 32, s. 1, amended.

APPLICATION OF ACT

Application
of Act

2. Notwithstanding any other general or special Act, this Act applies to and governs all elections,

(a) to the offices of,

(i) member of the council of a municipality,

(ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,

(iii) trustee of a police village,

(iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election. 1975, c. 95, s. 2 (1), *amended*.

ELECTION OFFICIALS

Returning
and
revising
officer

3.—(1) Subject to subsections 2 and 3, the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning
officer in
police
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

(a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

- (b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause *a* who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 23 and 28 of section 57 and subsection 21 of section 110 of *The Education Act, 1974* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions. 1972, c. 95, s. 3, *amended*.
Clerks, duties in relation to school boards 1974, c. 109

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside but no candidate is eligible to be appointed as a deputy returning officer or poll clerk. 1972, c. 95, s. 4 (1), *amended*.
D.R.O. and poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place.
Where unable to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place.
Non-attendance of D.R.O., poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. 1972, c. 95, s. 4 (2-4), *amended*.
Poll clerk to act for D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose, but no candidate is eligible for any such appointment. 1972, c. 95, s. 4 (5), *amended*.
Assistants

(6) The clerk may, in writing, delegate to the assistant returning officers and assistant revising officers appointed under subsection 5, such of his statutory rights and duties in relation to the preparation for and conduct of the election as he considers necessary. *New*.
Delegation by clerk

- Duties of poll clerk (7) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders. 1972, c. 95, s. 4 (6).
- Oath (8) Every returning officer, deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form. 1972, c. 95, s. 4 (7); 1974, c. 32, s. 2.
- Oath of D.R.O. (9) The appointment and oath of the deputy returning officer under subsection 8 shall be endorsed upon or attached to the polling list maintained by the poll clerk for the polling place for which he is appointed. 1972, c. 95, s. 4 (8), *amended*.
- Who may administer oaths **5.**—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in Ontario.
- Idem (2) The clerk may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk.
- No charge (3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. 1972, c. 95, s. 5.
- Scrutineers appointed by candidate **6.**—(1) Each candidate may appoint in writing such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act. 1972, c. 95, s. 6 (1), *amended*.
- Limit on number present (2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection 1 at any time. 1972, c. 95, s. 6 (2).
- Scrutineers appointed by council (3) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question. 1972, c. 95, s. 7 (1).

7. A person appointed as a scrutineer under section 6, ^{Production of appointment} before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place. 1974, c. 32, s. 4, *amended*.

COSTS OF ELECTION

8.—(1) Except where otherwise specifically provided by ^{Cost of election} this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.

(2) The reasonable expenses incurred by a clerk or any other ^{Expenses of officers} officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compartments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto. 1972, c. 95, s. 8 (1, 2).

(3) Where the clerk of a municipality is required to conduct ^{Expenses of by-election of local board} an election of a member or members of a local board other than at a regular election, the board shall forthwith reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list. 1972, c. 95, s. 8 (3), *amended*.

TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act ^{Two-year term} and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year. 1972, c. 95, s. 9 (1), *amended*.

(2) The holders of offices hold office until their successors ^{Until new council organized} are elected and the newly elected council or local board is organized. 1972, c. 95, s. 9 (2).

BIENNIAL ELECTIONS

10.—(1) An election shall be held in accordance with this ^{Election year} Act in each municipality in the year 1978 and in every

second year thereafter for the purpose of electing persons to offices. 1972, c. 95, s. 10 (1), *amended*.

Vote on
question,
etc.

(2) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board or in the case of a question submitted under *The Liquor Licence Act, 1975*, unless the Liquor Licence Board approves the taking of the vote on some other day. 1972, c. 95, s. 10 (4), *amended*.

1975, c. 40

POLLING DAY

Polling
day

11.—(1) Polling day in a regular election shall be the second Monday in November in each election year. 1972, c. 95, s. 11, *amended*.

Idem

(2) Where polling day as specified in subsection 1 falls on a holiday, polling day shall be the next succeeding day that is not a holiday, but the day for the undertaking of any other proceeding pertaining to the election shall not be affected thereby. *New*.

QUALIFICATION OF ELECTORS

Electors.
resident

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Friday in October that precedes polling day by seventeen days, he,

(a) is a resident in such municipality;

(b) is a Canadian citizen or other British subject; and

(c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1974, c. 32, s. 5, *part, amended*.

Electors.
non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Friday in October that precedes polling day by seventeen days, but at any time during such period, he,

(a) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;

(b) is a Canadian citizen or other British subject; and

(c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1974, c. 32, s. 5, *part, amended*.

14. No judge of any court is qualified to vote in any election. 1974, c. 32, s. 5, *part*. Judges not qualified to vote

15. For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to. 1972, c. 95, s. 14. Evidence of citizenship

QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

16. Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. 1972, c. 95, s. 15, *part*. Who may vote on money by-laws

POLLING SUBDIVISIONS

17. Subject to section 18, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of April in an election year inform the assessment commissioner of the boundaries of each subdivision. 1972, c. 95, s. 17 (1); 1974, c. 32, s. 8, *amended*. Polling subdivisions

18. A polling subdivision shall not, so far as is practicable, Size

(a) contain more than 350 electors; or

(b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly. 1972, c. 95, s. 17 (2).

PREPARATION OF PRELIMINARY LIST OF ELECTORS

19. An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the 30th day of September in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who meets the requirements for an elector under section 12 or 13 and such list shall signify opposite the name of an elector, Preliminary list of electors

(a) who does not reside in the municipality, that he does not so reside;

(b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;

(c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;

1974, c. 109

(d) who is enumerated as a separate school elector in accordance with *The Education Act, 1974*, that he is a separate school elector;

(e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant. 1972, c. 95, s. 18; 1974, c. 32, s. 9, *amended*.

For polling subdivision where no wards

20.—(1) In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

(a) for the polling subdivision in which the elector resides; or

(b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one polling subdivision only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision. 1972, c. 95, s. 19.

For polling subdivision where wards

21.—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

(a) where he resides in the municipality, for the polling subdivision in which he resides; or

(b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

For one polling subdivision

(2) The name of an elector shall not be entered under this section in the preliminary list for more than one polling subdivision. 1972, c. 95, s. 20.

List delivered to clerk

22. The assessment commissioner shall deliver the list of electors prepared by him under sections 19, 20 and 21 to the clerk and, in respect of a locality, to the secretary of the school board on or before the thirty-first day after the commencement date of the enumeration period in an election year. 1972, c. 95, s. 21, *amended*.

Correction of list if manifest errors in it

23. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 22 is not in conformity with the require-

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be may, prior to the printing or reproduction of the list required under section 24, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections. 1974, c. 32, s. 10, *amended*.

PRELIMINARY LIST OF ELECTORS

24. Immediately after receipt of the list of electors ^{Printing of list} delivered by the assessment commissioner under section 22, the clerk or secretary of the school board referred to in the said section 22, after making corrections, if any, under section 23, shall,

- (a) cause the list to be printed or reproduced and such list shall be the preliminary list of electors;
- (b) fix the places at which and the times when revision of the list will be undertaken, and, subject to subsection 2 of section 25, such revision shall commence no later than fourteen days after delivery of the list to the clerk under section 22;
- (c) post notice of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken in at least two conspicuous places in the municipality, and where there is a newspaper having general circulation in the municipality, publish the notice in such newspaper. 1974, c. 32, s. 11, *amended*.

REVISION OF PRELIMINARY LIST OF ELECTORS

25.—(1) Immediately after the printing or reproduction ^{Revision of list} of the preliminary list of electors, the clerk shall post one copy of the list in a conspicuous place in his office and in at least two other conspicuous public places in the municipality. 1972, c. 95, s. 23 (1); 1974, c. 32, s. 12 (1), *amended*.

(2) The day of posting copies of the preliminary list under subsection 1 and of giving notice under section 24 shall be ^{Time for posting} at least five days before the last day for filing applications for revision. 1972, c. 95, s. 23 (2); 1974, c. 32, s. 12 (2), *amended*.

Last day
for filing
applications
for revision
of prelimin-
ary list

(3) The last day for the filing of applications for revision of the preliminary list shall be the seventeenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours. 1974, c. 32, s. 12 (3), *amended*.

Notice
affixed
to list

(4) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions. 1972, c. 95, s. 23 (3); 1974, c. 32, s. 12 (4).

Copies
of list

(5) At the time of posting a notice under subsection 1, the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality and every trustee of a police village all or part of which is in the municipality;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;
- (e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;

(f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate.

(6) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office. 1972, c. 95, s. 23 (4, 5). Candidates entitled to copies

26.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed on or before the last day for filing applications for revision of the list have been disposed of. 1974, c. 32, s. 13, *part, amended*. Revision of list

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 25 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them. 1974, c. 32, s. 13, *part*. When applications may be considered

27.—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. Application to enter name in list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be. 1972, c. 95, s. 25 (1, 2). Application and declaration

Application
filed person-
ally or by
agent

(3) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. 1974, c. 32, s. 14.

Interpreter

(4) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

Decision
to amend
list

(5) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application.

Refusal to
amend list

(6) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1972, c. 95, s. 25 (3-5).

Application
for deletion
of name

28.—(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing applications for revision thereof, any person may file with the clerk an application, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon. 1972, c. 95, s. 26 (1); 1974, c. 32, s. 15 (1).

Notice to
person
where name
objected to

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice.

Copy of
application
to be served

(3) A copy of the application shall accompany a notice served or sent under subsection 2.

Notice to
applicant

(4) The clerk shall notify the applicant of the time and place of the hearing.

Decision of
clerk, etc.

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall

attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if the clerk is satisfied of the validity of the application.

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list. 1974, c. 32, s. 15 (2). Where person objected to does not appear

(7) Where for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56. *New.* Where name deleted from preliminary list

29. Subject to section 33 or 56, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. 1972, c. 95, s. 27. Decision final

30. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsections 5 and 6 of section 25. 1974, c. 32, s. 16, *amended.* Statement of change

POLLING LIST

31. After compilation of the statement of additions, changes and deletions required under section 30, the clerk shall Polling list

prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised. 1972, c. 95, s. 29 (1).

Only
persons
in list
entitled
to vote

32. Except as provided in sections 33, 51 and 56 no person is entitled to vote at an election unless his name appears in the polling list certified under section 31 for the polling subdivision in which he tenders his vote. 1972, c. 95, s. 30.

Entry of name
on list by
D.R.O.

33.—(1) If a person whose name is omitted from a polling list certified under section 31, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised. 1974, c. 32, s. 18 (1).

Certificate
to be
produced

(3) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection 1 or 2. 1972, c. 95, s. 31 (3); 1974, c. 32, s. 18 (2).

Copy to
assessment
com-
missioner

(4) The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner before the first Monday in December in an election year. 1974, c. 32, s. 18 (3), *part, amended*.

Entry on
polling
list

(5) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk

opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 33 certificate".

(6) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1974, c. 32, s. 18 (3), *part, amended*. Certificates to be kept in separate envelope

NOMINATIONS

34. Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office. 1972, c. 95, s. 32. Who may be nominated

35.—(1) Nomination day for a regular election shall be Monday, the twenty-first day before polling day. 1972, c. 95, s. 33 (1). Nomination day

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours in the week immediately prior to nomination day. 1974, c. 32, s. 19 (2), *part, amended*. Period for nomination

(3) The clerk shall, at least seven days prior to nomination day, post in at least two conspicuous places in the municipality notice of the date and times for filing nominations and of the offices for which persons may be nominated as candidates in the election, and, where there is a newspaper having general circulation in the municipality, publish at least seven days prior to nomination day the notice in such newspaper. 1974, c. 32, s. 19 (2), *part, amended*. Notice of time for filing nominations

36.—(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, on the days and during the hours specified in subsection 2 of section 35, a nomination paper in prescribed form which, How nominated

- (a) shall be signed by at least ten electors whose names are entered, or entitled to be entered under section 33, in the polling lists of electors entitled to vote in an election to such office;

(b) shall state the name and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is. 1974, c. 32, s. 20 (1), *amended*.

Consent and
declaration
to be filed

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated. 1972, c. 95, s. 34 (2).

Public
school
nominators

(3) A nomination paper nominating a person for an office the holder of which is required to be elected by public school electors shall be signed by public school electors only. 1972, c. 95, s. 34 (3); 1974, c. 32, s. 20 (2).

Separate
school
nominators

(4) A nomination paper nominating a person for an office the holder of which is required to be elected by separate school electors shall be signed by separate school electors only. 1972, c. 95, s. 34 (4); 1974, c. 32, s. 20 (3).

Separate
nomination
papers

(5) Each person to be nominated for election to an office shall be nominated by a separate nomination paper, but an elector may sign more than one nomination paper for the same person and the nomination papers of more than one person. 1972, c. 95, s. 34 (5), *amended*.

Clerk
to keep
nomination
paper

(6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk.

Onus on
person
nominated

(7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. 1972, c. 95, s. 34 (6, 7).

Endorsation
by clerk

37.—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing. 1972, c. 95, s. 35 (1).

Certificate
of clerk

(2) Where a nomination paper is filed in the office of a clerk prior to nomination day, the paper shall be examined

by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing. 1972, c. 95, s. 35 (2); 1974, c. 32, s. 21 (1).

(3) When the nomination papers have been certified by the clerk he shall cause the name and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public. 1972, c. 95, s. 35 (3), *amended*.

(4) Where a nomination paper is filed in the office of a clerk on nomination day,

(a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection 3;

(b) if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing. 1972, c. 95, s. 35 (4); 1974, c. 32, s. 21 (2), *amended*.

(5) Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which the candidates may be elected, on the Wednesday following nomination day the clerk may, between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon, receive and certify additional nominations for the office in respect of which there was an insufficient number of candidates. *New*.

(6) Certification by the clerk in accordance with subsection 2 or 4 with respect to a nomination paper shall be conclusive evidence of the facts certified and shall not be open to challenge thereafter. 1972, c. 95, s. 35 (5), *amended*.

(7) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the

order of certification and copies of this list shall be prominently displayed in one or more locations and the list shall be completed no later than 4 o'clock in the afternoon of the day following nomination day provided that where the clerk has received additional nominations under subsection 5, a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later than 4.00 o'clock in the afternoon of the Thursday following nomination day. 1972, c. 95, s. 35 (6); 1974, c. 32, s. 21 (3), *amended*.

DEATH OF A CANDIDATE

Election on
death of
candidate

38. If as a result of a candidate nominated for election to an office dying before the close of the poll for the election,

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated. 1972, c. 95, s. 36.

WITHDRAWAL OF NOMINATIONS

Withdrawal
of nomina-
tion

39.—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day.

Where
nominated
in more
than one
office

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. 1972, c. 95, s. 37.

ACCLAMATIONS

Acclamation

40.—(1) If no more candidates are nominated for any office than the number to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare that candidate or those candidates duly elected.

(2) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected. ^{Idem}

(3) If the number of candidates declared to be elected to an office under subsection 1 or 2 is less than the number to be elected to such office so that there is a vacancy, a new election shall be held to fill the vacancy. ^{Vacancy}

(4) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection 3 is held and the number of members of the council or local board equals or exceeds the quorum. 1972, c. 95, s. 38. ^{Where quorum not elected}

NOTICE OF POLL

41.—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office. 1972, c. 95, s. 39 (1). ^{Poll required}

(2) Notice of the time for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper. 1972, c. 95, s. 39 (2); 1974, c. 32, s. 22, *amended*. ^{Notice of poll}

VOTING BY BALLOT

42.—(1) Where a poll is held in an election, the votes shall be given by ballot. 1972, c. 95, s. 40 (1); 1974, c. 32, s. 23 (1). ^{Voting by ballot}

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders or other voting ^{Voting machines, etc.}

devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed. 1974, c. 32, s. 23 (2), *part, amended*.

Repealing
by-law

(3) A by-law passed under subsection 2 or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.
New.

Minister's
order

(4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. 1974, c. 32, s. 23 (2), *part, amended*.

PREPARATION AND FORM OF BALLOT

Ballots

43.—(1) A clerk who is required to hold a poll under section 41 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election.

Nomination
of candidate
must be
certified

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 37. 1972, c. 95, s. 41 (1, 2).

Order of
names

(3) Subject to subsection 5, the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type. 1972, c. 95, s. 41 (3), *amended*.

Where
addresses
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate. 1972, c. 95, s. 41 (4), *amended*.

Nicknames
and titles

(5) Except as provided in subsection 4, no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate.

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot. 1972, c. 95, s. 41 (5, 6). Space for indicating vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. 1974, c. 32, s. 25, *part, amended*. Ballots for same office to be alike

(8) A ballot shall contain instructions as to the number of candidates for which an elector may vote and the name of the office for which the election is being held. 1974, c. 32, s. 25, *part, amended*. Number of candidates and name of office

(9) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. 1972, c. 95, s. 41 (9). Ballots re questions

44.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward. Wards in municipality

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor. General vote in city or town

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman. Borough in Metro. Toronto

Village or
township

(4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.

By-law
providing
for separate
sets

(5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets. 1972, c. 95, s. 42 (1-5).

When to be
passed

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the election year than the 1st day of October and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly. 1972, c. 95, s. 42 (6), *amended*.

Separate sets
for
controller,
local board,
by-laws, etc.

(7) There shall also be separate sets of ballots,

(a) containing the names of the candidates for the office of,

(i) controller,

(ii) member of a local board,

(iii) trustee of a police village,

(iv) member of the council of a regional municipality, or

(v) member of the council of both an area municipality and a regional municipality;

(b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election. 1972, c. 95, s. 42 (7); 1974, c. 32, s. 26.

More than
one by-law
etc.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. 1972, c. 95, s. 42 (8).

Composite
ballots

45.—(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed prior to the first day of October in an election year, authorize the use at a municipal election of composite ballots in such form subject to subsections 1 to 8 of section 43, as the by-law prescribes. 1972, c. 95, s. 43 (1); 1974, c. 32, s. 27, *amended*.

(2) A composite ballot may contain,

Contents

- (a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and
- (b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote.

Not to be given to elector not entitled to vote for office on ballot

(4) A by-law passed under this section remains in force from year to year until repealed. 1972, c. 95, s. 43 (2-4).

By-law in force until repealed

POLLING PLACES

46.—(1) Subject to section 47, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision.

Polling place

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality. 1972, c. 95, s. 44 (1, 2).

Idem

(3) Every polling place shall be furnished with compartments in which electors may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. 1972, c. 95, s. 44 (3), *amended*.

Compartments

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions. 1972, c. 95, s. 44 (4).

United subdivisions

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to

Additional places

the extent of the subdivision, the remoteness of any number of its electors from the polling place and number of electors that may conveniently vote at one polling place. 1972, c. 95, s. 44 (5), *amended*.

Designation
of places

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly.

Notice of
location of
polling
place

(7) In municipalities having more than 5,000 electors, the clerk shall mail or cause to be delivered to each dwelling unit in the municipality a notice advising the elector or electors therein of the location of the polling place in which that elector or those electors is or are to vote. 1972, c. 95, s. 44 (6, 7).

Polling
places in
institutions

47.—(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only. 1974, c. 32, s. 28 (1).

Attendance
upon patients
to take
vote

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 63. 1972, c. 95, s. 45 (2).

SUPPLIES AND EQUIPMENT FOR POLLING PLACES

Supplies for
polling place

48.—(1) The clerk shall, before polling day, cause to be delivered to every deputy returning officer in his municipality,

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors in the polling list of his polling place;
- (c) a sufficient number of the prescribed directions for the guidance of electors for the purposes of the polling place;
- (d) two copies of the polling list for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed. 1972, c. 95, s. 46 (1), *amended*.

(2) A ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box. Ballot box

(3) When delivering the ballots for a polling place to a deputy returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 78. Clerk to certify number of ballots

(4) Every deputy returning officer before opening the poll, or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 1972, c. 95, s. 46 (2-4). Directions to be placarded

WHERE AND HOW OFTEN ELECTORS MAY VOTE

49.—(1) An elector whose name appears in the polling list for a polling subdivision or who presents a certificate to vote there under section 33, 50 or 56, is entitled to vote in an election in such subdivision in accordance with the following rules: Number of votes that may be given by an elector

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.

3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
 - i. if resident in the municipality, in the polling subdivision in which he resides; or
 - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,
 for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.
5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question. 1972, c. 95, s. 47.

Employees
to have
three
consecutive
hours for
voting

(2) Where, by reason of the hours of his employment, an employee who is a qualified elector will not have three consecutive hours to vote while the polls are open on a

polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours.

(3) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. *New.*

Deduction from pay prohibited

50.—(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate that he is entitled to vote at the polling place at which he is stationed during the polling day.

Voting of D.R.O. and poll clerk, etc., where employed

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate.

Where municipality divided into wards

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 33 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

When certificate may be given

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

Certificate

(5) The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,

List of certificates

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;

(d) whether the certificate is granted to such person as deputy returning officer, poll clerk, election assistant or constable; and

(e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,

and the list shall be open to inspection by any candidate scrutineer or elector. 1972, c. 95, s. 48.

Certificate
entitles
person to
vote

51.—(1) A person who produces a certificate given to him under section 50 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk, election assistant or constable during polling day. 1972, c. 95, s. 49 (1).

Entry on
polling
list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate". 1972, c. 95, s. 49 (2), *amended*.

Certificate
to be given
to D.R.O

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

To be kept
in envelope

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1972, c. 95, s. 49 (3, 4).

PROCEDURE AT POLL

Hours poll
to be
open

52. Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day. 1972, c. 95, s. 50.

When
D.R.O. to
attend poll

53.—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll.

Inspection of
ballots before
opening of
poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll. 1972, c. 95, s. 51.

Inspection,
sealing of
ballot box

54. A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to

such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 71. 1972, c. 95, s. 52.

55.—(1) Where a person enters the polling place and requests a ballot paper, the deputy returning officer shall proceed as follows:

Duties of
D.R.O. on
tender of
vote

1. He shall ascertain that the name of such person or a name apparently intended for it is entered in the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 33 or 50 and the poll clerk shall, on a separate polling list, delete the name of the said person on such polling list.
2. The poll clerk shall indicate on his polling list opposite the person's name the numerical order in which the person was given his ballot paper.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the words "*Objected to*" and the deputy returning officer shall require such person to take the prescribed oath, which oath shall indicate the name of the candidate by or on whose behalf the objection was made.
5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no

candidate or scrutineer has objected, he may require such person to take the prescribed oath.

6. If such a person having been required to take the oath refuses to do so, the deputy returning officer shall enter or cause it to be entered opposite the name of such person on the polling list maintained by the poll clerk the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.
7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name on the polling list maintained by the clerk the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting. 1972, c. 95, s. 53 (1), *amended*.

Disqualifica-
tion of
prisoners,
mentally ill,
etc.

(2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.

Elector in
polling
place at
closing

(3) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote. 1972, c. 95, s. 53 (2, 3).

Entry of
name on
polling list
by D.R.O.

56.—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear on the polling list or in a certificate issued under section 33 or 50 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer.

Idem

(2) The deputy returning officer shall enter or cause to be entered on the polling list and on the polling list maintained

by the poll clerk the name of the elector. 1972, c. 95, s. 54, *amended*.

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, furnish it to the assessment commissioner before the first Monday in December in an election year. 1974, c. 32, s. 29, *amended*.

Copy to
clerk and
assessment
com-
missioner

57. Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper. 1972, c. 95, s. 55 (1).

Where it
appears
person voted
in place
of elector,
etc.

58. No inquiry shall be made of an elector who is required to take the oath under section 55 or 57 except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated in the polling list. 1972, c. 95, s. 56 (2); 1974, c. 32, s. 30 (2).

Inquiry

59. Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

Procedure
on receipt
of ballot

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer. 1972, c. 95, s. 57.

60.—(1) Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the

Duty of
D.R.O. on
receipt of
ballot

presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

Person deemed to have voted

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted. 1972, c. 95, s. 58 (1, 2).

Person not to take ballot from polling place

61.—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry on the polling list maintained by the poll clerk "*Forfeited Vote*" opposite the person's name, and in the case where a person returns his ballot declining to vote, the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk. 1972, c. 95, s. 59 (1), *amended*.

Ballot accidentally spoiled

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk. 1972, c. 95, s. 59 (2).

No other person in compartment while elector marking ballot

62. Subject to section 63, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper. 1972, c. 95, s. 60.

Elector blind or handicapped

63.—(1) On the application of any elector who is unable to read or is blind or is handicapped by other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his inability to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box. 1972, c. 95, s. 61 (1), *amended*.

Handicapped elector's ballot marked by friend

(2) The deputy returning officer shall either deal with an elector mentioned in subsection 1 in the manner provided therein or, at the request of any such elector who has taken the prescribed oath and is accompanied by a friend, shall

permit the friend to accompany the elector into the voting compartment and mark the elector's ballot for him.

(3) Any friend who is permitted to mark the ballot of an elector under subsection 2 shall first be required to take the prescribed oath that he will keep secret the manner in which the elector voted. Oath of friend

(4) No person shall be allowed to act as the friend of more than one elector at any polling place other than a polling place established under section 47. 1972, c. 95, s. 61 (2-4). May act as friend only once

64. Where the deputy returning officer does not understand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. 1972, c. 95, s. 62. Elector who cannot understand English

65.—(1) The returning officer, the assistant returning officer, the deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. 1972, c. 95, s. 63; 1974, c. 32, s. 31. Who may remain in polling place

(2) No campaign material or literature of any nature whatsoever of any candidate in the election shall be displayed within the polling place. *New.* No campaign literature in polling place

ADVANCE POLLS

66.—(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56. 1974, c. 32, s. 32 (1), *part.* Advance poll

(2) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk Additional advance poll

of additional advance polls for the same purposes as provided in subsection 1. 1974, c. 32, s. 32 (1), *part.*

When poll
to be
open

(3) The advance poll shall be open from 9 o'clock in the forenoon until 8 o'clock in the afternoon on each day it is held and polling shall be held so far as possible in the same manner as polling at a regular election. 1972, c. 95, s. 64 (2); 1974, c. 32, s. 32 (2), *amended.*

Polling
places

(4) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place. 1972, c. 95, s. 64 (3).

List of
persons
voting

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

Duties of
clerk on
receiving
list

(6) Upon receiving the list mentioned in subsection 5, the clerk shall,

- (a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears in such list and whose vote has been received at an advance poll, showing that such elector has voted; or
- (b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed in the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted. 1972, c. 95, s. 64 (5, 6).

Sealing
of box

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any

ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it, along with all other election documents used at the poll, personally to the clerk for safe keeping. 1972, c. 95, s. 64 (7), *amended*.

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election and their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. 1972, c. 95, s. 64 (8). Opening of
ballot boxes
for advance
poll

PROXY VOTING

67.—(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 entitling him to vote and who is, Who may
vote by
proxy

- (a) a person other than one described in section 47 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;
- (b) a person absent from his regular residence by reason of attending an educational institution and who is entered in the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or
- (c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision. 1972, c. 95, s. 65 (1); 1974, c. 32, s. 33 (1).

(2) Any person who is entitled to vote by proxy pursuant to subsection 1 may appoint in writing in the prescribed form as his voting proxy any other person who is eligible as an elector in the municipality. 1972, c. 95, s. 65 (2), *amended*. Who may be
proxy

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the May be
proxy once
only

person voting by proxy is the parent, grandparent, child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy. 1972, c. 95, s. 65 (3); 1974, c. 32, s. 33 (2).

Term of appointment (4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day. 1972, c. 95, s. 65 (4).

Application for certificate to vote by proxy (5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote. 1972, c. 95, s. 65 (5), *amended*.

When certificate to be given (6) The clerk may take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualification of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is authorized to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect. 1972, c. 95, s. 65 (6); 1974, c. 32, s. 33 (3), *amended*.

Not more than one proxy (7) Not more than one voting proxy may be appointed on behalf of any person at any election.

Oath on voting (8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection 6 and takes the prescribed oath. 1972, c. 95, s. 65 (7, 8).

Record of voting proxy (9) Where a voting proxy has voted, the deputy returning officer shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose. 1972, c. 95, s. 65 (9), *amended*.

Proxy may vote in own right (10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy. 1972, c. 95, s. 65 (10).

KEEPING OF PEACE: EMERGENCY SITUATIONS

68. A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he considers necessary. 1972, c. 95, s. 66.

Assistance of constables

69.—(1) If any circumstances arise in the municipality, that, in the opinion of the clerk are of such a nature as to prevent or delay the opening of any polling place or cause the discontinuance of polling at any polling place, the clerk may declare an emergency situation to be in effect and such emergency situation shall continue until the clerk otherwise declares.

Declaration of emergency by clerk

(2) Where an emergency situation is declared under subsection 1, the clerk shall make such arrangements as he considers advisable for the conduct of the poll, the safe-keeping of the ballot boxes and all election documents and the counting of the votes.

Arrangements by clerk

(3) The arrangements made by the clerk under subsection 2, in good faith, shall not be open to question, or be quashed, set aside or declared invalid on account of their unreasonableness or supposed unreasonableness. *New.*

Not open to question

COUNTING THE VOTES

70. Immediately after the close of the poll, the deputy returning officer at each polling place shall,

Duties of D.R.O. after close of poll

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear on the polling list maintained by the poll clerk to have voted and make an entry at the end thereof:—
“The number of electors who voted at this election in this polling place is (stating the number)” and sign his name thereto. 1972, c. 95, s. 68, *amended.*

71.—(1) After compliance with section 70, the deputy returning officer shall, in the presence and in full view of the

Counting of votes

persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot.

Rejection of ballots

(2) In counting the votes, the deputy returning officer shall reject all ballots,

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

Idem

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection 2, the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted.

Composite ballots

(4) Where in a composite ballot,

- (a) votes are cast for more candidates for any office than are to be elected to such office; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection 2, the

votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

(5) Where part of the votes cast in any ballot are rejected under subsection 3 or 4, the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot. 1972, c. 95, s. 69.

Where part
of votes
rejected

72.—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 71 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

Objection
by candidate,
etc.

(2) The deputy returning officer shall list all objections under subsection 1 to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number. 1972, c. 95, s. 70.

Objections to
be listed

73. The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question. 1972, c. 95, s. 71.

How votes
counted

74. Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets,

Ballots to
be placed
in separate
packets

- (a) all used ballots that have not been objected to and have been counted in whole or in part;
- (b) all used ballots that have been objected to but which have been counted in whole or in part;
- (c) all rejected ballots;
- (d) all ballots used but unmarked. 1972, c. 95, s. 72.

75. The deputy returning officer shall endorse every packet of ballots made up by him under clause a of section 70 or section 74 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet. 1972, c. 95, s. 73.

D.R.O. to
endorse
packets

Oath of
poll clerk

76. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. 1972, c. 95, s. 74.

STATEMENT AND MATERIALS RETURNED TO CLERK

Statement
of D.R.O.

77.—(1) The deputy returning officer shall make out a statement in duplicate of the number of,

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) electors whose ballots have been marked by the deputy returning officer under sections 47 and 63. 1972, c. 95, s. 75 (1), *amended*.

Statement
attached to
polling list

(2) The duplicate statement shall be attached to the polling list maintained by the poll clerk and the original statement enclosed in a special packet shall be delivered to the clerk as provided herein. 1972, c. 95, s. 75 (2), *amended*.

Statement
signed by
D.R.O., etc.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their scrutineers as are present and desire to sign it.

Certificate
re ballots
counted and
rejected

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots. 1972, c. 95, s. 75 (3, 4).

What to be
placed in
ballot box

78.—(1) The deputy returning officer shall place in the ballot box, the polling lists, the packets containing the ballots and all other documents or packets that served at the election, except,

- (a) the original statement;
- (b) the oath of the poll clerk;

- (c) the oath of the person, if any, chosen to deliver the ballot box to the clerk; and
- (d) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 56. 1972, c. 95, s. 76 (1); 1974, c. 32, s. 34, *amended*.

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection 1 personally to the clerk. Box to be locked, etc.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk. Oath of D.R.O.

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection 1 owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath. Delivery of ballot box, etc., to clerk

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk pursuant to this section. 1972, c. 95, s. 76 (2-5). Right of candidate, etc., to be present

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. 1972, c. 95, s. 76 (6), *amended*. D.R.O. not to take box to home, etc.

79.—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 78, shall, without opening any of the ballot boxes, cast up from the original statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question. 1972, c. 95, s. 77 (1), *amended*. Clerk to add up votes

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no Declaration of result

town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

Delay in
adding up
votes

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. 1972, c. 95, s. 77 (2, 3).

Safekeeping
of box and
documents

80.—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 78, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. 1972, c. 95, s. 78 (1).

Opening of
box when
documents
placed in
box in
error

(2) Where the documents specified in subsection 1 of section 78 are in error placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk. 1972, c. 95, s. 78 (2), *amended*.

Where D.R.O.
fails to
deliver
statement

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 78, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes. 1972, c. 95, s. 78 (3).

Where ballot
box lost,
etc.

81. If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or

question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question. 1972, c. 95, s. 79.

82.—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question.

(2) In such proceedings, sections 83 to 90 apply *mutatis mutandis*. 1972, c. 95, s. 80.

RECOUNT

83.—(1) In this section and in sections 84 to 86, “judge” means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate. 1972, c. 95, s. 81 (1).

(2) If, within fourteen days after the declaration by a clerk of the result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender, or if at any time within four weeks after such declaration the council of a municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition. 1972, c. 95, s. 81 (2); 1974, c. 32, s. 35, *amended*.

Notice of
recount

(3) At least six days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election. 1972, c. 95, s. 81 (3), *amended*.

Who may be
present

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount. 1972, c. 95, s. 81 (4).

What ballots
involved in
recount

(5) Where a recount relates to the election of a candidate, the recount shall be of the votes cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the votes cast for him to be recounted or the votes cast for him to be finally added. 1972, c. 95, s. 81 (5), *amended*.

Judge may
order recount,
etc., of votes
cast for other
candidates

(6) Notwithstanding subsection 5, the judge conducting the recount may order the recount of the votes cast for any other candidate whose election or right to any other office may be affected in any way by the recount conducted under subsection 5. *New*.

Procedure
by judge

(7) At the date, time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots. 1972, c. 95, s. 81 (6), *amended*.

Rules to
govern
proceedings

(8) Subject to subsection 9, the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

(9) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office. 1972, c. 95, s. 81 (7, 8).

Judge may hear any evidence necessary for proper recount

(10) Upon the completion of a recount, or final addition, the judge shall forthwith notify in writing the result of the recount or final addition to the clerk and announce the results to persons present at the recount, and, immediately after the expiry of the appeal period specified in section 88, all the ballots and statements shall be sealed in separate packets in the manner prescribed by the judge. 1972, c. 95, s. 81 (9), *amended*.

Judge to notify clerk of result of recount or final addition

(11) The judge may require the clerk of the county or district court to be present at the time and place appointed. 1972, c. 95, s. 81 (10).

Clerk of court

84. If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question. 1972, c. 95, s. 82 (2).

If no appeal, clerk to declare result

85.—(1) In the case of an equality of votes for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk. 1972, c. 95, s. 83, *amended*.

Equality of votes

(2) For the purposes of this section, "lot" means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper placed in a box and one name being drawn by a person chosen by the clerk. *New*.

Method of conducting lot

86.—(1) The costs of a recount under section 83 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid. 1972, c. 95, s. 84 (1).

Costs of recount

(2) The judge may in his discretion award costs of a recount or final addition to or against any person who is a party

Awarding of costs

to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court. 1972, c. 95, s. 84 (2), *amended*.

Where no provision as to costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board. 1972, c. 95, s. 84 (3); 1974, c. 32, s. 36 (1).

Payment of deposit

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 83 shall be paid out to the party entitled to such costs, so far as necessary.

Enforcement of payment of costs

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. 1972, c. 95, s. 84 (4, 5).

Expenses of judge

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board. 1972, c. 95, s. 84 (6); 1974, c. 32, s. 36 (2).

Where no appeal, packets to be returned to clerk

87.—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been taken, the judge shall cause packets, sealed in accordance with subsection 10 of section 83, to be returned to the custody of the clerk.

Documents not required on appeal

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the packets of ballots and such of the original statements as are not required for the purpose of the appeal to be returned to the custody of the clerk. 1972, c. 95, s. 85, *amended*.

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

Appeal from decision of judge

88.—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a

decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

(2) The notice may be served upon the other parties personally, or as a judge of the Supreme Court may direct. 1972, c. 95, s. 86 (1, 2). Service of notice

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall forward the sealed packets of the ballots or statements that are the subject of appeal, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 83 to the clerk. 1972, c. 95, s. 86 (3), *amended*. Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(5) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk. Procedure on appeal

(6) The judge of the Supreme Court may direct by and to whom, the costs of the appeal shall be paid. Costs of appeal

(7) Where the judge of the Supreme Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk, shall be paid by the municipality. 1972, c. 95, s. 86 (4-7). Idem

DISPOSITION OF ELECTION RECORDS

89.—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of Disposition of ballots

the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

Disposition
of other
documents

(2) Subject to subsection 1, the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them. 1972, c. 95, s. 87.

Inspection
of ballots

90.—(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge. 1974, c. 32, s. 37.

Order of
judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return. 1972, c. 95, s. 88 (2).

Production
of documents
by clerk

91. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement. 1972, c. 95, s. 89.

NEW ELECTIONS

New
election

92.—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which,

- (a) a directive is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law; or
- (c) the clerk receives from the secretary of a school board notice,

that such an election is required. 1972, c. 95, s. 90 (1), *amended*.

(2) The procedure including the period for filing nominations at a new election shall be the procedure and period applicable at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day. Procedure

(3) The polling required to fill a vacancy in an office by this section shall so far as possible be held in the same manner and by the same officers and take place at the same places, in so far as practicable, at which the polling took place at the last regular election. 1972, c. 95, s. 90 (2, 3). Polling

(4) Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules: List of electors

1. Where a new election is required under clause *a* of section 38 or subsection 3 of section 40, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the polling day for the last regular election.
2. Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 111.
3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the directive, by-law or notice specified in clause *a*, *b* or *c* of subsection 1.

- R.S.O. 1970,
c. 284
4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. 1974, c. 32, s. 38 (1), *amended*.
- Idem
R.S.O. 1970,
c. 32
- (5) Where in the year following an election year the annual enumeration under *The Assessment Act* has, prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election. 1972, c. 95, s. 90 (5).
- Certification
of list
- (6) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 31 and to entry of names in the list under sections 33 and 56. 1974, c. 32, s. 38 (2), *part*.
- Eligibility
of member
to be
candidate
for other
office
- (7) Where a vacancy occurs in any office and an election is to be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the nomination day for the new election, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds. 1972, c. 95, s. 90 (6).
- Vacancy
after
March 31st
of election
year
- (8) Notwithstanding anything in this or any other general or special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year. 1972, c. 95, s. 90 (7).
- Revision of
partial list
- (9) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. 1974, c. 32, s. 38 (2), *part*.

93. Notwithstanding that a new election becomes necessary, Council may meet notwithstanding vacancy meetings of the council may be held if a quorum of the council is present. 1972, c. 95, s. 91.

EFFECT OF IRREGULARITIES

94. No election shall be declared invalid,

Irregularities
not to offset
result

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. 1972, c. 95, s. 92.

SECURITY OF PROCEEDINGS

95.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Secrecy of
proceedings

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted.

Interference
with
elector

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted.

Communica-
tion as to
voting

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it so as to make known to any person how he has voted.

Inducing
person to
show ballot

(5) Subject to section 63, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted.

Voter not
to show
ballot

No one com-
pellable to
disclose
his vote

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 1972, c. 95, s. 93.

OFFENCES, PENALTIES AND ENFORCEMENT

Voting when
not qualified,
etc.

96. Every person who, at an election,

- (a) not being qualified to vote, votes;
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 94.

Improper
voting by
proxy

97. Every person who,

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 95.

Wilful
miscount
of ballots

98. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 96.

Neglect of
duties

99. Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1972, c. 95, s. 97.

100. Every person who,Offences
relating to
ballot
papers

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 98.

101. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 99.

False
information
to authorized
persons**102.** Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

Offences of
inducing un-
qualified
person to vote
or publishes
false state-
ment of with-
drawal of
candidate

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1972, c. 95, s. 100.

103.—(1) Every person who,

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or

Bribery;

bribing
elector or
procuring
bribery by
money

offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

by gift or offer or promise of employment

(b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

to induce anyone to procure return of candidate or endeavour to procure

(c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or

receiving bribe to procure return of candidate

(d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or

advancing money to be spent in corrupt practices

(e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or

applying for money or employment in consideration of voting

(f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the

gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or

- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or receiving money, office, etc., for having voted
- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or receiving money corruptly after election
- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person, giving or promising office to candidate to stand or withdraw

is guilty of bribery, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act. Personal expenses of candidate

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place. 1972, c. 95, s. 101. Posting of provisions as to corrupt practices

104. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1972, c. 95, s. 102. General offence

Disqualifi-
cation of
persons
guilty of
corrupt
practice

105.—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll.

Limitation

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection 1. 1972, c. 95, s. 103.

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

Validity of
election,
etc.,
determined
by action

106.—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated.

Penalties
for corrupt
practice

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 96 to 102. 1972, c. 95, s. 104 (1, 2).

Who may
commence
action

(3) Any elector entitled to vote at an election referred to in subsection 1 may commence an action under this section in relation to such election. 1972, c. 95, s. 104 (3), *amended*.

Time for
commencing
action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection 1. 1972, c. 95, s. 104 (4).

Mode of
trial

107.—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 106 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means.

Idem

(2) Subject to subsection 1 and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 106.

Judge
without
jury

(3) The action shall be tried by a judge without a jury. 1972, c. 95, s. 105.

108.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein. Security for costs

(2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. 1972, c. 95, s. 106. Idem

109.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs. Abatement of action

(2) The abatement of an action does not affect any liability for costs previously incurred. Liability for costs

(3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff. 1972, c. 95, s. 107. Substitution of plaintiff

110. Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if, within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. 1972, c. 95, s. 108. Substitution for unqualified person

111.—(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant. Successful candidate guilty of corrupt practice

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held. Unseating and seating of another elected candidate

(3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held. Where commission of corrupt practice affected result of election

Where act of election official affected result of election (4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.

Compensation of candidates where election void (5) Where a new election is to be held, the court may make such order as it considers just against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act for the compensation of candidates at the void election not exceeding \$2,000 per candidate.

Judgment to clerk (6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality. 1972, c. 95, s. 109.

Where election set aside and appeal entered **112.**—(1) If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board. 1972, c. 95, s. 110.

Decisions of council not affected by reason of subsequent disqualification (2) The decisions of a council reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. *New.*

New election not to be held pending appeal **113.** A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal. 1972, c. 95, s. 111.

Appeal to Divisional Court **114.**—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Judgment or new trial (2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section. 1972, c. 95, s. 112. Appeal from decision on new trial

115. Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect: Disclaimer before complaint

“I, A.B., hereby disclaim all right to the office of
.....for the.....of
.....in the.....of
.....and all defence of any right I may
have to the same. Dated.....day of
....., 19.... A.B.”

1972, c. 95, s. 113.

116. A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect: Disclaimer after complaint

“I, A.B., upon whom a writ, authorized by *The Municipal Elections Act, 1972*, has been served for the purpose of contesting my right to the office
of....., in the county (or district)
of....., hereby disclaim the office, and
all defence of any right I may have to the same.

Dated.....day of....., 19....
A.B.”

1972, c. 95, s. 114.

117.—(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. 1972, c. 95, s. 115 (1); 1974, c. 32, s. 39. Duplicate of disclaimer to clerk

- Operates as resignation (2) A disclaimer in accordance with section 115 or 116 operates as a resignation.
- Relief from costs (3) A disclaimer in accordance with section 116 relieves the person making it from all liability for costs in an action under section 104. 1972, c. 95, s. 115 (2, 3).
- Procedure substituted for *quo warranto* proceedings **118.** Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council or as trustee of a police village or as member of a local board, as the case may be, determined shall be had and taken only under the provisions of this Act. 1972, c. 95, s. 116; 1974, c. 32, s. 40, *amended*.
- Forms **119.**—(1) The Minister may by order prescribe the forms required for the purposes of this Act, which forms may be in both the English and French languages. 1975, c. 23, s. 1, *part*.
- Notices in French language (2) Any notices required to be posted, published or mailed under this Act may, in addition to being printed in the English language, be printed in the French language.
- Determination by council of French-language forms, etc. (3) The use in a municipality of forms prescribed in the French language under subsection 1 or the printing of notices in the French language under subsection 2 shall be determined by by-law of the council of the municipality. *New*.
- Holidays **120.** Subject to subsection 2 of section 11, where any day specified in this Act for the undertaking of any proceeding pertaining to an election falls on a holiday, the day specified shall be deemed to be the immediately preceding day which is not a Sunday or a holiday. *New*.
- Limitation on election expenditures **121.** The council of a municipality may by by-law provide for limitations on elections expenditures by or on behalf of a candidate and require the disclosure by a candidate of all election contributions to his campaign in excess of \$100 in the form of money and goods and services. *New*.
- 1975, c. 40, s. 27 (1), re-enacted **122.** Subsection 1 of section 27 of *The Liquor Licence Act, 1975*, being chapter 40, is repealed and the following substituted therefor:
- Submission by council to vote (1) The council of a municipality may submit one or more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote.

(1a) The council of a municipality shall submit to a ^{Idem} vote such questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality as are requested by petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election.

123. Section 30 of the said Act is repealed. 1975, c. 40,
s. 30,
repealed

124. Sections 31, 32 and 33 of the said Act are repealed and the following substituted therefor: 1975, c. 40,
ss. 31-33,
re-enacted

31. The day fixed for taking the vote on any question or questions shall be the day upon which, under *The Municipal Elections Act, 1977*, a poll would be held at the election of members of the council of the municipality unless the council, with the approval of the Board, fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be. Day of
polling
1977, c. ...

32.—(1) The persons qualified to vote upon a question or questions are such persons as would be eligible to vote at an election held on that day pursuant to *The Municipal Elections Act, 1977*. Who may
vote

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, the termination of the qualification period for determining the eligibility of electors under paragraph 4 of subsection 4 of section 92 of *The Municipal Elections Act, 1977* is the date of the approval given by the Board as required by section 31. Qualification
period for
determining
eligibility
of electors

33. The provisions of *The Municipal Elections Act, 1977* apply to the taking of a vote under this Act. Application
of
1977, c. ...

33a. The returning officer shall make his return to the Board showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Return to
Board

Board shall give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions.

1975, c. 40,
s. 34 (2),
re-enacted

125. Subsection 2 of section 34 of the said Act is repealed and the following substituted therefor:

Who entitled
to sign
petition

(2) The persons qualified to sign a petition pursuant to section 27 or 28 are the persons whose names appeared on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be.

Who
entitled
to vote

(3) The persons qualified to vote upon a question or questions are the persons who would be eligible to vote at an election held in the municipality amalgamated or municipality or part annexed, as the case may be, held pursuant to *The Municipal Elections Act, 1977*.

1977, c. ...

Repeals

126. The following are repealed:

1. *The Municipal Elections Act, 1972*, being chapter 95.
2. *The Municipal Elections Amendment Act, 1974*, being chapter 32.
3. *The Municipal Elections Amendment Act, 1975*, being chapter 23.

Commence-
ment

127. This Act comes into force on the 1st day of January, 1978.

Short title

128. The short title of this Act is *The Municipal Elections Act, 1977*.



An Act to revise
The Municipal Elections Act, 1972

1st Reading

November 8th, 1977

2nd Reading

November 22nd, 1977

3rd Reading

December 12th, 1977

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to regulate the
Discounting of Income Tax Refunds**

THE HON. L. GROSSMAN
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The purpose of the Bill is to regulate the assignment of anticipated income tax refunds in return for an amount less than the amount of the refund.

The Bill provides that the discounter must pay to the taxpayer-assignor at least 95 per cent of the amount of the anticipated tax refund. This percentage amount may be increased by regulation.

The Bill further provides that the discounter shall maintain records of his dealings and file with the Minister information specified in the Bill. A notice for the information of the taxpayer-assignor shall be exhibited by the discounter.

BILL 99

1977

An Act to regulate the Discounting of Income Tax Refunds

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) "discounter" means a person, including an agent or broker, who, acting in the course of business, acquires from a taxpayer the taxpayer's right to a refund which is due or will become due to the taxpayer;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "refund" means the amount which an individual is entitled to receive,
- (i) as an overpayment of the income tax paid by him or on his behalf under *The Income Tax Act* or the *Income Tax Act* (Canada) and interest on the overpayment, R.S.O. 1970,
c. 217
R.S.C. 1952,
c. 148
 - (ii) as an overpayment of unemployment insurance premiums paid by him or on his behalf under the *Unemployment Insurance Act, 1971* (Canada), 1970-71-72,
c. 48 (Can.)
 - (iii) as an overpayment of contributions paid by him or on his behalf under the *Canada Pension Plan*, R.S.C. 1970,
c. C-5
 - (iv) as a tax credit under section 6b of *The Income Tax Act*, or
 - (v) as a grant or refund under an Act of Canada, Ontario or of any other province;

- (d) "regulations" means the regulations made under this Act;
- (e) "taxpayer" means an individual other than a discounter who has the right to receive a refund.

Matters
to be
specified by
discounter

2. Before a discounter may acquire from a taxpayer the right to receive a refund which is due or will become due to the taxpayer, the discounter shall specify in writing to the taxpayer the terms of the acquisition including,

- (a) the amount of the refund that the discounter believes is due or will become due to the taxpayer;
- (b) the amount to be paid by the discounter for the refund which is due or will become due; and
- (c) the difference between the amounts referred to in clauses *a* and *b*, which is the amount that the taxpayer will forego as a result of the discounting agreement.

Maximum
discount

3. No acquisition by a discounter of a right to receive a refund from a taxpayer shall be valid if the actual consideration given for the right by the discounter to the taxpayer is less than 95 per cent of the amount of the refund which is due or will become due to the taxpayer, or such greater amount as may be prescribed by the regulations.

Charge for
service

4. No discounter shall make an unreasonable charge for any service, including the completing of the income tax return of a taxpayer, and, in determining whether a charge is unreasonable, consideration shall be given to the time spent completing the return and the complexity of the return and the necessity of the service to facilitate the taxpayer receiving a refund which is due or will become due.

Remitting
excess
payment

5. Where, in respect of a taxpayer, a discounter receives an amount which exceeds the amount referred to in clause *a* of section 2,

- (a) the excess amount shall be remitted forthwith by the discounter to the taxpayer; or
- (b) if the discounter is not able to locate the taxpayer and remit the excess to the taxpayer, the discounter shall, within thirty days from the date of receipt of the excess, remit the excess to the Receiver General of Canada to be credited to the taxpayer's account.

6. The taxpayer may recover from the discounter as a simple contract debt the excess amount required to be paid by section 5 which has not been paid by the discounter as required by section 5. Recovery of excess payment

7. A discounter shall, by the 31st day of July of each year, file with the Minister in the prescribed form, Return filed by discounter

- (a) the name and address of each taxpayer whose refund was acquired;
- (b) the amount of the refund;
- (c) the amount that was paid to the taxpayer; and
- (d) the amount actually received by the discounter pursuant to the refund acquired,

for the year ending with the 30th day of June.

8. Every discounter who acquires from a taxpayer the right to receive a refund which is due or will become due shall keep posted in a prominent location on his business premises a notice informing the taxpayer of the provisions of this Act, and the form and wording of the notice may be prescribed by the regulations. Notice to be posted

9. The discounter shall retain in his place of business proper records and books of account showing moneys disbursed and received, the name of every person who has had his return or right to a return acquired by a discounter, and the last known address of every such person. Records to be kept by discounter

10.—(1) Every person who contravenes this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000. Penalty

(2) Where a person is convicted of an offence under section 4 or 5, the provincial judge making the conviction shall, in addition to the fine imposed pursuant to subsection 1, order that the person convicted pay the taxpayer any amount that the provincial judge finds is owing to the taxpayer. Compensation in addition to fine

(3) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention 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. liable

Onus of
proof

(4) In determining whether for the purposes of subsection 3 an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provision of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

Order may
be filed

(5) An order for payment under subsection 2 may be filed by the taxpayer in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement.

Regulations

11. The Lieutenant Governor in Council may make regulations,

- (a) requiring that the discounter file with the Minister, copies of all agreements, forms and other documents that he intends to use in acting as a discounter;
- (b) prescribing anything that by this Act is to be prescribed;
- (c) prescribing the form and wording of notice required by section 8 and the manner of exhibiting the notice;
- (d) prescribing the percentage amount of the consideration in respect of an assignment of a refund for the purposes of section 3; and
- (e) exempting any class of persons from the provisions of this Act.

Commence-
ment

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

Short title

13. The short title of this Act is *The Income Tax Discounters Act, 1977*.

An Act to regulate the
Discounting of Income Tax Refunds

1st Reading

November 8th, 1977

2nd Reading

3rd Reading

THE HON. L. GROSSMAN
Minister of Consumer and Commercial
Relations

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to regulate the
Discounting of Income Tax Refunds**

THE HON. L. GROSSMAN
Minister of Consumer and Commercial Relations

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

EXPLANATORY NOTE

The purpose of the Bill is to regulate the assignment of anticipated income tax refunds in return for an amount less than the amount of the refund.

The Bill provides that the discounter must pay to the taxpayer-assignor at least 95 per cent of the amount of the anticipated tax refund. This percentage amount may be increased by regulation.

The Bill further provides that the discounter shall maintain records of his dealings and file with the Minister information specified in the Bill. A notice for the information of the taxpayer-assignor shall be exhibited by the discounter.

BILL 99

1977

An Act to regulate the Discounting of Income Tax Refunds

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) "discounter" means a person, including an agent or broker, who, acting in the course of business, acquires from a taxpayer the taxpayer's right to a refund which is due or will become due to the taxpayer;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "refund" means the amount which an individual is entitled to receive,
 - (i) as an overpayment of the income tax paid by him or on his behalf under *The Income Tax Act* or the *Income Tax Act* (Canada) and interest on the overpayment, R.S.O. 1970.
c. 217
R.S.C. 1952.
c. 148
 - (ii) as an overpayment of unemployment insurance premiums paid by him or on his behalf under the *Unemployment Insurance Act, 1971* (Canada), 1970-71-72,
c. 48 (Can.)
 - (iii) as an overpayment of contributions paid by him or on his behalf under the *Canada Pension Plan*, R.S.C. 1970.
c. C-5
 - (iv) as a tax credit under section 6b of *The Income Tax Act*, or
 - (v) as a grant or refund under an Act of Canada, Ontario or of any other province;

- (d) "regulations" means the regulations made under this Act;
- (e) "taxpayer" means an individual other than a discounter who has the right to receive a refund.

Matters
to be
specified by
discounter

2. Before a discounter may acquire from a taxpayer the right to receive a refund which is due or will become due to the taxpayer, the discounter shall specify in writing to the taxpayer the terms of the acquisition including,

- (a) the amount of the refund that the discounter believes is due or will become due to the taxpayer;
- (b) the amount to be paid by the discounter for the refund which is due or will become due; and
- (c) the difference between the amounts referred to in clauses *a* and *b*, which is the amount that the taxpayer will forego as a result of the discounting agreement.

Maximum
discount

3. No acquisition by a discounter of a right to receive a refund from a taxpayer shall be valid if the actual consideration given for the right by the discounter to the taxpayer is less than 95 per cent of the amount of the refund which is due or will become due to the taxpayer, or such greater amount as may be prescribed by the regulations.

Charge for
service

4. No discounter shall make an unreasonable charge for any service, including the completing of the income tax return of a taxpayer, and, in determining whether a charge is unreasonable, consideration shall be given to the time spent completing the return and the complexity of the return and the necessity of the service to facilitate the taxpayer receiving a refund which is due or will become due.

Remitting
excess
payment

5. Where, in respect of a taxpayer, a discounter receives an amount which exceeds the amount referred to in clause *a* of section 2,

- (a) the excess amount shall be remitted forthwith by the discounter to the taxpayer; or
- (b) if the discounter is not able to locate the taxpayer and remit the excess to the taxpayer, the discounter shall, within thirty days from the date of receipt of the excess, remit the excess to the Receiver General of Canada to be credited to the taxpayer's account.

6. The taxpayer may recover from the discounter as a simple contract debt the excess amount required to be paid by section 5 which has not been paid by the discounter as required by section 5. Recovery of excess payment

7. A discounter shall, by the 31st day of July of each year, file with the Minister in the prescribed form, Return filed by discounter

- (a) the name and address of each taxpayer whose refund was acquired;
- (b) the amount of the refund;
- (c) the amount that was paid to the taxpayer; and
- (d) the amount actually received by the discounter pursuant to the refund acquired,

for the year ending with the 30th day of June.

8. Every discounter who acquires from a taxpayer the right to receive a refund which is due or will become due shall keep posted in a prominent location on his business premises a notice informing the taxpayer of the provisions of this Act, and the form and wording of the notice may be prescribed by the regulations. Notice to be posted

9. The discounter shall retain in his place of business proper records and books of account showing moneys disbursed and received, the name of every person who has had his return or right to a return acquired by a discounter, and the last known address of every such person. Records to be kept by discounter

10.—(1) Every person who contravenes this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000. Penalty

(2) Where a person is convicted of an offence under section 4 or 5, the provincial judge making the conviction shall, in addition to the fine imposed pursuant to subsection 1, order that the person convicted pay the taxpayer any amount that the provincial judge finds is owing to the taxpayer. Compensation in addition to fine

(3) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention 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., liable

Onus of
proof

(4) In determining whether for the purposes of subsection 3 an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provision of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

Order may
be filed

(5) An order for payment under subsection 2 may be filed by the taxpayer in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement.

Regulations

11. The Lieutenant Governor in Council may make regulations,

- (a) requiring that the discounter file with the Minister, copies of all agreements, forms and other documents that he intends to use in acting as a discounter;
- (b) prescribing anything that by this Act is to be prescribed;
- (c) prescribing the form and wording of notice required by section 8 and the manner of exhibiting the notice; and
- (d) prescribing the percentage amount of the consideration in respect of an assignment of a refund for the purposes of section 3.

Commence-
ment

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

Short title

13. The short title of this Act is *The Income Tax Discounters Act, 1977*.



An Act to regulate the
Discounting of Income Tax Refunds

1st Reading

November 8th, 1977

2nd Reading

November 15th, 1977

3rd Reading

THE HON. L. GROSSMAN
Minister of Consumer and Commercial
Relations

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

BILL 99

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to regulate the
Discounting of Income Tax Refunds**

THE HON. L. GROSSMAN
Minister of Consumer and Commercial Relations



BILL 99

1977

An Act to regulate the Discounting of Income Tax Refunds

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) "discounter" means a person, including an agent or broker, who, acting in the course of business, acquires from a taxpayer the taxpayer's right to a refund which is due or will become due to the taxpayer;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "refund" means the amount which an individual is entitled to receive,
 - (i) as an overpayment of the income tax paid by him or on his behalf under *The Income Tax Act* or the *Income Tax Act* (Canada) and interest on the overpayment, R.S.O. 1970,
c. 217
R.S.C. 1952,
c. 148
 - (ii) as an overpayment of unemployment insurance premiums paid by him or on his behalf under the *Unemployment Insurance Act, 1971* (Canada), 1970-71-72,
c. 48 (Can.)
 - (iii) as an overpayment of contributions paid by him or on his behalf under the *Canada Pension Plan*, R.S.C. 1970,
c. C-5
 - (iv) as a tax credit under section 6b of *The Income Tax Act*, or
 - (v) as a grant or refund under an Act of Canada, Ontario or of any other province;

- (d) "regulations" means the regulations made under this Act;
- (e) "taxpayer" means an individual other than a discounter who has the right to receive a refund.

Matters
to be
specified by
discounter

2. Before a discounter may acquire from a taxpayer the right to receive a refund which is due or will become due to the taxpayer, the discounter shall specify in writing to the taxpayer the terms of the acquisition including,

- (a) the amount of the refund that the discounter believes is due or will become due to the taxpayer;
- (b) the amount to be paid by the discounter for the refund which is due or will become due; and
- (c) the difference between the amounts referred to in clauses *a* and *b*, which is the amount that the taxpayer will forego as a result of the discounting agreement.

Maximum
discount

3. No acquisition by a discounter of a right to receive a refund from a taxpayer shall be valid if the actual consideration given for the right by the discounter to the taxpayer is less than 95 per cent of the amount of the refund which is due or will become due to the taxpayer, or such greater amount as may be prescribed by the regulations.

Charge for
service

4. No discounter shall make an unreasonable charge for any service, including the completing of the income tax return of a taxpayer, and, in determining whether a charge is unreasonable, consideration shall be given to the time spent completing the return and the complexity of the return and the necessity of the service to facilitate the taxpayer receiving a refund which is due or will become due.

Remitting
excess
payment

5. Where, in respect of a taxpayer, a discounter receives an amount which exceeds the amount referred to in clause *a* of section 2,

- (a) the excess amount shall be remitted forthwith by the discounter to the taxpayer; or
- (b) if the discounter is not able to locate the taxpayer and remit the excess to the taxpayer, the discounter shall, within thirty days from the date of receipt of the excess, remit the excess to the Receiver General of Canada to be credited to the taxpayer's account.

6. The taxpayer may recover from the discounter as a simple contract debt the excess amount required to be paid by section 5 which has not been paid by the discounter as required by section 5. Recovery of excess payment

7. A discounter shall, by the 31st day of July of each year, file with the Minister in the prescribed form, Return filed by discounter

- (a) the name and address of each taxpayer whose refund was acquired;
- (b) the amount of the refund;
- (c) the amount that was paid to the taxpayer; and
- (d) the amount actually received by the discounter pursuant to the refund acquired,

for the year ending with the 30th day of June.

8. Every discounter who acquires from a taxpayer the right to receive a refund which is due or will become due shall keep posted in a prominent location on his business premises a notice informing the taxpayer of the provisions of this Act, and the form and wording of the notice may be prescribed by the regulations. Notice to be posted

9. The discounter shall retain in his place of business proper records and books of account showing moneys disbursed and received, the name of every person who has had his return or right to a return acquired by a discounter, and the last known address of every such person. Records to be kept by discounter

10.—(1) Every person who contravenes this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000. Penalty

(2) Where a person is convicted of an offence under section 4 or 5, the provincial judge making the conviction shall, in addition to the fine imposed pursuant to subsection 1, order that the person convicted pay the taxpayer any amount that the provincial judge finds is owing to the taxpayer. Compensation in addition to fine

(3) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention 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., liable

Onus of
proof

(4) In determining whether for the purposes of subsection 3 an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provision of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

Order may
be filed

(5) An order for payment under subsection 2 may be filed by the taxpayer in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement.

Regulations

11. The Lieutenant Governor in Council may make regulations,

- (a) requiring that the discounter file with the Minister, copies of all agreements, forms and other documents that he intends to use in acting as a discounter;
- (b) prescribing anything that by this Act is to be prescribed;
- (c) prescribing the form and wording of notice required by section 8 and the manner of exhibiting the notice; and
- (d) prescribing the percentage amount of the consideration in respect of an assignment of a refund for the purposes of section 3.

Commence-
ment

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

Short title

13. The short title of this Act is *The Income Tax Discounters Act, 1977*.

An Act to regulate the
Discounting of Income Tax Refunds

1st Reading

November 8th, 1977

2nd Reading

November 15th, 1977

3rd Reading

November 22nd, 1977

THE HON. L. GROSSMAN
Minister of Consumer and Commercial
Relations

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Environmental Assessment Act, 1975**

MR. MCGUIGAN

EXPLANATORY NOTE

The purpose of the Bill is to provide for legal and technical assistance to certain citizens' groups in the preparation of written submissions and participation in proceedings before the Environmental Assessment Board.

**An Act to amend
The Environmental Assessment Act, 1975**

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 Environmental Assessment Act, 1975*, being ^{s. 7,} chapter 69, is amended by adding thereto the following subsection:

(2a) Where an unincorporated association representing residents of a municipality in which an undertaking is being or is proposed to be carried out, ^{Assistance to citizens' groups}

- (a) notifies the Minister of its intention to make a written submission referred to in subsection 2; and
- (b) requests the Minister for legal and technical assistance in the preparation of its submission,

the Minister shall arrange for such assistance to be provided to the association or associations without cost from the legal and technical resources of the Ministry and, for this purpose, may designate one or more employees of the Ministry or other person or persons to give legal and technical counsel to the association or associations in the preparation of the submission.

2. Section 18 of the said Act is amended by adding thereto the ^{s. 18,} following subsection: ^{amended}

(16a) Where an unincorporated association representing residents of a municipality in which an undertaking is being or is proposed to be carried out is a party to proceedings before the Board and requests the Minister for legal and technical assistance in the proceedings, the Minister shall arrange for such assistance to be provided to the association or associations without cost from the legal and technical resources of the Ministry and, for this purpose, the Ministry ^{Assistance to citizens' groups}

may designate one or more employees of the Ministry or other person or persons to give legal and technical counsel to the association or associations in respect of the proceedings before the Board.

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 Environmental Assessment Amendment Act, 1977*.







An Act to amend
The Environmental Assessment
Act, 1975

1st Reading

November 8th, 1977

2nd Reading

3rd Reading

MR. MCGUIGAN

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Petty Trespass Act

MR. EATON

EXPLANATORY NOTE

The purpose of this Bill is to remove requirements from the Act that land be enclosed or that land must be posted before one can be considered a trespasser. It places the onus on persons to ask permission to enter another person's land and increases the maximum fine to \$1,000 from the present \$100. It removes liability from a property owner for trespassers unless deliberate intent to do harm to the trespasser is involved.

An Act to amend The Petty Trespass 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 Petty Trespass Act*, being chapter 347 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: <sup>s.1,
re-enacted</sup>

1.—(1) Every person who unlawfully enters or in any other way trespasses upon another person's land without written permission and whether or not any damage has been occasioned thereby is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. <sup>Offence of
petty
trespass</sup>

(2) Where an offence under subsection 1 is committed by means of a motor vehicle or any type of recreational vehicle, the driver of the vehicle, not being the owner, is liable to the fine provided under subsection 1 and the owner of the vehicle is also liable to the fine provided under subsection 1 unless at the time the offence was committed the vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. <sup>Trespass by
means of
motor
vehicle</sup>

2. The said Act is amended by adding thereto the following section: <sup>s.6.
enacted</sup>

6. An occupier of land owes no duty of care toward a person who is a trespasser except the duty to not create a danger with the deliberate intent of doing harm or damage to the trespasser or do a wilful act with reckless disregard of the presence of the trespasser. <sup>Duty of
occupier</sup>

3. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
4. The short title of this Act is *The Petty Trespass Amendment Act, 1977*. ^{Short title}

An Act to amend
The Petty Trespass Act

1st Reading

November 10th, 1977

2nd Reading

3rd Reading

MR. EATON

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Farm Products Marketing Act

THE HON. W. NEWMAN
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTION 1. Clause *e* of section 1 of the Act now reads as follows:

- (*e*) "*marketing*" means buying, selling, and offering for sale, and includes advertising, financing, assembling, storing, packing and shipping and transporting in any manner by any person, and "*market*" and "*marketed*" have corresponding meanings.

"marketing" is redefined to bring the definition into line with current marketing practices under the Act.

SECTION 2. Clause *g* of subsection 1 of section 4 of the Act now reads as follows:

- (1) *The Board may,*

.

- (*g*) *appoint persons to inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product.*

The amendment enlarges the duties of persons appointed under clause *g*.

SECTION 3. Section 7 of the Act now provides for the production of records, etc., makes it an offence to hinder or obstruct persons appointed by the Board in the carrying out of their duties and provides that the production of a certificate of his appointment by any such person is *prima facie* proof of his appointment.

The re-enactment of section 7 is complementary to section 2 of the Bill.

**An Act to amend
The Farm Products Marketing Act**

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

1. Clause *e* of section 1 of *The Farm Products Marketing Act*, ^{s. 1(e), re-enacted} being chapter 162 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(*e*) "marketing" includes advertising, assembling, buying, financing, offering for sale, packing, processing, selling, shipping, storing and transporting and "market" and "marketed" have corresponding meanings.

2. Clause *g* of subsection 1 of section 4 of the said Act is repealed ^{s. 4(1)(g), re-enacted} and the following substituted therefor:

(*g*) appoint persons to,

(i) inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product, and

(ii) enter on lands or premises used for the producing of any regulated product and measure the area of land used to produce the regulated product or perform a count of the regulated product.

3. Section 7 of the said Act is repealed and the following ^{s. 7, re-enacted} substituted therefor:

7.—(1) Every person when requested to do so by a person, appointed by the Board or a local board to carry out the duties referred to in clause *g* or *h* of subsection 1 of section ^{Production of records, etc.}

4 respecting a regulated product, shall, in respect of that regulated product, produce such books, records and documents and permit inspection thereof and supply extracts therefrom, permit inspection of such lands or premises and regulated product and permit such measurement of the area of land used to produce the regulated product or the performance of such count of the regulated product.

Obstruction

(2) No person shall hinder or obstruct a person, appointed by the Board or a local board to carry out the duties referred to in clause *g* or *h* of subsection 1 of section 4, in the course of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Certificate
of
appointment

(3) The production by any person of a certificate of his appointment by the Board or a local board under clause *g* or *h* of subsection 1 of section 4, purporting to be signed by the chairman and secretary of the Board or the local board, shall be accepted by any person engaged in the producing or marketing of the regulated product as *prima facie* proof of such appointment.

s. 8(1),
amended

4.—(1) Subsection 1 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 156, section 1, is further amended by adding thereto the following paragraphs:

13a. authorizing a local board,

- i. to require that a regulated product be produced on a quota basis,
- ii. to prohibit any person to whom a quota has not been fixed and allotted for the producing of a regulated product or whose quota has been cancelled from producing any of the regulated product,
- iii. to prohibit any person to whom a quota has been fixed and allotted for the producing of a regulated product from producing any of the regulated product in excess of such quota, and
- iv. to prohibit any person to whom a quota has been fixed and allotted for the producing of a regulated product on lands or premises in respect of which such quota was fixed and allotted from producing any of the regulated

SECTION 4.—Subsection 1. Subsection 1 of section 8 of the Act authorizes the Board to make regulations in respect of the matters set out.

The amendment enlarges the authority to make regulations to provide for the producing of regulated products on a quota basis.

Subsection 2. Paragraph 21 of subsection 1 of the said section 8 now reads as follows:

- 21. providing for the establishment in connection with any plan, negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters:*
- i. minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,*
 - ii. terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,*
 - iii. any charges, costs or expenses relating to the production or marketing of the regulated product.*

The amendment empowers negotiating agencies to negotiate rents for lands rented for the production of a regulated product.

Subsection 3. Subsection 7 of section 8 of the Act now reads as follows:

- (7) Everything that is done by a local board under the authority of paragraph 13 of subsection 1 shall be deemed to be of an administrative and not of a legislative nature.*

The amendment is complementary to subsection 1.

product other than the regulated product produced on such lands or premises;

13*b*. authorizing a local board,

- i. to fix and allot to persons quotas for the producing of a regulated product on such basis as the local board considers proper,
- ii. to refuse to fix and allot to any person a quota for the producing of a regulated product for any reason that the local board considers proper,
- iii. to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing a regulated product for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board believes on reasonable grounds that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- iv. to permit any person to whom a quota has been fixed and allotted for the producing of a regulated product to produce any of the regulated product in excess of such quota on such terms and conditions as the local board considers proper.

(2) Paragraph 21 of subsection 1 of the said section 8 is ^{s. 8 (1),} ^{par. 21,} amended by adding thereto the following subparagraph:

- iv. the minimum amount of rental to be paid by or on behalf of a person engaged in processing a regulated product to lease land from an owner or tenant for the production of the regulated product and the terms and conditions of lease that shall apply in respect of the leasing of any such land.

(3) Subsection 7 of the said section 8, as enacted by the Statutes of Ontario, 1972, chapter 156, section 1, is ^{s. 8 (7),} ^{re-enacted} repealed and the following substituted therefor:

(7) Everything that is done by a local board under the authority of paragraph 13 or 13*b* of subsection 1 shall be

Acts of
local board
deemed
Adminis-
trative

deemed to be of an administrative and not of a legislative nature.

s. 12,
re-enacted

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

Producer-processor

12.—(1) Any person who is a producer and a processor of a regulated product is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and a processor.

Idem

(2) Any person who is a producer and a processor of a regulated product shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the regulated product produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the sale thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply.

Producer deemed to be a producer-processor

(3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the processing, on his or their account, by a processor, of any regulated product produced by him or them, he or they shall be deemed to be a producer and processor or producers and processors for the purposes of subsections 1 and 2.

Producer and person marketing regulated product

(4) Any person who is a producer and a person engaged in marketing a regulated product is entitled in his respective capacities as a producer and as a person engaged in marketing the regulated product to all the rights and privileges and is subject to all the duties and obligations of a producer and a person engaged in marketing the regulated product.

Idem

(5) Any person who is a producer and a person engaged in marketing a regulated product shall be deemed to have received in his capacity as a person engaged in marketing the regulated product from himself in his capacity as a producer the regulated product produced by him that he engages in marketing and to have contracted in that capacity with himself in his capacity as a producer for the sale thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply.

SECTION 5. Section 12 of the Act now provides that producers who operate in two capacities, by producing and processing or producing and marketing, are entitled to the separate rights and are subject to the separate obligations attributable to each capacity.

The amendment re-enacts the section to add provisions which deem a sale to have taken place where a producer operates in such a double capacity regardless of whether his processing or marketing operations are carried out by himself or through the agency of another.



- (6) Where a producer or producers, by himself or them-
 selves, or through a corporation of which he or they are
 members or shareholders, or through an agent, arrange for
 the marketing, on his or their account, by a person engaged
 in marketing, of any regulated product produced by him or
 them, he or they shall be deemed to be a producer and
 person engaged in marketing or producers and persons
 engaged in marketing for the purposes of subsections 4 and 5.
6. This Act comes into force on the day it receives Royal Assent.
7. The short title of this Act is *The Farm Products Marketing
 Amendment Act, 1977*.

Producer
 deemed to
 be person
 marketing
 regulated
 product

Commence-
 ment

Short title

An Act to amend
The Farm Products Marketing Act

1st Reading

November 15th, 1977

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

(Government Bill)

BILL 102

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Farm Products Marketing Act

THE HON. W. NEWMAN
Minister of Agriculture and Food



An Act to amend The Farm Products Marketing Act

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

1. Clause *e* of section 1 of *The Farm Products Marketing Act*, ^{s. 1(e), re-enacted} being chapter 162 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(*e*) "marketing" includes advertising, assembling, buying, financing, offering for sale, packing, processing, selling, shipping, storing and transporting and "market" and "marketed" have corresponding meanings.

2. Clause *g* of subsection 1 of section 4 of the said Act is repealed ^{s. 4(1)(g), re-enacted} and the following substituted therefor:

(*g*) appoint persons to,

(i) inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product, and

(ii) enter on lands or premises used for the producing of any regulated product and measure the area of land used to produce the regulated product or perform a count of the regulated product.

3. Section 7 of the said Act is repealed and the following ^{s. 7, re-enacted} substituted therefor:

7.—(1) Every person when requested to do so by a per- ^{Production of records, etc.}
son, appointed by the Board or a local board to carry out
the duties referred to in clause *g* or *h* of subsection 1 of section

4 respecting a regulated product, shall, in respect of that regulated product, produce such books, records and documents and permit inspection thereof and supply extracts therefrom, permit inspection of such lands or premises and regulated product and permit such measurement of the area of land used to produce the regulated product or the performance of such count of the regulated product.

Obstruction

(2) No person shall hinder or obstruct a person, appointed by the Board or a local board to carry out the duties referred to in clause *g* or *h* of subsection 1 of section 4, in the course of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Certificate
of
appointment

(3) The production by any person of a certificate of his appointment by the Board or a local board under clause *g* or *h* of subsection 1 of section 4, purporting to be signed by the chairman and secretary of the Board or the local board, shall be accepted by any person engaged in the producing or marketing of the regulated product as *prima facie* proof of such appointment.

s. 8 (1),
amended

4.—(1) Subsection 1 of section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 156, section 1, is further amended by adding thereto the following paragraphs:

13a. authorizing a local board,

- i. to require that a regulated product be produced on a quota basis,
- ii. to prohibit any person to whom a quota has not been fixed and allotted for the producing of a regulated product or whose quota has been cancelled from producing any of the regulated product,
- iii. to prohibit any person to whom a quota has been fixed and allotted for the producing of a regulated product from producing any of the regulated product in excess of such quota, and
- iv. to prohibit any person to whom a quota has been fixed and allotted for the producing of a regulated product on lands or premises in respect of which such quota was fixed and allotted from producing any of the regulated

product other than the regulated product produced on such lands or premises;

13b. authorizing a local board,

- i. to fix and allot to persons quotas for the producing of a regulated product on such basis as the local board considers proper,
- ii. to refuse to fix and allot to any person a quota for the producing of a regulated product for any reason that the local board considers proper,
- iii. to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing a regulated product for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board believes on reasonable grounds that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- iv. to permit any person to whom a quota has been fixed and allotted for the producing of a regulated product to produce any of the regulated product in excess of such quota on such terms and conditions as the local board considers proper.

(2) Paragraph 21 of subsection 1 of the said section 8 is ^{s. 8 (1),} amended by adding thereto the following subparagraph: ^{par. 21,} amended

- iv. the minimum amount of rental to be paid by or on behalf of a person engaged in processing a regulated product to lease land from an owner or tenant for the production of the regulated product and the terms and conditions of lease that shall apply in respect of the leasing of any such land.

(3) Subsection 7 of the said section 8, as enacted by the ^{s. 8 (7),} Statutes of Ontario, 1972, chapter 156, section 1, is ^{re-enacted} repealed and the following substituted therefor:

(7) Everything that is done by a local board under the authority of paragraph 13 or 13b of subsection 1 shall be ^{Acts of local board deemed Administrative}

deemed to be of an administrative and not of a legislative nature.

s. 12.
re-enacted

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

Producer-processor

12.—(1) Any person who is a producer and a processor of a regulated product is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and a processor.

Idem

(2) Any person who is a producer and a processor of a regulated product shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the regulated product produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the sale thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply.

Producer deemed to be a producer-processor

(3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the processing, on his or their account, by a processor, of any regulated product produced by him or them, he or they shall be deemed to be a producer and processor or producers and processors for the purposes of subsections 1 and 2.

Producer and person marketing regulated product

(4) Any person who is a producer and a person engaged in marketing a regulated product is entitled in his respective capacities as a producer and as a person engaged in marketing the regulated product to all the rights and privileges and is subject to all the duties and obligations of a producer and a person engaged in marketing the regulated product.

Idem

(5) Any person who is a producer and a person engaged in marketing a regulated product shall be deemed to have received in his capacity as a person engaged in marketing the regulated product from himself in his capacity as a producer the regulated product produced by him that he engages in marketing and to have contracted in that capacity with himself in his capacity as a producer for the sale thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply.

(6) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the marketing, on his or their account, by a person engaged in marketing, of any regulated product produced by him or them, he or they shall be deemed to be a producer and person engaged in marketing or producers and persons engaged in marketing for the purposes of subsections 4 and 5.

Producer
deemed to
be person
marketing
regulated
product

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment
7. The short title of this Act is *The Farm Products Marketing Amendment Act, 1977*. Short title

An Act to amend
The Farm Products Marketing Act

1st Reading

November 15th, 1977

2nd Reading

December 6th, 1977

3rd Reading

December 9th, 1977

THE HON. W. NEWMAN
Minister of Agriculture and Food

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Milk Act

THE HON. W. NEWMAN
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTION 1. Paragraph 15 of section 1 of the Act now reads as follows:

15. *"marketing" means buying, selling and offering for sale, and includes advertising, assembling, storing, distributing, financing, packing and shipping and transporting in any manner by any person, and "market" and "marketed" have corresponding meanings.*

"marketing" is redefined to bring the definition into line with current marketing practices under the Act.

SECTION 2. Section 11 of the Act now reads as follows:

- 11.—(1) *Any person who is a producer and distributor is entitled in his respective capacities as a producer and as a distributor to all the rights and privileges and is subject to all the duties and obligations of a producer and of a distributor.*
- (2) *Any person who is a producer and distributor shall be deemed to have received in his capacity as a distributor from himself in his capacity as a producer the milk produced by him that he distributes and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply.*

The amendment adds a new subsection 3 to ensure that subsections 1 and 2 apply regardless of whether a producer acts as a distributor by himself or through the agency of another.

SECTION 3. Section 12 of the Act now reads as follows:

- 12.—(1) *Any person who is a producer and processor is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and of a processor.*
- (2) *Any person who is a producer and a processor shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the milk produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply.*

The amendment adds a new subsection 3 to ensure that subsections 1 and 2 apply regardless of whether a producer acts as a processor by himself or through the agency of another.

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. Paragraph 15 of section 1 of *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1, par. 15, re-enacted
 15. "marketing" includes advertising, assembling, buying, distributing, financing, offering for sale, packing, processing, selling, shipping, storing and transporting and "market" and "marketed" have corresponding meanings.
2. Section 11 of the said Act is amended by adding thereto the following subsection: s. 11, amended
 - (3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the distributing, on his or their account, by a distributor of any milk produced by him or them, he or they shall be deemed to be a producer and distributor or producers and distributors for the purposes of subsections 1 and 2. Idem
3. Section 12 of the said Act is amended by adding thereto the following subsection: s. 12, amended
 - (3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the processing, on his or their account, by a processor, of any milk produced by him or them, he or they shall be deemed to be a producer and processor or producers and processors for the purposes of subsections 1 and 2. Idem
4. This Act comes into force on the day it receives Royal Assent. Commencement
5. The short title of this Act is *The Milk Amendment Act, 1977*. Short title

An Act to amend
The Milk Act

1st Reading

November 15th, 1977

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

(Government Bill)

BILL 103

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Milk Act

THE HON. W. NEWMAN
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. Paragraph 15 of section 1 of *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 15. "marketing" includes advertising, assembling, buying, distributing, financing, offering for sale, packing, processing, selling, shipping, storing and transporting and "market" and "marketed" have corresponding meanings.
2. Section 11 of the said Act is amended by adding thereto the following subsection:
 - (3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the distributing, on his or their account, by a distributor of any milk produced by him or them, he or they shall be deemed to be a producer and distributor or producers and distributors for the purposes of subsections 1 and 2.
3. Section 12 of the said Act is amended by adding thereto the following subsection:
 - (3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the processing, on his or their account, by a processor, of any milk produced by him or them, he or they shall be deemed to be a producer and processor or producers and processors for the purposes of subsections 1 and 2.
4. This Act comes into force on the day it receives Royal Assent.
5. The short title of this Act is *The Milk Amendment Act, 1977*.

s. 1, par. 15,
re-enacted

s. 11,
amended

s. 12,
amended

Commence-
ment

Short title

An Act to amend
The Milk Act

1st Reading

November 15th, 1977

2nd Reading

December 6th, 1977

3rd Reading

December 9th, 1977

THE HON. W. NEWMAN
Minister of Agriculture and Food

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Public Hospitals Act

MR. WILLIAMS

EXPLANATORY NOTE

The Bill establishes several requirements relating to the composition of the boards of public hospitals. The Bill provides that the number of appointed directors who have a vote shall not exceed one-quarter of the elected directors. In addition, the Bill establishes certain criteria for membership in a hospital corporation and guarantees a member's right to vote in the hospital corporation.

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 section:

8a.—(1) In this section,

Interpre-
tation

(a) “local municipality” means a city, borough, town, village and township;

(b) “locality” means a territory without municipal organization;

(c) “resident” means a person who is actually resident in a local municipality or locality.

(2) Subject to section 9 and the regulations under this Act, the board of a hospital shall be elected from among the members of the hospital corporation.

Board
elected by
members

(3) A person is eligible to be a member of a hospital corporation if that person is,

Eligibility
for
member-
ship

(a) a resident of the local municipality or locality in which the hospital is situated;

(b) a resident of a local municipality or locality adjacent to the local municipality or locality in which the hospital is situated.

(4) Where payment of a membership fee is required for membership in a hospital corporation, the fee shall be the same for all members and shall not exceed ten dollars per annum.

Member-
ship fee

- One class of member (5) A hospital corporation shall have one class of member and each member shall have one vote.
- Limit on staff directors (6) The number of directors, whether elected or appointed, who are members of the medical, dental, nursing or administrative staffs of the hospital, or who enjoy hospital privileges at the hospital, shall not exceed at any time one-quarter of the number of directors of the hospital.
- Conflict R.S.O. 1970, c. 89 (7) In the event of a conflict between any provision of this section and any provision of *The Corporations Act*, the provision of this section applies.
- s. 9. re-enacted 2. Section 9 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 90, section 8, is repealed and the following substituted therefor:
- By-laws 9.—(1) A hospital shall pass by-laws prescribed by the regulations, subject to the approval of the Minister.
- Idem (2) A hospital shall pass, amend or revise its by-laws and submit them to the Minister after receiving notice to do so as prescribed by the regulations.
- Idem (3) No by-law, or amendment to or revision of a by-law made under subsection 2, has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation of the Minister.
- Election of directors (4) Notwithstanding *The Corporations Act*, a hospital may provide by by-law for the election and retirement of directors, but the election of directors shall take place in each year at a general meeting of members and the terms of office of the elected directors shall be for a period extending to the day of the general meeting in the following year.
- Appointed directors (5) Notwithstanding *The Corporations Act*, a hospital may by by-law provide for the appointment by its board of one or more classes of directors and in any such by-law the board may fix the number, qualifications and tenure of office of the directors in each class and shall state whether the directors in each class have voting rights, but where a by-law provides an appointed director with a right to vote, the director may vote in person but not by proxy.
- Limitation (6) The number of directors with a right to vote appointed by the board shall not exceed at any time one-eighth the number of elected directors of the board.

(7) Notwithstanding *The Corporations Act*, upon the recommendation of the Minister, the Lieutenant Governor in Council may appoint one or more provincial hospital representatives to the board of a hospital for a term of office of not more than three years and such provincial hospital representatives shall have all the rights and responsibilities of elected directors.

Provincial
hospital
representa-
tives
R.S.O. 1970,
c. 89

(8) The number of directors with voting rights appointed by the board plus the number of provincial hospital representatives appointed by the Lieutenant Governor in Council shall not exceed at any time one-quarter the number of elected directors.

Limitation

(9) Members of the board who are members by virtue of their office shall not have a right to vote.

Ex officio
directors

(10) Any director who is serving as an appointed director on the day preceding the day *The Public Hospitals Amendment Act, 1977* comes into force shall continue to have the rights and privileges attached to the appointment and such director shall be deemed not to be a member of the board for the purposes of this section until the term of appointment expires.

Transition

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

Commence-
ment

4. The short title of this Act is *The Public Hospitals Amendment Act, 1977*.

Short title





An Act to amend
The Public Hospitals Act

1st Reading

November 15th, 1977

2nd Reading

3rd Reading

MR. WILLIAMS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to establish the Ontario Commission on
Waste Management and Resource Recovery Systems**

MR. CUNNINGHAM

EXPLANATORY NOTE

The Bill establishes the Ontario Commission on Waste Management and Resource Recovery Systems to have authority in matters concerning disposal, reclamation and recycling of waste materials and to provide aid to local governments that desire to develop waste disposal systems of their own.

BILL 105

1977

**An Act to establish the Ontario
Commission on Waste Management
and Resource Recovery Systems**

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

1. In this Act,

Interpre-
tation

(a) "Commission" means the Ontario Commission on Waste Management and Resource Recovery Systems;

(b) "Minister" means the Minister of the Environment.

2.—(1) A commission to be known as the "Ontario Commission on Waste Management and Resource Recovery Systems" is hereby established.

Com-
mission
established

(2) The Commission shall be composed of not fewer than thirteen members appointed by the Lieutenant Governor in Council.

Idem

(3) The members of the Commission shall be representative of Ontario Hydro, the Ministry of the Environment and business and industry and representatives of business and industry shall at all times constitute a majority of the members of the Commission.

Idem

3. Eight members of the Commission constitute a quorum.

Quorum

4. The objects of the Commission are and it has power,

Objects
and
powers

(a) to provide solid waste disposal and reclamation services throughout the province including incineration and landfill;

- (b) to develop procedures and establish plants for the reclamation and recycling of paper, metal, glass and other materials;
- (c) to study methods of marketing reclaimed materials;
- (d) to provide programs of information and technical assistance to local government;
- (e) to study alternate systems of waste disposal, waste management and resource recovery; and
- (f) to enter into co-operative arrangements for the provision of waste management and resource recovery systems with representatives of private industry.

By-laws

5. The Commission may make such by-laws as are considered expedient for its constitution and the administration of its affairs, and may do other things as are considered necessary or advisable to carry out its objectives.

Annual report

6. The Commission shall make a report annually to the Minister who 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.

Commencement

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

Short title

8. The short title of this Act is *The Ontario Commission on Waste Management and Resource Recovery Systems Act, 1977*.







An Act to establish the Ontario
Commission on Waste Management
and Resource Recovery Systems

1st Reading

November 15th, 1977

2nd Reading

3rd Reading

MR. CUNNINGHAM

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 2 of section 11, as amended, would read as follows:

- (2) *Subclause iii of clause a of subsection 1 does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.*

SECTION 2. Section 17, as amended, would read as follows:

17. *Except as otherwise provided in this Part, and subject to any schedule in force under The Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.*

SECTION 3. Section 18, as amended, would read as follows:

18. *An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.*

SECTION 4. Subsection 3 of section 20, as amended, would read as follows:

- (3) *The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.*

SECTION 5. Subsection 1 of section 25, as amended, would read as follows:

- (1) *Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.*

BILL 106

1977

**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. Subsection 2 of section 11 of *The Employment Standards Act, 1974*, being chapter 112, is amended by striking out "forty-four" in the sixth line and inserting in lieu thereof "forty". s. 11 (2),
amended
2. Section 17 of the said Act is amended by striking out "forty-eight" in the fourth line and inserting in lieu thereof "forty". s. 17,
amended
3. Section 18 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 18,
amended
4. Subsection 3 of section 20 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 20 (3),
amended
5. Subsection 1 of section 25 of the said Act is amended by striking out "forty-four" in the third line and in the fourth line and inserting in lieu thereof in each instance "forty". s. 25 (1),
amended
6. This Act comes into force on the day it receives Royal Assent. Commence-
ment
7. The short title of this Act is *The Employment Standards Amendment Act, 1977*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

November 17th, 1977

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTE

Parts VI and VII of the Act regulate the size and weight of vehicles on the highways.

Part VI as recast, has all references to weight restrictions removed. The weight restrictions will now be found in Part VII.

The matters that remain in Part VI are vehicle dimension restrictions (width, height, length), the authority to issue special permits for over-dimensional vehicles and the authority to make regulations in respect of the transportation of dangerous materials. The length permitted without a special permit is being increased from 65 feet to 68 feet 10 inches.

Special permits issued under Part VI apply to oversized vehicles as regulated by Part VI and to overweight vehicles as regulated by Part VII.

Over-dimensional farm vehicles are excluded from the basic provisions of Part VI, but authority is given to deal with them by regulation.

Part VII now will contain the overall weight restrictions. The emphasis is on axle weight requirements which relate to distribution of load over axles as opposed to gross loading on vehicles. The departure from the present Act is in the simplification in determining the weight that may be carried on axles by eliminating the need for the equation presently found in section 74 of the Act and by permitting the reduction of the number of Tables contained in the Regulations.

In addition, there are changes in the weights and measures found in both Parts to allow for an easy future conversion to metric equivalents.

BILL 107

1977

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. Part VI of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 45, sections 21, 23 and 24, 1974, chapter 123, sections 17, 18 and 19, 1974, chapter 130, section 1, 1975 (2nd Session), chapter 6, section 8 and 1976, chapter 37, sections 8, 9 and 10, is repealed and the following substituted therefor: Part VI (ss. 64-70a), re-enacted

PART VI

LOAD AND DIMENSIONS

64. In this Part,

Interpre-
tation

- (a) "over-dimensional farm vehicle" means a farm tractor, self-propelled implement of husbandry, implement of husbandry, or any combination of them, having a weight, width, length or height in excess of the limits provided in this Part or Part VII;
- (b) "semi-trailer" means a trailer designed to be operated with the forward part of its body or chassis resting upon the body or chassis of a towing vehicle.

65.—(1) Subject to section 66, no vehicle shall have a greater width than 102 inches while on a highway except, Width of vehicle

- (a) traction engines, which may have a total width not exceeding 110 inches; or
- (b) motor vehicles and road maintenance machines, operated by or on behalf of a municipality or other authority having jurisdiction and control of a

highway, where such vehicles are engaged in road maintenance, including the removal of snow from a highway.

Width of load

(2) Subject to section 66, no load on a vehicle shall have a greater width than 102 inches while on a highway except,

(a) loads of raw forest products which shall not exceed a total width of 102 inches at point of origin and which shall not exceed a total width of 110 inches at any time during transit ; or

(b) loads of loose fodder.

Rear vision mirrors and lamps not included

(3) Where a commercial motor vehicle is equipped with one or more rear vision mirrors that extend in whole or in part beyond either side of the vehicle, or one or more lamps, required by this Act, that extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1.

Load covering mechanism not included in width

(4) Where a commercial motor vehicle or trailer is equipped with a load covering mechanism, extensions in the width of such vehicle caused by the mechanism shall not be included in determining the width of the vehicle under subsection 1 where the mechanism does not extend the width of the vehicle on either side by more than four inches.

Length of vehicle or combination

(5) Subject to section 66, no vehicle, other than a fire apparatus, a semi-trailer, or a bus, including load, shall exceed the length of 36 feet 1 inch while on a highway, and no combination of vehicles, including load, coupled together shall exceed the total length of 68 feet 10 inches while on a highway.

Length of semi-trailer

(6) Subject to section 66, no semi-trailer, other than a semi-trailer designed for the carriage of vehicles, shall exceed the length of 45 feet 10 inches while on a highway and any extension in the length of a semi-trailer caused by auxiliary equipment or machinery that is not designed for the transportation of goods shall not be included in determining the length thereof.

Length of bus

(7) No bus shall exceed the length of 41 feet while on a highway, but an increase in the length of a bus caused by the addition of a liquid filled or other energy-absorbing bumper shall not be included in determining the length of the bus.

(8) The council of a city may by by-law prohibit the operation of a combination of vehicles having a total length, including load, in excess of 50 feet while on a highway or a portion thereof under its jurisdiction designated in the by-law. Restricting length of combination of vehicles

(9) Subject to section 66, no vehicle including load, shall have a greater height than 13 feet 7 inches while on a highway. Height of vehicle

(10) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and, in addition, the permit issued for the vehicle under section 6 may be suspended for not more than six months. Penalty

66.—(1) The municipal corporation or other authority having jurisdiction over the highway may, upon application in writing, grant a permit for the moving of heavy vehicles, loads, objects or structures in excess of the dimensional limits set out in section 65 or the weight limits set out in Part VII. Permits

(2) The permit referred to in subsection 1 may be general, or may limit the time and the particular highway that may be used, and may contain conditions relating to the protection of persons and property from injury or damage and the municipal corporation or other authority may require a bond or other security sufficient to cover the cost of repairing any possible damage to the highway. Permits, general or limited

(3) The council of any municipality may, by by-law, provide that a permit referred to in subsection 1 may be issued by an officer of the corporation named therein. Who may issue

(4) In the case of a vehicle for which a permit is required under this section in order to pass over a highway or highways under the jurisdiction of two or more municipalities or other authorities, the permit so to do may be issued by the Ministry, which permit is in lieu of the several permits to be otherwise obtained from the municipal corporations or other authorities, and the permit may limit the time and the particular highway or highways that may be used, and may contain any special conditions or provisions that may be considered necessary to protect the highways from damage, and the Ministry may require a bond or other security sufficient to cover the cost of repairing possible damage to the highway. Issue of permit by Ministry

Responsi-
bility for
damages
caused to
highway

(5) The owner, operator or mover of a heavy vehicle, load, object or structure in respect of which a permit is granted under this section is nevertheless responsible for all damages that may be caused to the highway by reason of the driving, operating or moving of any such heavy vehicle, load, object or structure.

Condition
of permit

(6) It is a condition of every permit issued under this section that the original of the permit be carried in the vehicle for which the permit was issued and be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act.

Penalty

(7) Every person who operates or permits the operation of a vehicle or combination of vehicles contrary to any of the conditions of the permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and, in addition, if the condition contravened is in respect of any weight allowed under the permit, a fine shall be imposed as if the person had not been issued a permit under this section and had been convicted of an offence under section 72, 73 or 74 in respect of any gross vehicle weight, axle unit weight or axle group weight in excess of the maximum allowable weights permitted under this Act or the regulations.

Over-
hanging
load

67.—(1) Every vehicle carrying a load which overhangs the rear of the vehicle to the extent of 4 feet 10 inches or more while on a highway shall display upon such overhanging load at the extreme rear end thereof at any time from one-half hour after sunset to one-half hour before sunrise, or at any other time when there is insufficient light or unfavourable atmospheric conditions, a red light, and at all other times a red flag or a red marker sufficient to indicate the projection of the load.

Loading of
commercial
vehicle, etc.

(2) No person shall operate or permit to be operated upon a highway any commercial motor vehicle or trailer unless the load that the vehicle or trailer is carrying is firmly bound, sufficiently covered, or otherwise secured or loaded, in such manner that no portion of the load may become dislodged or fall from the commercial motor vehicle or trailer.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(a) prescribing the manner of loading, and of covering and securing loads on vehicles or classes of vehicles operated on highways or classes of highways;

- (b) designating the vehicles or classes of vehicles and the highways or classes of highways to which any loading, covering or securing provisions are to apply; and
- (c) prescribing classes of vehicles, highways and loads for the purposes of clauses *a* and *b*.

(4) Every person who contravenes any of the provisions of this section or of a regulation made under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and, in addition, his driver's licence issued under section 13 and his permit issued under section 6 may be suspended for a period of not more than sixty days. ^{Penalty}

68.—(1) The Lieutenant Governor in Council may make regulations, ^{Regulations re carriage of explosives, etc.}

- (a) classifying and defining explosives and dangerous materials;
- (b) regulating or prohibiting the transportation of explosives and dangerous materials or any class thereof by a vehicle on a highway;
- (c) regulating the preparation and packaging of explosives and dangerous materials or any class thereof to be transported by a vehicle on a highway; and
- (d) requiring the labelling of packages and containers of explosives and dangerous materials or any class thereof and prescribing the labels to be attached to such packages and containers.

(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}

(3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than three months, or to both. ^{Penalty}

Over-dimensional farm vehicles exempt

69.—(1) The provisions of this Part, other than regulations made under this section, do not apply to over-dimensional farm vehicles.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) regulating or prohibiting the movement of over-dimensional farm vehicles or classes thereof on a highway or on classes of highways;
- (b) requiring that escort vehicles or classes of escort vehicles accompany over-dimensional farm vehicles or classes thereof on a highway or classes of highways;
- (c) prescribing the types, specifications and locations of markings, signs and lights that shall be carried by over-dimensional farm vehicles and escort vehicles or classes of either or both of them on a highway or classes of highways;
- (d) prescribing conditions for the movement of over-dimensional farm vehicles on a highway or classes of highways relating to the protection of persons and property from injury or damage.

Part VII (ss. 71-81), re-enacted

2. Part VII of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, sections 25, 26, 27 and 28, 1974, chapter 123, section 20, 1974, chapter 130, section 2 and 1976, chapter 37, sections 11 and 12, and 1977, chapter 1, section 1, is repealed and the following substituted therefor:

PART VII

WEIGHT

Interpretation

70.—(1) In this Part,

- (a) "axle" means an assembly of two or more wheels whose centres are in one transverse vertical plane and which are transmitting weight to the highway;
- (b) "axle group weight" means that part of the gross vehicle weight in pounds transmitted to the highway by a two axle group, three axle group or four axle group;
- (c) "axle unit" means any single axle, dual axle or triple axle;

- (d) "axle unit weight" means that part of the gross vehicle weight in pounds transmitted to the highway by an axle unit;
- (e) "Class A Highway" means a highway designated as such by the Minister;
- (f) "Class B Highway" means a highway not designated by the Minister as a Class A Highway;
- (g) "dual axle" means any two consecutive axles whose centres are more than 39.5 inches apart and that,
 - (i) are articulated from a common attachment to the vehicle, or
 - (ii) are designed to automatically equalize the load between the two axles;
- (h) "four axle group" means four consecutive axles, not including the front axle of a motor vehicle,
 - (i) that are entirely within either a motor vehicle or trailer or semi-trailer, and
 - (ii) in which the spacings between the consecutive axles do not exceed 98.5 inches;
- (i) "front axle" means the front axle unit of a motor vehicle;
- (j) "gross vehicle weight" means the total weight in pounds transmitted to the highway by a vehicle, or combination of vehicles, and load;
- (k) "over-dimensional farm vehicles" means the same as it does in Part VI;
- (l) "semi-trailer" means the same as it does in Part VI;
- (m) "single axle" means one or more axles whose centres are included between two parallel transverse vertical planes 39.5 inches apart;
- (n) "tank-truck" means a commercial motor vehicle to which there is attached or upon which there has been placed either permanently or otherwise a closed tank having a capacity of 500 gallons or more;

- (o) "three axle group" means three consecutive axles, not including the front axle of a motor vehicle,
- (i) that do not form a triple axle within the meaning of clause *p*,
 - (ii) that are entirely within either a motor vehicle or trailer or semi-trailer,
 - (iii) in which the spacings between the consecutive axles do not exceed 98.5 inches, and
 - (iv) which are not included in a four axle group within the meaning of clause *h*;
- (p) "triple axle" means any three consecutive axles that,
- (i) have their consecutive centres equally spaced, and
 - (ii) have their consecutive centres more than 39.5 inches apart,
- and that,
- (iii) are articulated from an attachment to the vehicle common to the consecutive axles, or
 - (iv) are designed to automatically equalize the load between the three axles under all conditions of loading;
- (q) "two axle group" means two consecutive single axles, not including the front axle of a motor vehicle,
- (i) that are entirely within either a motor vehicle or trailer or semi-trailer,
 - (ii) in which the spacing between the consecutive axles is less than 78.5 inches, and
 - (iii) which are not included in a three axle group within the meaning of clause *o* or a four axle group within the meaning of clause *h*.

(3) The provisions of this Part do not apply to over-dimensional farm vehicles.

Over-dimensional farm vehicles

(4) Where three consecutive axles that are articulated from an attachment to the vehicle common to the consecutive axles are not a triple axle within the meaning of clause *p* of subsection 1 because their consecutive centres are not equally spaced, that one of the three consecutive axles that is most remote from the centre axle of the consecutive axles shall be deemed to be a single axle and the other two axles shall be deemed to be a dual axle.

Consecutive axles

(5) Where three consecutive axles that are not articulated from an attachment to the vehicle common to the consecutive axles are not a triple axle within the meaning of clause *p* of subsection 1 because their consecutive centres are not equally spaced, any two of the axles that are articulated from an attachment to the vehicle common to the two axles shall be deemed to be a dual axle and the third of the three axles shall be deemed to be a single axle.

Idem

(6) The spacing between axles is the shortest distance between the centre of rotation of one axle and the centre of rotation of the other.

Spacing between axles

(7) For the purposes of Tables 1 and 2, the axle spacing is the distance measured between the outer axles forming an axle unit.

Axle spacing distance

(8) For the purposes of Tables 3, 4 and 5, the axle group spacing is the distance measured between the outer axles forming a two axle group, three axle group or four axle group.

Idem

71.—(1) Subject to section 66, no vehicle,

Restrictions as to weight on tires

(a) equipped with tires of less than 5.9 inches in width where the weight upon any inch in the width of the tire exceeds 504 pounds; or

(b) equipped with tires of 5.9 inches or more in width where the weight upon any inch in the width of the tire exceeds 616 pounds,

shall be operated on a highway.

(2) For the purpose of this section, where a tire width has been marked thereon by the manufacturer, the width of the tire shall be deemed to be as so marked.

How tire width ascertained

Maximum
allowable
axle unit
weights

72.—(1) Subject to section 66, no vehicle or combination of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where the axle unit weight on an axle unit, whether or not part of any axle group, exceeds,

- (a) for a single axle with single tires, 19,800 pounds;
- (b) for a single axle with dual tires, 22,000 pounds;
- (c) for a dual axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 1; or
- (d) for a triple axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 2.

Restriction
of weights
allowed
under subs. 1

(2) Notwithstanding subsection 1, the maximum allowable axle unit weight for a dual axle shall not exceed 39,600 pounds unless the axle is equipped with dual tires.

Idem

(3) Notwithstanding subsection 1, the maximum allowable axle unit weight for a triple axle shall not exceed 59,400 pounds unless the axle is equipped with dual tires.

Idem

(4) Subject to subsection 1, the maximum allowable axle unit weight for a single front axle shall not exceed 11,000 pounds unless the driver of a vehicle or combination of vehicles produces verification in writing as to the manufacturer's gross axle weight rating for such single front axle, and in such case the maximum allowable axle unit weight on such single front axle shall not exceed the manufacturer's gross axle weight rating.

Maximum
allowable
axle group
weights

73. Subject to section 66, no vehicle or combination of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where any axle group weight exceeds,

- (a) for a two axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 3;
- (b) for a three axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 4; or
- (c) for a four axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 5.

74. Subject to section 66, no vehicle or combination of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where the gross vehicle weight exceeds the least of, ^{Maximum allowable gross vehicle weights}

- (a) the axle unit weight on the front axle, not exceeding the maximum weight permitted on such axle under section 72, plus the sum of the maximum allowable weights for all other axle units of the vehicle or combination of vehicles as set out in section 72;
- (b) the axle unit weight on the front axle, not exceeding the maximum weight permitted on such axle under section 72, plus the sum of the maximum allowable weights for any two axle groups, three axle groups or four axle groups, or any combination thereof, as set out in section 73, plus the maximum allowable weight for any axle unit or units excluding the front axle and excluding any axle unit or units which are part of an axle group, as set out in section 72; or
- (c) that weight prescribed in the regulations.

75.—(1) Notwithstanding sections 72, 73, 74 and subsection 1 of section 77, during freeze-up the maximum allowable gross vehicle weight for a vehicle or combination of vehicles, while used exclusively for the transportation of raw forest products, shall be 110 per cent of that weight for which a permit has been issued for the vehicle or combination of vehicles in accordance with section 6, provided no axle unit weight, axle group weight or gross vehicle weight exceeds by more than 10 per cent that weight prescribed in this Act or the regulations for such vehicle or combination of vehicles. ^{Raw forest products allowance during freeze-up}

(2) For the purposes of this section, "freeze-up" shall be such period of time as designated by the Minister and the Minister may so designate. ^{Designated by Minister}

(3) No vehicle or combination of vehicles having a weight in excess of that authorized in subsection 1 shall be operated on a highway. ^{Prohibition}

76. Subject to section 66, no vehicle or combination of vehicles shall be operated on a Class B Highway where the weight upon one axle exceeds 17,600 pounds, or, if the axles are spaced less than 7 feet 10 inches apart, where the weight upon one axle exceeds 12,100 pounds. ^{Prohibition re operation on Class B Highway}

Operating
within
permitted
weight
R.S.O. 1970,
c. 392

77.—(1) Subject to subsection 1 of section 16 of *The Public Vehicles Act*, no vehicle or combination of vehicles having a permit issued in accordance with section 6 of this Act, the fee for which is based upon gross vehicle weight, shall be operated on any highway where the gross vehicle weight exceeds that for which the permit was issued.

Permit to
be carried re
commercial
motor
vehicle

(2) The permit issued for a commercial motor vehicle and for every trailer drawn by it, or a true copy thereof, shall, whenever the vehicle is on a highway, be carried by the driver thereof or placed in some readily accessible position in the vehicle and shall be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*.

R.S.O. 1970,
c. 375

Exception
to subs. 1

(3) Notwithstanding subsection 1 and subject to sections 72, 73 and 74, where a conversion unit is used to convert a two axle tractor into a three axle tractor and the fee prescribed in the regulations in respect of the conversion unit is paid, the vehicle or combination of vehicles to which the conversion unit is attached may operate on a highway at a maximum gross vehicle weight of 15,400 pounds in excess of the gross vehicle weight for which a permit was issued for the vehicle or combination of vehicles in accordance with section 6 and the Ministry shall issue a receipt for the fee so prescribed and paid.

Receipt re
excess
weight
payment to
be carried

(4) The receipt issued by the Ministry in accordance with subsection 3 shall, whenever a vehicle is on a highway with the conversion unit referred to in subsection 3 attached, be carried by the driver of the vehicle or placed in some readily accessible position in the vehicle and shall be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*.

Weight of
load during
March and
April

(5) Subject to section 66, during the months of March and April no commercial motor vehicle or trailer, other than a public vehicle, or a two axle tank-truck or two axle truck while either is used as referred to in subsection 6, shall be operated or drawn on any portion of the King's Highway to which the provisions of this subsection are declared applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where any axle of such commercial motor vehicle or trailer transmits to the highway a weight in excess of 11,000 pounds, and the Lieutenant Governor in Council may declare this subsection to apply.

(6) Subject to section 66, during the months of March ^{Idem} and April no two axle tank-truck, while used exclusively for the transportation of liquid or gaseous heating fuel, and no two axle truck, while used exclusively for the transportation of live stock feed, shall be operated on any portion of the King's Highway to which the provisions of subsection 5 are declared applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where any axle transmits to the highway a weight in excess of 16,500 pounds.

(7) Subject to section 66, during the months of March ^{Idem} and April no vehicle having a carrying capacity in excess of 2,200 pounds, other than a motor vehicle or trailer, shall be operated on any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where the weight upon any inch in the width of tire exceeds 280 pounds, and the Lieutenant Governor in Council may declare this subsection to apply.

(8) Subsections 5 and 7 do not apply to,

Vehicles
exempt from
provisions
of subss. 5, 7

(a) a vehicle operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway, where such vehicle is engaged in highway maintenance, including the carriage and application of abrasives or chemicals to the highway, the stockpiling of abrasives or chemicals for use on a highway, or engaged in the removal of snow from a highway; or

(b) vehicles used exclusively for the transportation of milk.

(9) In the case of the King's Highway and highways in ^{Extension of period on King's Highway. etc.} territory without municipal organization, the Lieutenant Governor in Council may declare the provisions of subsections 5, 7 and 13 to apply during any period of the year.

(10) The municipal corporation or other authority having ^{Extension of period by municipality} jurisdiction over any highway may declare the provisions of subsections 5, 7 and 13 to apply to highways under its jurisdiction during any period of the year.

(11) The Lieutenant Governor in Council may make regulations limiting the gross vehicle weight of any vehicle or any class thereof passing over a bridge forming part of the ^{Regulations limiting weight passing over bridge} King's Highway or a highway in territory without municipal

organization and notice of the limit of the weights fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

By-laws
limiting
weight
passing
over bridge

(12) The municipal corporation or other authority having jurisdiction over a bridge may by by-law limit the gross vehicle weight of any vehicle or any class thereof passing over such bridge, and the requirements of subsection 11 with respect to the posting up of notice apply thereto.

Penalty

(13) Every person who contravenes any of the provisions of subsection 1, 5, 6 or 7 or of a regulation made under subsection 11 or a by-law made under section 12 is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under section 79 and, in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the permit issued under section 6 for the vehicle or vehicles involved, and such suspension shall continue until a new permit at the maximum gross vehicle weight allowable has been issued for the vehicle or vehicles and the fee therefor has been paid.

Power of
officer to
have load
weighed

78.—(1) Where a police officer or officer appointed for carrying out the provisions of this Act has reasonable and probable grounds to believe that the gross vehicle weight of a vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or a permit issued for the vehicle or combination of vehicles, he may weigh the same, by means of either portable or stationary scales, and may require that the vehicle or combination of vehicles be driven to the nearest weigh scales.

Production
of
inventory

(2) Subsection 1 does not apply where the driver of a commercial motor vehicle produces an inventory showing the true gross vehicle weight of the vehicle or combination of vehicles.

Power of
officer to
have load
weighed

(3) Where a police officer or officer appointed for carrying out the provisions of this Act has reasonable and probable grounds to question the validity of any documents produced in accordance with subsection 2, or to believe the axle unit weight or axle group weight of a vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or a permit issued for the vehicle or combination of vehicles, he may weigh the same, by means of either portable or stationary scales, and may require that the vehicle or combination of vehicles be driven to the nearest weigh scales.

Power of
officer to
measure
axle space

(4) To determine whether the gross vehicle weight, axle unit weight or axle group weight of any vehicle or com-

combination of vehicles is in excess of the limits permitted under this Act or the regulations or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may conduct such examination as is necessary to ascertain the distance between the axles of the vehicle or combination of vehicles.

(5) Where it is found that the gross vehicle weight of any vehicle or combination of vehicles is in excess of that permitted under this Act or the regulations or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

Power of
officer to
require part
of load
removed

(6) Every driver who,

Penalty

- (a) when required, pursuant to subsection 1 or 3, to proceed to a weighing machine refuses or fails to do so;
- (b) when required, pursuant to subsection 5, to remove part of a load refuses or fails to do so or to make arrangements to do so; or
- (c) obstructs any weighing, measuring or examination authorized by this section,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

79. Every person who contravenes any of the provisions of subsection 1 of section 71, sections 72, 73 and 74, subsection 3 of section 75 or section 76 is guilty of an offence and on summary conviction is liable to a fine of,

Penalty

- (a) \$0.91 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is less than 11,000 pounds, but in no case shall the fine be less than \$50;
- (b) \$1.82 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 11,000 pounds or more but is less than 16,500 pounds;

- (c) \$2.73 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 16,500 pounds or more but is less than 22,000 pounds;
- (d) \$3.64 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 22,000 pounds or more but is less than 33,000 pounds; and
- (e) \$4.55 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 33,000 pounds or more.

Over-
loading by
consignor

80. Every consignor of goods, or his agent or employee, who causes a vehicle or combination of vehicles not owned by the consignor to be loaded,

- (a) knowing that so loaded the weight of the vehicle, or combination of vehicles, and load when operated on a highway exceeds the limits for weight in any of the provisions of subsection 1 of section 71, section 74 or 75, or in the regulations, or in a permit referred to in subsection 1 of section 77; and
- (b) intending that the vehicle or combination of vehicles so loaded be operated on a highway,

is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under section 79.

Regulations

81. The Lieutenant Governor in Council may make regulations,

- (a) prescribing maximum allowable gross vehicle weights;
- (b) designating classes of vehicles which are exempt from the provisions of sections 72, 73 and 74 and prescribing the weights applicable for the vehicles so exempted; and
- (c) prescribing markings to be placed on vehicles.

TABLE 1

MAXIMUM ALLOWABLE WEIGHT FOR
DUAL AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Inches)	Maximum Allowable Weight (Pounds)
39.5 to less than 47.0	34,000
47.0 to less than 51.0	37,000
51.0 to less than 55.0	37,900
55.0 to less than 59.0	38,600
59.0 to less than 63.0	39,500
63.0 to less than 67.0	40,300
67.0 to less than 71.0	41,200
71.0 or more	42,100

TABLE 2

MAXIMUM ALLOWABLE WEIGHT FOR
TRIPLE AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Inches)	Maximum Allowable Weight (Pounds)
78.5 to less than 94.5	43,000
94.5 to less than 110.0	47,000
110.0 to less than 114.0	47,800
114.0 to less than 118.0	48,500
118.0 to less than 122.0	49,400
122.0 to less than 126.0	50,000
126.0 to less than 130.0	50,900
130.0 to less than 134.0	51,600
134.0 to less than 138.0	52,500
138.0 to less than 141.5	53,100
141.5 to less than 145.5	53,800
145.5 to less than 149.5	54,700
149.5 to less than 153.5	55,300
153.5 to less than 157.7	56,200
157.5 to less than 161.5	56,900
161.5 to less than 165.5	57,800
165.5 to less than 169.5	58,400
169.5 to less than 173.0	59,300
173.0 to less than 177.0	60,000
177.0 to less than 181.0	60,800
181.0 to less than 185.0	61,500
185.0 to less than 189.0	62,400
189.0 or more	63,000

TABLE 3

MAXIMUM ALLOWABLE WEIGHT FOR
TWO AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
39.5 to less than 47.0	33,100
47.0 to less than 51.0	35,900
51.0 to less than 55.0	36,800
55.0 to less than 59.0	37,500
59.0 to less than 63.0	38,400
63.0 to less than 67.0	39,200
67.0 to less than 71.0	40,100
71.0 to less than 75.0	41,000
75.0 to less than 78.5	42,100

TABLE 4

MAXIMUM ALLOWABLE WEIGHT FOR
THREE AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
78.5 to less than 94.5	41,900
94.5 to less than 102.5	45,000
102.5 to less than 110.0	46,300
110.0 to less than 114.0	47,200
114.0 to less than 118.0	47,800
118.0 to less than 122.0	48,500
122.0 to less than 126.0	49,400
126.0 to less than 130.0	50,000
130.0 to less than 134.0	50,700
134.0 to less than 138.0	51,600
138.0 to less than 141.5	52,200
141.5 to less than 145.5	52,900
145.5 to less than 149.5	53,800
149.5 to less than 153.5	54,500
153.5 to less than 157.5	55,100
157.5 to less than 161.5	56,000
161.5 to less than 165.5	56,700
165.5 to less than 169.5	57,300
169.5 to less than 173.0	58,200
173.0 to less than 177.0	58,900
177.0 to less than 181.0	59,500
181.0 to less than 185.0	60,400
185.0 to less than 189.0	61,100
189.0 to less than 193.0	61,700
193.0 to less than 197.0	62,400
197.0 or more	63,000

TABLE 5

MAXIMUM ALLOWABLE WEIGHT FOR
FOUR AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
less than 141.5	51,800
141.5 to less than 145.5	52,700
145.5 to less than 149.5	53,400
149.5 to less than 153.5	54,200
153.5 to less than 157.5	54,900
157.5 to less than 161.5	55,800
161.5 to less than 165.5	56,700
165.5 to less than 169.5	57,300
169.5 to less than 173.0	58,200
173.0 to less than 177.0	58,900
177.0 to less than 181.0	59,700
181.0 to less than 185.0	60,600
185.0 to less than 189.0	61,300
189.0 to less than 193.0	62,200
193.0 to less than 197.0	62,800
197.0 to less than 201.0	63,700
201.0 to less than 204.5	64,600
204.5 to less than 208.5	65,300
208.5 to less than 212.5	66,100
212.5 to less than 216.5	66,800
216.5 to less than 220.5	67,700
220.5 to less than 224.5	68,600
224.5 to less than 228.5	69,200
228.5 to less than 232.5	70,100
232.5 to less than 236.0	70,800
236.0 to less than 240.0	71,600
240.0 to less than 244.0	72,500
244.0 to less than 248.0	73,200
248.0 to less than 252.0	74,100
252.0 to less than 256.0	74,700
256.0 to less than 260.0	75,600
260.0 to less than 264.0	76,500
264.0 to less than 267.5	77,200
267.5 to less than 271.5	78,000
271.5 to less than 275.5	78,700
275.5 to less than 279.5	79,600
279.5 to less than 283.5	80,500
283.5 to less than 287.5	81,100
287.5 to less than 291.5	82,000
291.5 to less than 295.5	82,900
295.5 or more	83,800

- Commence-
ment **3.**—(1) This Act, except subsection 4 of section 72 as re-enacted by section 2, comes into force on the 1st day of January, 1978.
- Idem (2) Subsection 4 of section 72, as re-enacted by section 2, comes into force on the 1st day of July, 1978.
- Short title **4.** The short title of this Act is *The Highway Traffic Amendment Act, 1977*.



An Act to amend
The Highway Traffic Act

1st Reading

November 17th, 1977.

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

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

EXPLANATORY NOTE

Parts VI and VII of the Act regulate the size and weight of vehicles on the highways.

Part VI as recast, has all references to weight restrictions removed. The weight restrictions will now be found in Part VII.

The matters that remain in Part VI are vehicle dimension restrictions (width, height, length), the authority to issue special permits for over-dimensional vehicles and the authority to make regulations in respect of the transportation of dangerous materials. The length permitted without a special permit is being increased from 65 feet to 68 feet 10 inches.

Special permits issued under Part VI apply to oversized vehicles as regulated by Part VI and to overweight vehicles as regulated by Part VII.

Over-dimensional farm vehicles are excluded from the basic provisions of Part VI, but authority is given to deal with them by regulation.

Part VII now will contain the overall weight restrictions. The emphasis is on axle weight requirements which relate to distribution of load over axles as opposed to gross loading on vehicles. The departure from the present Act is in the simplification in determining the weight that may be carried on axles by eliminating the need for the equation presently found in section 74 of the Act and by permitting the reduction of the number of Tables contained in the Regulations.

In addition, there are changes in the weights and measures found in both Parts to allow for an easy future conversion to metric equivalents.

BILL 107

1977

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. Part VI of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 45, sections 21, 23 and 24, 1974, chapter 123, sections 17, 18 and 19, 1974, chapter 130, section 1, 1975 (2nd Session), chapter 6, section 8 and 1976, chapter 37, sections 8, 9 and 10, is repealed and the following substituted therefor: Part VI
(ss. 64-70a),
re-enacted

PART VI

LOAD AND DIMENSIONS

64. In this Part,

Interpre-
tation

- (a) "over-dimensional farm vehicle" means a farm tractor, self-propelled implement of husbandry, implement of husbandry, or any combination of them, having a weight, width, length or height in excess of the limits provided in this Part or Part VII;
- (b) "semi-trailer" means a trailer designed to be operated with the forward part of its body or chassis resting upon the body or chassis of a towing vehicle.

65.—(1) Subject to section 66, no vehicle shall have a greater width than 102 inches while on a highway except, Width of
vehicle

- (a) traction engines, which may have a total width not exceeding 110 inches; or
- (b) motor vehicles and road maintenance machines, operated by or on behalf of a municipality or other authority having jurisdiction and control of a

highway, where such vehicles are engaged in road maintenance, including the removal of snow from a highway.

Width of load

(2) Subject to section 66, no load on a vehicle shall have a greater width than 102 inches while on a highway except,

(a) loads of raw forest products which shall not exceed a total width of 102 inches at point of origin and which shall not exceed a total width of 110 inches at any time during transit; or

(b) loads of loose fodder.

Rear vision mirrors and lamps not included

(3) Where a commercial motor vehicle is equipped with one or more rear vision mirrors that extend in whole or in part beyond either side of the vehicle, or one or more lamps, required by this Act, that extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1.

Load covering mechanism not included in width

(4) Where a commercial motor vehicle or trailer is equipped with a load covering mechanism, extensions in the width of such vehicle caused by the mechanism shall not be included in determining the width of the vehicle under subsection 1 where the mechanism does not extend the width of the vehicle on either side by more than four inches.

Length of vehicle or combination

(5) Subject to section 66, no vehicle, other than a fire apparatus, a semi-trailer, or a bus, including load, shall exceed the length of 35 feet while on a highway, and no combination of vehicles, including load, coupled together shall exceed the total length of 68 feet 10 inches while on a highway.

Length of semi-trailer

(6) Subject to section 66, no semi-trailer, other than a semi-trailer designed for the carriage of vehicles, shall exceed the length of 45 feet while on a highway and any extension in the length of a semi-trailer caused by auxiliary equipment or machinery that is not designed for the transportation of goods shall not be included in determining the length thereof.

Length of bus

(7) No bus shall exceed the length of 40 feet while on a highway, but an increase in the length of a bus caused by the addition of a liquid filled or other energy-absorbing bumper shall not be included in determining the length of the bus.

(8) The council of a city may by by-law prohibit the operation of a combination of vehicles having a total length, including load, in excess of 50 feet while on a highway or a portion thereof under its jurisdiction designated in the by-law. Restricting length of combination of vehicles

(9) Subject to section 66, no vehicle including load, shall have a greater height than 13 feet 6 inches while on a highway. Height of vehicle

(10) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and, in addition, the permit issued for the vehicle under section 6 may be suspended for not more than six months. Penalty

66.—(1) The municipal corporation or other authority having jurisdiction over the highway may, upon application in writing, grant a permit for the moving of heavy vehicles, loads, objects or structures in excess of the dimensional limits set out in section 65 or the weight limits set out in Part VII. Permits

(2) The permit referred to in subsection 1 may be general, or may limit the time and the particular highway that may be used, and may contain conditions relating to the protection of persons and property from injury or damage and the municipal corporation or other authority may require a bond or other security sufficient to cover the cost of repairing any possible damage to the highway. Permits, general or limited

(3) The council of any municipality may, by by-law, provide that a permit referred to in subsection 1 may be issued by an officer of the corporation named therein. Who may issue

(4) In the case of a vehicle for which a permit is required under this section in order to pass over a highway or highways under the jurisdiction of two or more municipalities or other authorities, the permit so to do may be issued by the Ministry, which permit is in lieu of the several permits to be otherwise obtained from the municipal corporations or other authorities, and the permit may limit the time and the particular highway or highways that may be used, and may contain any special conditions or provisions that may be considered necessary to protect the highways from damage, and the Ministry may require a bond or other security sufficient to cover the cost of repairing possible damage to the highway. Issue of permit by Ministry

Responsibility for damages caused to highway

(5) The owner, operator or mover of a heavy vehicle, load, object or structure in respect of which a permit is granted under this section is nevertheless responsible for all damages that may be caused to the highway by reason of the driving, operating or moving of any such heavy vehicle, load, object or structure.

Condition of permit

(6) It is a condition of every permit issued under this section that the original of the permit be carried in the vehicle for which the permit was issued and be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act.

Penalty

(7) Every person who operates or permits the operation of a vehicle or combination of vehicles contrary to any of the conditions of the permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and, in addition, if the condition contravened is in respect of any weight allowed under the permit, a fine shall be imposed as if the person had not been issued a permit under this section and had been convicted of an offence under section 72, 73 or 74 in respect of any gross vehicle weight, axle unit weight or axle group weight in excess of the maximum allowable weights permitted under this Act or the regulations.

Over-hanging load

67.—(1) Every vehicle carrying a load which overhangs the rear of the vehicle to the extent of 4 feet 10 inches or more while on a highway shall display upon such over-hanging load at the extreme rear end thereof at any time from one-half hour after sunset to one-half hour before sunrise, or at any other time when there is insufficient light or unfavourable atmospheric conditions, a red light, and at all other times a red flag or a red marker sufficient to indicate the projection of the load.

Loading of commercial vehicle, etc.

(2) No person shall operate or permit to be operated upon a highway any commercial motor vehicle or trailer unless the load that the vehicle or trailer is carrying is firmly bound, sufficiently covered, or otherwise secured or loaded, in such manner that no portion of the load may become dislodged or fall from the commercial motor vehicle or trailer.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(a) prescribing the manner of loading, and of covering and securing loads on vehicles or classes of vehicles operated on highways or classes of highways;

- (b) designating the vehicles or classes of vehicles and the highways or classes of highways to which any loading, covering or securing provisions are to apply; and
- (c) prescribing classes of vehicles, highways and loads for the purposes of clauses *a* and *b*.

(4) Every person who contravenes any of the provisions of this section or of a regulation made under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and, in addition, his driver's licence issued under section 13 and his permit issued under section 6 may be suspended for a period of not more than sixty days. Penalty

68.—(1) The Lieutenant Governor in Council may make regulations, Regulations re carriage of explosives, etc.

- (a) classifying and defining explosives and dangerous materials;
- (b) regulating or prohibiting the transportation of explosives and dangerous materials or any class thereof by a vehicle on a highway;
- (c) regulating the preparation and packaging of explosives and dangerous materials or any class thereof to be transported by a vehicle on a highway; and
- (d) requiring the labelling of packages and containers of explosives and dangerous materials or any class thereof and prescribing the labels to be attached to such packages and containers.

(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

(3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than three months, or to both. Penalty

Over-dimensional farm vehicles exempt


69.—(1) The provisions of this Part, other than regulations made under this section, do not apply to over-dimensional farm vehicles.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) regulating or prohibiting the movement of over-dimensional farm vehicles or classes thereof on a highway or on classes of highways;
- (b) requiring that escort vehicles or classes of escort vehicles accompany over-dimensional farm vehicles or classes thereof on a highway or classes of highways;
- (c) prescribing the types, specifications and locations of markings, signs and lights that shall be carried by over-dimensional farm vehicles and escort vehicles or classes of either or both of them on a highway or classes of highways;
- (d) prescribing conditions for the movement of over-dimensional farm vehicles on a highway or classes of highways relating to the protection of persons and property from injury or damage.

s. 65 (1, 2, 5, 6, 7, 9), re-enacted

 2. On the 1st day of April, 1978, subsections 1, 2, 5, 6, 7 and 9 of section 65 of *The Highway Traffic Act*, as re-enacted by section 1 of this Act, are repealed and the following substituted therefor:

Width of vehicle

(1) Subject to section 66, no vehicle shall have a greater width than 102-23/64 inches while on a highway except,

- (a) traction engines, which may have a total width not exceeding 110-15/64 inches; or
- (b) motor vehicles and road maintenance machines, operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway, where such vehicles are engaged in road maintenance, including the removal of snow from a highway.

Width of load

(2) Subject to section 66, no load on a vehicle shall have a greater width than 102-23/64 inches while on a highway except,

- (a) loads of raw forest products which shall not exceed a total width of 102-23/64 inches at point of origin and which shall not exceed a total width of 110-15/64 inches at any time during transit; or
- (b) loads of loose fodder.

.

(5) Subject to section 66, no vehicle, other than a fire apparatus, a semi-trailer, or a bus, including load, shall exceed the length of 36 feet 1-1/16 inches while on a highway, and no combination of vehicles, including load, coupled together shall exceed the total length of 68 feet 10-49/64 inches while on a highway.

Length of vehicle or combination

(6) Subject to section 66, no semi-trailer, other than a semi-trailer designed for the carriage of vehicles, shall exceed the length of 45 feet 11-11/64 inches while on a highway and any extension in the length of a semi-trailer caused by auxiliary equipment or machinery that is not designed for the transportation of goods shall not be included in determining the length thereof.

Length of semi-trailer

(7) No bus shall exceed the length of 41 feet 1/8 inch while on a highway, but an increase in the length of a bus caused by the addition of a liquid filled or other energy-absorbing bumper shall not be included in determining the length of the bus.

Length of bus

.

(9) Subject to section 66, no vehicle including load, shall have a greater height than 13 feet 7 3/8 inches while on a highway.

Height of vehicle

3. Part VII of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, sections 25, 26, 27 and 28, 1974, chapter 123, section 20, 1974, chapter 130, section 2 and 1976, chapter 37, sections 11 and 12, and 1977, chapter 1, section 1, is repealed and the following substituted therefor:

Part VII (ss. 71-81), re-enacted

PART VII

WEIGHT

70.—(1) In this Part,

Interpretation

- (a) "axle" means an assembly of two or more wheels whose centres are in one transverse vertical plane and which are transmitting weight to the highway;

- (b) "axle group weight" means that part of the gross vehicle weight in pounds transmitted to the highway by a two axle group, three axle group or four axle group;
- (c) "axle unit" means any single axle, dual axle or triple axle;
- (d) "axle unit weight" means that part of the gross vehicle weight in pounds transmitted to the highway by an axle unit;
- (e) "Class A Highway" means a highway designated as such by the Minister;
- (f) "Class B Highway" means a highway not designated by the Minister as a Class A Highway;
- (g) "dual axle" means any two consecutive axles whose centres are more than 39.5 inches apart and that,
 - (i) are articulated from a common attachment to the vehicle, or
 - (ii) are designed to automatically equalize the load between the two axles;
- (h) "four axle group" means four consecutive axles, not including the front axle of a motor vehicle,
 - (i) that are entirely within either a motor vehicle or trailer or semi-trailer, and
 - (ii) in which the spacings between the consecutive axles do not exceed 98.5 inches;
- (i) "front axle" means the front axle unit of a motor vehicle;
- (j) "gross vehicle weight" means the total weight in pounds transmitted to the highway by a vehicle, or combination of vehicles, and load;
- (k) "over-dimensional farm vehicles" means the same as it does in Part VI;
- (l) "semi-trailer" means the same as it does in Part VI;
- (m) "single axle" means one or more axles whose centres are included between two parallel transverse vertical planes 39.5 inches apart;

(n) "tank-truck" means a commercial motor vehicle to which there is attached or upon which there has been placed either permanently or otherwise a closed tank having a capacity of 500 gallons or more;

(o) "three axle group" means three consecutive axles, not including the front axle of a motor vehicle,

(i) that do not form a triple axle within the meaning of clause *p*,

(ii) that are entirely within either a motor vehicle or trailer or semi-trailer,

(iii) in which the spacings between the consecutive axles do not exceed 98.5 inches, and

(iv) which are not included in a four axle group within the meaning of clause *h*;

(p) "triple axle" means any three consecutive axles that,

(i) have their consecutive centres equally spaced, and

(ii) have their consecutive centres more than 39.5 inches apart,

and that,

(iii) are articulated from an attachment to the vehicle common to the consecutive axles, or

(iv) are designed to automatically equalize the load between the three axles under all conditions of loading;

(q) "two axle group" means two consecutive single axles, not including the front axle of a motor vehicle,

(i) that are entirely within either a motor vehicle or trailer or semi-trailer,

(ii) in which the spacing between the consecutive axles is less than 78.5 inches, and

- (iii) which are not included in a three axle group within the meaning of clause *o* or a four axle group within the meaning of clause *h*.

Designation
by Minister

(2) The Minister may designate a highway as a Class A Highway.

Over-
dimensional
farm
vehicles

(3) The provisions of this Part do not apply to over-dimensional farm vehicles.

Consecutive
axles

(4) Where three consecutive axles that are articulated from an attachment to the vehicle common to the consecutive axles are not a triple axle within the meaning of clause *p* of subsection 1 because their consecutive centres are not equally spaced, that one of the three consecutive axles that is most remote from the centre axle of the consecutive axles shall be deemed to be a single axle and the other two axles shall be deemed to be a dual axle.

Idem

(5) Where three consecutive axles that are not articulated from an attachment to the vehicle common to the consecutive axles are not a triple axle within the meaning of clause *p* of subsection 1 because their consecutive centres are not equally spaced, any two of the axles that are articulated from an attachment to the vehicle common to the two axles shall be deemed to be a dual axle and the third of the three axles shall be deemed to be a single axle.

Spacing
between
axles

(6) The spacing between axles is the shortest distance between the centre of rotation of one axle and the centre of rotation of the other.

Axle
spacing
distance

(7) For the purposes of Tables 1 and 2, the axle spacing is the distance measured between the outer axles forming an axle unit.

Idem

(8) For the purposes of Tables 3, 4 and 5, the axle group spacing is the distance measured between the outer axles forming a two axle group, three axle group or four axle group.

Restrictions
as to weight
on tires

71.—(1) Subject to section 66, no vehicle,

- (a) equipped with tires of less than 5.9 inches in width where the weight upon any inch in the width of the tire exceeds 504 pounds; or

- (b) equipped with tires of 5.9 inches or more in width where the weight upon any inch in the width of the tire exceeds 616 pounds,

shall be operated on a highway.

(2) For the purpose of this section, where a tire width ^{How tire width ascertained} has been marked thereon by the manufacturer, the width of the tire shall be deemed to be as so marked.

72.—(1) Subject to section 66, no vehicle or combination ^{Maximum allowable axle unit weights} of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where the axle unit weight on an axle unit, whether or not part of any axle group, exceeds,

- (a) for a single axle with single tires, 19,800 pounds;
- (b) for a single axle with dual tires, 22,000 pounds;
- (c) for a dual axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 1; or
- (d) for a triple axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 2.

(2) Notwithstanding subsection 1, the maximum allowable ^{Restriction of weights allowed under subs. 1} axle unit weight for a dual axle shall not exceed 39,600 pounds unless the axle is equipped with dual tires.

(3) Notwithstanding subsection 1, the maximum allowable ^{Idem} axle unit weight for a triple axle shall not exceed 59,400 pounds unless the axle is equipped with dual tires.

(4) Subject to subsection 1, the maximum allowable ^{Idem} axle unit weight for a single front axle shall not exceed 11,000 pounds unless the driver of a vehicle or combination of vehicles produces verification in writing as to the manufacturer's gross axle weight rating for such single front axle, and in such case the maximum allowable axle unit weight on such single front axle shall not exceed the manufacturer's gross axle weight rating.

73. Subject to section 66, no vehicle or combination of ^{Maximum allowable axle group weights} vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where any axle group weight exceeds,

- (a) for a two axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 3;
- (b) for a three axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 4; or
- (c) for a four axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 5.

Maximum
allowable
gross
vehicle
weights

74.—(1) Subject to section 66, no vehicle or combination of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where the gross vehicle weight exceeds the least of,

- (a) the axle unit weight on the front axle, not exceeding the maximum weight permitted on such axle under section 72, plus the sum of the maximum allowable weights for all other axle units of the vehicle or combination of vehicles as set out in section 72;
- (b) the axle unit weight on the front axle, not exceeding the maximum weight permitted on such axle under section 72, plus the sum of the maximum allowable weights for any two axle groups, three axle groups or four axle groups, or any combination thereof, as set out in section 73, plus the maximum allowable weight for any axle unit or units excluding the front axle and excluding any axle unit or units which are part of an axle group, as set out in section 72; or
- (c) that weight prescribed in the regulations.

Exception
to subs. 1

(2) Where the weight permitted under clause *c* of subsection 1 is the least and where the weight permitted a vehicle or combination of vehicles under this subsection as it existed on the 31st day of December, 1977 exceeds by 1,000 pounds or more the weight permitted under subsection 1 on or after the 1st day of January, 1978, the Minister may grant a special gross vehicle weight authority permitting the vehicle or combination of vehicles to operate on a Class A Highway at the gross vehicle weight set out in the authority, but no authority issued under this subsection shall permit a gross vehicle weight in excess of 140,000 pounds.

Where
subs. 2
does not
apply

(3) Subsection 2 does not apply,

- (a) in respect of a single commercial motor vehicle, other than a tractor, which was manufactured after the 31st day of March, 1978; or
- (b) in respect of a combination of a tractor and other vehicles, the vehicle directly attached to the tractor, which was manufactured after the 31st day of March, 1978.

(4) An application for an authority under subsection 2 shall be made in accordance with the terms and conditions prescribed by regulation and shall be made not later than the 30th day of June, 1978. ^{Application for authority}

(5) The driver of a vehicle or combination of vehicles being operated on a highway under an authority issued pursuant to subsection 2 shall produce, when demanded by a police officer or an officer appointed for carrying out the provisions of this Act, the authority or a true copy thereof. ^{Driver to produce authority}

(6) Every person who operates or permits the operation of a vehicle or combination of vehicles under an authority issued pursuant to subsection 2 where the gross vehicle weight exceeds the gross vehicle weight permitted by the authority is guilty of an offence and on summary conviction a fine shall be imposed as if the person had not been issued the authority and had been convicted of an offence under subsection 1 in respect of any gross vehicle weight in excess of the weight permitted under subsection 1. ^{Penalty}

(7) Where a vehicle or combination of vehicles for which an authority is issued pursuant to subsection 2 is operated upon a highway while the weight on the front axle of the vehicle or combination of vehicles varies by more than 1,000 pounds from the weight specified for the front axle on the authority, then the authority shall be deemed not to apply. ^{Where authority does not apply}

(8) An authority issued under subsection 2 expires with the 31st day of December, 1986. ^{Expiry of authority}

(9) The Lieutenant Governor in Council may make regulations prescribing, ^{Regulations}

- (a) the manner in which an application may be submitted and the information to be provided;
- (b) the conditions precedent to the issuance of an authority pursuant to this section;

- (c) conditions attaching to an authority issued pursuant to this section;
- (d) fees for processing applications; and
- (e) the gross vehicle weights to be set out in any authority issued pursuant to this section and the method of calculating such weight.

Raw forest products allowance during freeze-up

75.—(1) Notwithstanding sections 72, 73, 74 and subsection 1 of section 77, during freeze-up the maximum allowable gross vehicle weight for a vehicle or combination of vehicles, while used exclusively for the transportation of raw forest products, shall be 110 per cent of that weight for which a permit has been issued for the vehicle or combination of vehicles in accordance with section 6, provided no axle unit weight, axle group weight or gross vehicle weight exceeds by more than 10 per cent that weight prescribed in this Act or the regulations for such vehicle or combination of vehicles.

Designated by Minister

(2) For the purposes of this section, the Minister may designate by regulation the date on which a "freeze-up" shall commence and the date on which a "freeze-up" shall terminate.

Prohibition

(3) No vehicle or combination of vehicles having a weight in excess of that authorized in subsection 1 shall be operated on a highway.

Prohibition re operation on Class B Highway

76. Subject to section 66, no vehicle or combination of vehicles shall be operated on a Class B Highway where the weight upon one axle exceeds 18,000 pounds, or, if the axles are spaced less than 7 feet 10 inches apart, where the weight upon one axle exceeds 12,100 pounds.

Operating within permitted weight

R.S.O. 1970, c. 392

77.—(1) Subject to subsection 1 of section 16 of *The Public Vehicles Act*, no vehicle or combination of vehicles having a permit issued in accordance with section 6 of this Act, the fee for which is based upon gross vehicle weight, shall be operated on any highway where the gross vehicle weight exceeds that for which the permit was issued.

Permit to be carried re commercial motor vehicle

(2) The permit issued for a commercial motor vehicle and for every trailer drawn by it, or a true copy thereof, shall, whenever the vehicle is on a highway, be carried by the driver thereof or placed in some readily accessible position in the vehicle and shall be produced when demanded by a police officer or an officer appointed for carrying out

the provisions of this Act or *The Public Commercial Vehicles Act*. R.S.O. 1970.
c. 375

(3) Notwithstanding subsection 1 and subject to sections 72, 73 and 74, where a conversion unit is used to convert a two axle tractor into a three axle tractor and the fee prescribed in the regulations in respect of the conversion unit is paid, the vehicle or combination of vehicles to which the conversion unit is attached may operate on a highway at a maximum gross vehicle weight of 15,400 pounds in excess of the gross vehicle weight for which a permit was issued for the vehicle or combination of vehicles in accordance with section 6 and the Ministry shall issue a receipt for the fee so prescribed and paid. Exception to subs. 1

(4) The receipt issued by the Ministry in accordance with subsection 3 shall, whenever a vehicle is on a highway with the conversion unit referred to in subsection 3 attached, be carried by the driver of the vehicle or placed in some readily accessible position in the vehicle and shall be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*. Receipt re excess weight payment to be carried

(5) Subject to section 66, during the months of March and April no commercial motor vehicle or trailer, other than a public vehicle, or a two axle tank-truck or two axle truck while either is used as referred to in subsection 6, shall be operated or drawn on any portion of the King's Highway to which the provisions of this subsection are declared applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where any axle of such commercial motor vehicle or trailer transmits to the highway a weight in excess of 11,000 pounds, and the Lieutenant Governor in Council may declare this subsection to apply. Weight of load during March and April

(6) Subject to section 66, during the months of March and April no two axle tank-truck, while used exclusively for the transportation of liquid or gaseous heating fuel, and no two axle truck, while used exclusively for the transportation of live stock feed, shall be operated on any portion of the King's Highway to which the provisions of subsection 5 are declared applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where any axle transmits to the highway a weight in excess of 16,500 pounds. Idem

(7) Subject to section 66, during the months of March and April no vehicle having a carrying capacity in excess Idem

of 2,200 pounds, other than a motor vehicle or trailer, shall be operated on any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where the weight upon any inch in the width of tire exceeds 280 pounds, and the Lieutenant Governor in Council may declare this subsection to apply.

Vehicles
exempt from
provisions
of subs. 5, 7

(8) Subsections 5 and 7 do not apply to,

(a) a vehicle operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway, where such vehicle is engaged in highway maintenance, including the carriage and application of abrasives or chemicals to the highway, the stockpiling of abrasives or chemicals for use on a highway, or engaged in the removal of snow from a highway; or

(b) vehicles used exclusively for the transportation of milk.

Extension of
period on
King's
Highway,
etc.

(9) In the case of the King's Highway and highways in territory without municipal organization, the Lieutenant Governor in Council may declare the provisions of subsections 5, 7 and 13 to apply during any period of the year.

Extension of
period by
municipality

(10) The municipal corporation or other authority having jurisdiction over any highway may declare the provisions of subsections 5, 7 and 13 to apply to highways under its jurisdiction during any period of the year.

Regulations
limiting
weight
passing
over bridge

(11) The Lieutenant Governor in Council may make regulations limiting the gross vehicle weight of any vehicle or any class thereof passing over a bridge forming part of the King's Highway or a highway in territory without municipal organization and notice of the limit of the weights fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

By-laws
limiting
weight
passing
over bridge

(12) The municipal corporation or other authority having jurisdiction over a bridge may by by-law limit the gross vehicle weight of any vehicle or any class thereof passing over such bridge, and the requirements of subsection 11 with respect to the posting up of notice apply thereto.

Penalty

(13) Every person who contravenes any of the provisions of subsection 1, 5, 6 or 7 or of a regulation made under subsection 11 or a by-law made under section 12 is guilty

of an offence and on summary conviction is liable to a fine as if he had been convicted under section 79 and, in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the permit issued under section 6 for the vehicle or vehicles involved, and such suspension shall continue until a new permit at the maximum gross vehicle weight allowable has been issued for the vehicle or vehicles and the fee therefor has been paid.

78.—(1) Where a police officer or officer appointed for carrying out the provisions of this Act has reasonable and probable grounds to believe that the gross vehicle weight of a vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or a permit issued for the vehicle or combination of vehicles, he may weigh the same, by means of either portable or stationary scales, and may require that the vehicle or combination of vehicles be driven to the nearest weigh scales.

Power of
officer to
have load
weighed

(2) Subsection 1 does not apply where the driver of a commercial motor vehicle produces an inventory showing the true gross vehicle weight of the vehicle or combination of vehicles.

Production
of
inventory

(3) Where a police officer or officer appointed for carrying out the provisions of this Act has reasonable and probable grounds to question the validity of any documents produced in accordance with subsection 2, or to believe the axle unit weight or axle group weight of a vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or a permit issued for the vehicle or combination of vehicles, he may weigh the same, by means of either portable or stationary scales, and may require that the vehicle or combination of vehicles be driven to the nearest weigh scales.

Power of
officer to
have load
weighed

(4) To determine whether the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may conduct such examination as is necessary to ascertain the distance between the axles of the vehicle or combination of vehicles.

Power of
officer to
measure
axle space

(5) Where it is found that the gross vehicle weight of any vehicle or combination of vehicles is in excess of that permitted under this Act or the regulations or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this

Power of
officer to
require part
of load
removed

Act may require the driver to remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

Penalty

(6) Every driver who,

- (a) when required, pursuant to subsection 1 or 3, to proceed to a weighing machine refuses or fails to do so;
- (b) when required, pursuant to subsection 5, to remove part of a load refuses or fails to do so or to make arrangements to do so; or
- (c) obstructs any weighing, measuring or examination authorized by this section,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Penalty

79. Every person who contravenes any of the provisions of subsection 1 of section 71, sections 72, 73 and 74, subsection 3 of section 75 or section 76 is guilty of an offence and on summary conviction is liable to a fine of,

- (a) \$0.91 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is less than 11,000 pounds, but in no case shall the fine be less than \$50;
- (b) \$1.82 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 11,000 pounds or more but is less than 16,500 pounds;
- (c) \$2.73 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 16,500 pounds or more but is less than 22,000 pounds;
- (d) \$3.64 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 22,000 pounds or more but is less than 33,000 pounds; and

- (e) \$4.55 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 33,000 pounds or more.

80. Every consignor of goods, or his agent or employee, ^{Over-}loading by ^{consignor} who causes a vehicle or combination of vehicles not owned by the consignor to be loaded,

- (a) knowing that so loaded the weight of the vehicle, or combination of vehicles, and load when operated on a highway exceeds the limits for weight in any of the provisions of subsection 1 of section 71, section 74 or 75, or in the regulations, or in a permit referred to in subsection 1 of section 77; and
- (b) intending that the vehicle or combination of vehicles so loaded be operated on a highway,

is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under section 79.

81. The Lieutenant Governor in Council may make regu-^{Regulations}lations,

- (a) prescribing maximum allowable gross vehicle weights;
- (b) designating classes of vehicles which are exempt from the provisions of sections 72, 73 and 74 and prescribing the weights applicable for the vehicles so exempted; and
- (c) prescribing markings to be placed on vehicles.

TABLE 1

MAXIMUM ALLOWABLE WEIGHT FOR
DUAL AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Inches)	Maximum Allowable Weight (Pounds)
39.5 to less than 47.0	34,000
47.0 to less than 51.0	37,000
51.0 to less than 55.0	37,900
55.0 to less than 59.0	38,600
59.0 to less than 63.0	39,500
63.0 to less than 67.0	40,300
67.0 to less than 71.0	41,200
71.0 or more	42,100

TABLE 2

MAXIMUM ALLOWABLE WEIGHT FOR
TRIPLE AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Inches)	Maximum Allowable Weight (Pounds)
78.5 to less than 94.5	43,000
94.5 to less than 110.0	47,000
110.0 to less than 114.0	47,800
114.0 to less than 118.0	48,500
118.0 to less than 122.0	49,400
122.0 to less than 126.0	50,000
126.0 to less than 130.0	50,900
130.0 to less than 134.0	51,600
134.0 to less than 138.0	52,500
138.0 to less than 141.5	53,100
141.5 to less than 145.5	53,800
145.5 to less than 149.5	54,700
149.5 to less than 153.5	55,300
153.5 to less than 157.7	56,200
157.5 to less than 161.5	56,900
161.5 to less than 165.5	57,800
165.5 to less than 169.5	58,400
169.5 to less than 173.0	59,300
173.0 to less than 177.0	60,000
177.0 to less than 181.0	60,800
181.0 to less than 185.0	61,500
185.0 to less than 189.0	62,400
189.0 or more	63,000

TABLE 3

MAXIMUM ALLOWABLE WEIGHT FOR
TWO AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
39.5 to less than 47.0	33,100
47.0 to less than 51.0	35,900
51.0 to less than 55.0	36,800
55.0 to less than 59.0	37,500
59.0 to less than 63.0	38,400
63.0 to less than 67.0	39,200
67.0 to less than 71.0	40,100
71.0 to less than 75.0	41,000
75.0 to less than 78.5	42,100

TABLE 4

MAXIMUM ALLOWABLE WEIGHT FOR
THREE AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
78.5 to less than 94.5	41,900
94.5 to less than 102.5	45,000
102.5 to less than 110.0	46,300
110.0 to less than 114.0	47,200
114.0 to less than 118.0	47,800
118.0 to less than 122.0	48,500
122.0 to less than 126.0	49,400
126.0 to less than 130.0	50,000
130.0 to less than 134.0	50,700
134.0 to less than 138.0	51,600
138.0 to less than 141.5	52,200
141.5 to less than 145.5	52,900
145.5 to less than 149.5	53,800
149.5 to less than 153.5	54,500
153.5 to less than 157.5	55,100
157.5 to less than 161.5	56,000
161.5 to less than 165.5	56,700
165.5 to less than 169.5	57,300
169.5 to less than 173.0	58,200
173.0 to less than 177.0	58,900
177.0 to less than 181.0	59,500
181.0 to less than 185.0	60,400
185.0 to less than 189.0	61,100
189.0 to less than 193.0	61,700
193.0 to less than 197.0	62,400
197.0 or more	63,000

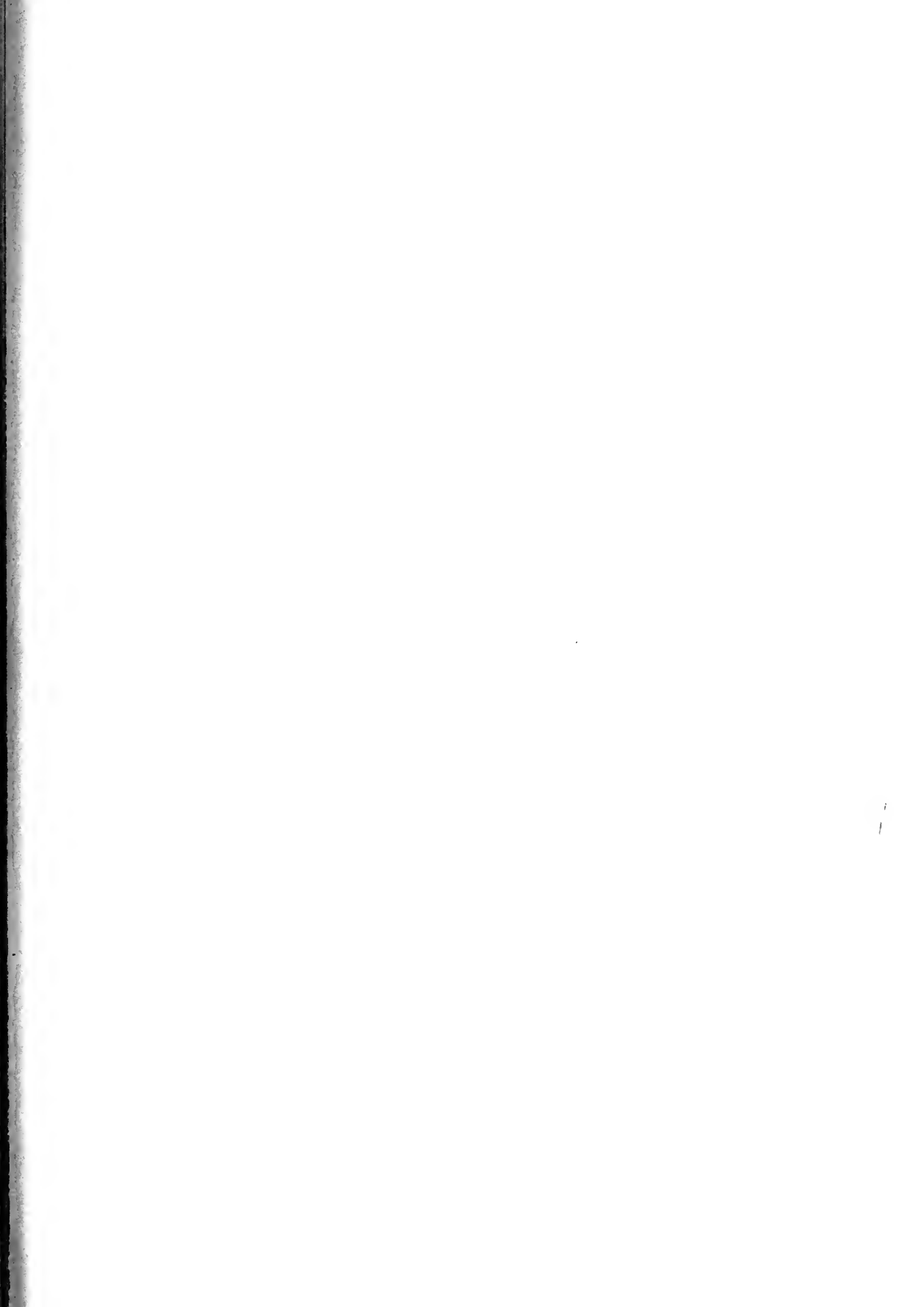
TABLE 5

MAXIMUM ALLOWABLE WEIGHT FOR
FOUR AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
less than 141.5	51,800
141.5 to less than 145.5	52,700
145.5 to less than 149.5	53,400
149.5 to less than 153.5	54,200
153.5 to less than 157.5	54,900
157.5 to less than 161.5	55,800
161.5 to less than 165.5	56,700
165.5 to less than 169.5	57,300
169.5 to less than 173.0	58,200
173.0 to less than 177.0	58,900
177.0 to less than 181.0	59,700
181.0 to less than 185.0	60,600
185.0 to less than 189.0	61,300
189.0 to less than 193.0	62,200
193.0 to less than 197.0	62,800
197.0 to less than 201.0	63,700
201.0 to less than 204.5	64,600
204.5 to less than 208.5	65,300
208.5 to less than 212.5	66,100
212.5 to less than 216.5	66,800
216.5 to less than 220.5	67,700
220.5 to less than 224.5	68,600
224.5 to less than 228.5	69,200
228.5 to less than 232.5	70,100
232.5 to less than 236.0	70,800
236.0 to less than 240.0	71,600
240.0 to less than 244.0	72,500
244.0 to less than 248.0	73,200
248.0 to less than 252.0	74,100
252.0 to less than 256.0	74,700
256.0 to less than 260.0	75,600
260.0 to less than 264.0	76,500
264.0 to less than 267.5	77,200
267.5 to less than 271.5	78,000
271.5 to less than 275.5	78,700
275.5 to less than 279.5	79,600
279.5 to less than 283.5	80,500
283.5 to less than 287.5	81,100
287.5 to less than 291.5	82,000
291.5 to less than 295.5	82,900
295.5 or more	83,800

- 4.—(1) This Act, except subsection 4 of section 72 as re-enacted ^{Commence-} by section 3, comes into force on the 1st day of January, _{ment} 1978.
- (2) Subsection 4 of section 72, as re-enacted by section 3, ^{Idem} comes into force on the 1st day of July, 1978.
5. The short title of this Act is *The Highway Traffic Amendment* ^{Short title} *Act, 1977*.





An Act to amend
The Highway Traffic Act

1st Reading

November 17th, 1977.

2nd Reading

December 13th, 1977

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

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

BILL 107

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications



BILL 107

1977

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. Part VI of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 45, sections 21, 23 and 24, 1974, chapter 123, sections 17, 18 and 19, 1974, chapter 130, section 1, 1975 (2nd Session), chapter 6, section 8 and 1976, chapter 37, sections 8, 9 and 10, is repealed and the following substituted therefor:

Part VI
(ss. 64-70a),
re-enacted

PART VI

LOAD AND DIMENSIONS

64. In this Part,

Interpre-
tation

- (a) "over-dimensional farm vehicle" means a farm tractor, self-propelled implement of husbandry, implement of husbandry, or any combination of them, having a weight, width, length or height in excess of the limits provided in this Part or Part VII;
- (b) "semi-trailer" means a trailer designed to be operated with the forward part of its body or chassis resting upon the body or chassis of a towing vehicle.

65.—(1) Subject to section 66, no vehicle shall have a greater width than 102 inches while on a highway except,

Width of
vehicle

- (a) traction engines, which may have a total width not exceeding 110 inches; or
- (b) motor vehicles and road maintenance machines, operated by or on behalf of a municipality or other authority having jurisdiction and control of a

highway, where such vehicles are engaged in road maintenance, including the removal of snow from a highway.

Width of load

(2) Subject to section 66, no load on a vehicle shall have a greater width than 102 inches while on a highway except,

(a) loads of raw forest products which shall not exceed a total width of 102 inches at point of origin and which shall not exceed a total width of 110 inches at any time during transit; or

(b) loads of loose fodder.

Rear vision mirrors and lamps not included

(3) Where a commercial motor vehicle is equipped with one or more rear vision mirrors that extend in whole or in part beyond either side of the vehicle, or one or more lamps, required by this Act, that extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1.

Load covering mechanism not included in width

(4) Where a commercial motor vehicle or trailer is equipped with a load covering mechanism, extensions in the width of such vehicle caused by the mechanism shall not be included in determining the width of the vehicle under subsection 1 where the mechanism does not extend the width of the vehicle on either side by more than four inches.

Length of vehicle or combination

(5) Subject to section 66, no vehicle, other than a fire apparatus, a semi-trailer, or a bus, including load, shall exceed the length of 35 feet while on a highway, and no combination of vehicles, including load, coupled together shall exceed the total length of 68 feet 10 inches while on a highway.

Length of semi-trailer

(6) Subject to section 66, no semi-trailer, other than a semi-trailer designed for the carriage of vehicles, shall exceed the length of 45 feet while on a highway and any extension in the length of a semi-trailer caused by auxiliary equipment or machinery that is not designed for the transportation of goods shall not be included in determining the length thereof.

Length of bus

(7) No bus shall exceed the length of 40 feet while on a highway, but an increase in the length of a bus caused by the addition of a liquid filled or other energy-absorbing bumper shall not be included in determining the length of the bus.

(8) The council of a city may by by-law prohibit the operation of a combination of vehicles having a total length, including load, in excess of 50 feet while on a highway or a portion thereof under its jurisdiction designated in the by-law. Restricting length of combination of vehicles

(9) Subject to section 66, no vehicle including load, shall have a greater height than 13 feet 6 inches while on a highway. Height of vehicle

(10) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and, in addition, the permit issued for the vehicle under section 6 may be suspended for not more than six months. Penalty

66.—(1) The municipal corporation or other authority having jurisdiction over the highway may, upon application in writing, grant a permit for the moving of heavy vehicles, loads, objects or structures in excess of the dimensional limits set out in section 65 or the weight limits set out in Part VII. Permits

(2) The permit referred to in subsection 1 may be general, or may limit the time and the particular highway that may be used, and may contain conditions relating to the protection of persons and property from injury or damage and the municipal corporation or other authority may require a bond or other security sufficient to cover the cost of repairing any possible damage to the highway. Permits, general or limited

(3) The council of any municipality may, by by-law, provide that a permit referred to in subsection 1 may be issued by an officer of the corporation named therein. Who may issue

(4) In the case of a vehicle for which a permit is required under this section in order to pass over a highway or highways under the jurisdiction of two or more municipalities or other authorities, the permit so to do may be issued by the Ministry, which permit is in lieu of the several permits to be otherwise obtained from the municipal corporations or other authorities, and the permit may limit the time and the particular highway or highways that may be used, and may contain any special conditions or provisions that may be considered necessary to protect the highways from damage, and the Ministry may require a bond or other security sufficient to cover the cost of repairing possible damage to the highway. Issue of permit by Ministry

Responsibility for damages caused to highway

(5) The owner, operator or mover of a heavy vehicle, load, object or structure in respect of which a permit is granted under this section is nevertheless responsible for all damages that may be caused to the highway by reason of the driving, operating or moving of any such heavy vehicle, load, object or structure.

Condition of permit

(6) It is a condition of every permit issued under this section that the original of the permit be carried in the vehicle for which the permit was issued and be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act.

Penalty

(7) Every person who operates or permits the operation of a vehicle or combination of vehicles contrary to any of the conditions of the permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and, in addition, if the condition contravened is in respect of any weight allowed under the permit, a fine shall be imposed as if the person had not been issued a permit under this section and had been convicted of an offence under section 72, 73 or 74 in respect of any gross vehicle weight, axle unit weight or axle group weight in excess of the maximum allowable weights permitted under this Act or the regulations.

Over-hanging load

67.—(1) Every vehicle carrying a load which overhangs the rear of the vehicle to the extent of 4 feet 10 inches or more while on a highway shall display upon such over-hanging load at the extreme rear end thereof at any time from one-half hour after sunset to one-half hour before sunrise, or at any other time when there is insufficient light or unfavourable atmospheric conditions, a red light, and at all other times a red flag or a red marker sufficient to indicate the projection of the load.

Loading of commercial vehicle, etc.

(2) No person shall operate or permit to be operated upon a highway any commercial motor vehicle or trailer unless the load that the vehicle or trailer is carrying is firmly bound, sufficiently covered, or otherwise secured or loaded, in such manner that no portion of the load may become dislodged or fall from the commercial motor vehicle or trailer.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(a) prescribing the manner of loading, and of covering and securing loads on vehicles or classes of vehicles operated on highways or classes of highways;

- (b) designating the vehicles or classes of vehicles and the highways or classes of highways to which any loading, covering or securing provisions are to apply; and
- (c) prescribing classes of vehicles, highways and loads for the purposes of clauses *a* and *b*.

(4) Every person who contravenes any of the provisions of this section or of a regulation made under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and, in addition, his driver's licence issued under section 13 and his permit issued under section 6 may be suspended for a period of not more than sixty days. Penalty

68.—(1) The Lieutenant Governor in Council may make regulations, Regulations re carriage of explosives, etc.

- (a) classifying and defining explosives and dangerous materials;
- (b) regulating or prohibiting the transportation of explosives and dangerous materials or any class thereof by a vehicle on a highway;
- (c) regulating the preparation and packaging of explosives and dangerous materials or any class thereof to be transported by a vehicle on a highway; and
- (d) requiring the labelling of packages and containers of explosives and dangerous materials or any class thereof and prescribing the labels to be attached to such packages and containers.

(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

(3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than three months, or to both. Penalty

Over-dimensional farm vehicles exempt

69. —(1) The provisions of this Part, other than regulations made under this section, do not apply to over-dimensional farm vehicles.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) regulating or prohibiting the movement of over-dimensional farm vehicles or classes thereof on a highway or on classes of highways;
- (b) requiring that escort vehicles or classes of escort vehicles accompany over-dimensional farm vehicles or classes thereof on a highway or classes of highways;
- (c) prescribing the types, specifications and locations of markings, signs and lights that shall be carried by over-dimensional farm vehicles and escort vehicles or classes of either or both of them on a highway or classes of highways;
- (d) prescribing conditions for the movement of over-dimensional farm vehicles on a highway or classes of highways relating to the protection of persons and property from injury or damage.

s. 65 (1, 2, 5, 6, 7, 9), re-enacted

2. On the 1st day of April, 1978, subsections 1, 2, 5, 6, 7 and 9 of section 65 of *The Highway Traffic Act*, as re-enacted by section 1 of this Act, are repealed and the following substituted therefor:

Width of vehicle

(1) Subject to section 66, no vehicle shall have a greater width than 102-23/64 inches while on a highway except,

- (a) traction engines, which may have a total width not exceeding 110-15/64 inches; or
- (b) motor vehicles and road maintenance machines, operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway, where such vehicles are engaged in road maintenance, including the removal of snow from a highway.

Width of load

(2) Subject to section 66, no load on a vehicle shall have a greater width than 102-23/64 inches while on a highway except,

- (a) loads of raw forest products which shall not exceed a total width of 102-23/64 inches at point of origin and which shall not exceed a total width of 110-15/64 inches at any time during transit; or
- (b) loads of loose fodder.

.

(5) Subject to section 66, no vehicle, other than a fire apparatus, a semi-trailer, or a bus, including load, shall exceed the length of 36 feet 1-1/16 inches while on a highway, and no combination of vehicles, including load, coupled together shall exceed the total length of 68 feet 10-49/64 inches while on a highway.

Length of vehicle or combination

(6) Subject to section 66, no semi-trailer, other than a semi-trailer designed for the carriage of vehicles, shall exceed the length of 45 feet 11-11/64 inches while on a highway and any extension in the length of a semi-trailer caused by auxiliary equipment or machinery that is not designed for the transportation of goods shall not be included in determining the length thereof.

Length of semi-trailer

(7) No bus shall exceed the length of 41 feet 1/8 inch while on a highway, but an increase in the length of a bus caused by the addition of a liquid filled or other energy-absorbing bumper shall not be included in determining the length of the bus.

Length of bus

.

(9) Subject to section 66, no vehicle including load, shall have a greater height than 13 feet 7 3/8 inches while on a highway.

Height of vehicle

3. Part VII of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, sections 25, 26, 27 and 28, 1974, chapter 123, section 20, 1974, chapter 130, section 2 and 1976, chapter 37, sections 11 and 12, and 1977, chapter 1, section 1, is repealed and the following substituted therefor:

Part VII (ss. 71-81), re-enacted

PART VII

WEIGHT

70.—(1) In this Part,

Interpretation

- (a) "axle" means an assembly of two or more wheels whose centres are in one transverse vertical plane and which are transmitting weight to the highway;

- (b) "axle group weight" means that part of the gross vehicle weight in pounds transmitted to the highway by a two axle group, three axle group or four axle group;
- (c) "axle unit" means any single axle, dual axle or triple axle;
- (d) "axle unit weight" means that part of the gross vehicle weight in pounds transmitted to the highway by an axle unit;
- (e) "Class A Highway" means a highway designated as such by the Minister;
- (f) "Class B Highway" means a highway not designated by the Minister as a Class A Highway;
- (g) "dual axle" means any two consecutive axles whose centres are more than 39.5 inches apart and that,
 - (i) are articulated from a common attachment to the vehicle, or
 - (ii) are designed to automatically equalize the load between the two axles;
- (h) "four axle group" means four consecutive axles, not including the front axle of a motor vehicle,
 - (i) that are entirely within either a motor vehicle or trailer or semi-trailer, and
 - (ii) in which the spacings between the consecutive axles do not exceed 98.5 inches;
- (i) "front axle" means the front axle unit of a motor vehicle;
- (j) "gross vehicle weight" means the total weight in pounds transmitted to the highway by a vehicle, or combination of vehicles, and load;
- (k) "over-dimensional farm vehicles" means the same as it does in Part VI;
- (l) "semi-trailer" means the same as it does in Part VI;
- (m) "single axle" means one or more axles whose centres are included between two parallel transverse vertical planes 39.5 inches apart;

(n) "tank-truck" means a commercial motor vehicle to which there is attached or upon which there has been placed either permanently or otherwise a closed tank having a capacity of 500 gallons or more;

(o) "three axle group" means three consecutive axles, not including the front axle of a motor vehicle,

(i) that do not form a triple axle within the meaning of clause *p*,

(ii) that are entirely within either a motor vehicle or trailer or semi-trailer,

(iii) in which the spacings between the consecutive axles do not exceed 98.5 inches, and

(iv) which are not included in a four axle group within the meaning of clause *k*;

(p) "triple axle" means any three consecutive axles that,

(i) have their consecutive centres equally spaced, and

(ii) have their consecutive centres more than 39.5 inches apart,

and that,

(iii) are articulated from an attachment to the vehicle common to the consecutive axles, or

(iv) are designed to automatically equalize the load between the three axles under all conditions of loading;

(q) "two axle group" means two consecutive single axles, not including the front axle of a motor vehicle,

(i) that are entirely within either a motor vehicle or trailer or semi-trailer,

(ii) in which the spacing between the consecutive axles is less than 78.5 inches, and

- (iii) which are not included in a three axle group within the meaning of clause *o* or a four axle group within the meaning of clause *h*.

Designation
by Minister

(2) The Minister may designate a highway as a Class A Highway.

Over-
dimensional
farm
vehicles

(3) The provisions of this Part do not apply to over-dimensional farm vehicles.

Consecutive
axles

(4) Where three consecutive axles that are articulated from an attachment to the vehicle common to the consecutive axles are not a triple axle within the meaning of clause *p* of subsection 1 because their consecutive centres are not equally spaced, that one of the three consecutive axles that is most remote from the centre axle of the consecutive axles shall be deemed to be a single axle and the other two axles shall be deemed to be a dual axle.

Idem

(5) Where three consecutive axles that are not articulated from an attachment to the vehicle common to the consecutive axles are not a triple axle within the meaning of clause *p* of subsection 1 because their consecutive centres are not equally spaced, any two of the axles that are articulated from an attachment to the vehicle common to the two axles shall be deemed to be a dual axle and the third of the three axles shall be deemed to be a single axle.

Spacing
between
axles

(6) The spacing between axles is the shortest distance between the centre of rotation of one axle and the centre of rotation of the other.

Axle
spacing
distance

(7) For the purposes of Tables 1 and 2, the axle spacing is the distance measured between the outer axles forming an axle unit.

Idem

(8) For the purposes of Tables 3, 4 and 5, the axle group spacing is the distance measured between the outer axles forming a two axle group, three axle group or four axle group.

Restrictions
as to weight
on tires

71.—(1) Subject to section 66, no vehicle,

- (a) equipped with tires of less than 5.9 inches in width where the weight upon any inch in the width of the tire exceeds 504 pounds; or

- (b) equipped with tires of 5.9 inches or more in width where the weight upon any inch in the width of the tire exceeds 616 pounds,

shall be operated on a highway.

(2) For the purpose of this section, where a tire width ^{How tire width} has been marked thereon by the manufacturer, the width ^{ascertained} of the tire shall be deemed to be as so marked.

72.—(1) Subject to section 66, no vehicle or combination ^{Maximum allowable axle unit weights} of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where the axle unit weight on an axle unit, whether or not part of any axle group, exceeds,

- (a) for a single axle with single tires, 19,800 pounds;
- (b) for a single axle with dual tires, 22,000 pounds;
- (c) for a dual axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 1; or
- (d) for a triple axle, that weight shown in Column 2 opposite the corresponding axle spacing shown in Column 1 of Table 2.

(2) Notwithstanding subsection 1, the maximum allowable ^{Restriction of weights allowed under subs. 1} axle unit weight for a dual axle shall not exceed 39,600 pounds unless the axle is equipped with dual tires.

(3) Notwithstanding subsection 1, the maximum allowable ^{Idem} axle unit weight for a triple axle shall not exceed 59,400 pounds unless the axle is equipped with dual tires.

(4) Subject to subsection 1, the maximum allowable ^{Idem} axle unit weight for a single front axle shall not exceed 11,000 pounds unless the driver of a vehicle or combination of vehicles produces verification in writing as to the manufacturer's gross axle weight rating for such single front axle, and in such case the maximum allowable axle unit weight on such single front axle shall not exceed the manufacturer's gross axle weight rating.

73. Subject to section 66, no vehicle or combination of ^{Maximum allowable axle group weights} vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where any axle group weight exceeds,

- (a) for a two axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 3;
- (b) for a three axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 4; or
- (c) for a four axle group, that weight shown in Column 2 opposite the corresponding axle group spacing shown in Column 1 of Table 5.

Maximum
allowable
gross
vehicle
weights

74.—(1) Subject to section 66, no vehicle or combination of vehicles, unless exempted under the regulations, shall be operated on a Class A Highway where the gross vehicle weight exceeds the least of,

- (a) the axle unit weight on the front axle, not exceeding the maximum weight permitted on such axle under section 72, plus the sum of the maximum allowable weights for all other axle units of the vehicle or combination of vehicles as set out in section 72;
- (b) the axle unit weight on the front axle, not exceeding the maximum weight permitted on such axle under section 72, plus the sum of the maximum allowable weights for any two axle groups, three axle groups or four axle groups, or any combination thereof, as set out in section 73, plus the maximum allowable weight for any axle unit or units excluding the front axle and excluding any axle unit or units which are part of an axle group, as set out in section 72; or
- (c) that weight prescribed in the regulations.

Exception
to subs. 1

(2) Where the weight permitted under clause *c* of subsection 1 is the least and where the weight permitted a vehicle or combination of vehicles under this subsection as it existed on the 31st day of December, 1977 exceeds by 1,000 pounds or more the weight permitted under subsection 1 on or after the 1st day of January, 1978, the Minister may grant a special gross vehicle weight authority permitting the vehicle or combination of vehicles to operate on a Class A Highway at the gross vehicle weight set out in the authority, but no authority issued under this subsection shall permit a gross vehicle weight in excess of 140,000 pounds.

Where
subs. 2
does not
apply

- (3) Subsection 2 does not apply,

- (a) in respect of a single commercial motor vehicle, other than a tractor, which was manufactured after the 31st day of March, 1978; or
- (b) in respect of a combination of a tractor and other vehicles, the vehicle directly attached to the tractor, which was manufactured after the 31st day of March, 1978.

(4) An application for an authority under subsection 2 shall be made in accordance with the terms and conditions prescribed by regulation and shall be made not later than the 30th day of June, 1978. Application for authority

(5) The driver of a vehicle or combination of vehicles being operated on a highway under an authority issued pursuant to subsection 2 shall produce, when demanded by a police officer or an officer appointed for carrying out the provisions of this Act, the authority or a true copy thereof. Driver to produce authority

(6) Every person who operates or permits the operation of a vehicle or combination of vehicles under an authority issued pursuant to subsection 2 where the gross vehicle weight exceeds the gross vehicle weight permitted by the authority is guilty of an offence and on summary conviction a fine shall be imposed as if the person had not been issued the authority and had been convicted of an offence under subsection 1 in respect of any gross vehicle weight in excess of the weight permitted under subsection 1. Penalty

(7) Where a vehicle or combination of vehicles for which an authority is issued pursuant to subsection 2 is operated upon a highway while the weight on the front axle of the vehicle or combination of vehicles varies by more than 1,000 pounds from the weight specified for the front axle on the authority, then the authority shall be deemed not to apply. Where authority does not apply

(8) An authority issued under subsection 2 expires with the 31st day of December, 1986. Expiry of authority

(9) The Lieutenant Governor in Council may make regulations prescribing, Regulations

- (a) the manner in which an application may be submitted and the information to be provided;
- (b) the conditions precedent to the issuance of an authority pursuant to this section;

- (c) conditions attaching to an authority issued pursuant to this section;
- (d) fees for processing applications; and
- (e) the gross vehicle weights to be set out in any authority issued pursuant to this section and the method of calculating such weight.

Raw forest products allowance during freeze-up

75.—(1) Notwithstanding sections 72, 73, 74 and subsection 1 of section 77, during freeze-up the maximum allowable gross vehicle weight for a vehicle or combination of vehicles, while used exclusively for the transportation of raw forest products, shall be 110 per cent of that weight for which a permit has been issued for the vehicle or combination of vehicles in accordance with section 6, provided no axle unit weight, axle group weight or gross vehicle weight exceeds by more than 10 per cent that weight prescribed in this Act or the regulations for such vehicle or combination of vehicles.

Designated by Minister

(2) For the purposes of this section, the Minister may designate by regulation the date on which a “freeze-up” shall commence and the date on which a “freeze-up” shall terminate.

Prohibition

(3) No vehicle or combination of vehicles having a weight in excess of that authorized in subsection 1 shall be operated on a highway.

Prohibition re operation on Class B Highway

76. Subject to section 66, no vehicle or combination of vehicles shall be operated on a Class B Highway where the weight upon one axle exceeds 18,000 pounds, or, if the axles are spaced less than 7 feet 10 inches apart, where the weight upon one axle exceeds 12,100 pounds.

Operating within permitted weight
R.S.O. 1970, c. 392

77.—(1) Subject to subsection 1 of section 16 of *The Public Vehicles Act*, no vehicle or combination of vehicles having a permit issued in accordance with section 6 of this Act, the fee for which is based upon gross vehicle weight, shall be operated on any highway where the gross vehicle weight exceeds that for which the permit was issued.

Permit to be carried re commercial motor vehicle

(2) The permit issued for a commercial motor vehicle and for every trailer drawn by it, or a true copy thereof, shall, whenever the vehicle is on a highway, be carried by the driver thereof or placed in some readily accessible position in the vehicle and shall be produced when demanded by a police officer or an officer appointed for carrying out

the provisions of this Act or *The Public Commercial Vehicles Act*. R.S.O. 1970.
c. 375

(3) Notwithstanding subsection 1 and subject to sections 72, 73 and 74, where a conversion unit is used to convert a two axle tractor into a three axle tractor and the fee prescribed in the regulations in respect of the conversion unit is paid, the vehicle or combination of vehicles to which the conversion unit is attached may operate on a highway at a maximum gross vehicle weight of 15,400 pounds in excess of the gross vehicle weight for which a permit was issued for the vehicle or combination of vehicles in accordance with section 6 and the Ministry shall issue a receipt for the fee so prescribed and paid. Exception to subs. 1

(4) The receipt issued by the Ministry in accordance with subsection 3 shall, whenever a vehicle is on a highway with the conversion unit referred to in subsection 3 attached, be carried by the driver of the vehicle or placed in some readily accessible position in the vehicle and shall be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this Act or *The Public Commercial Vehicles Act*. Receipt re excess weight payment to be carried

(5) Subject to section 66, during the months of March and April no commercial motor vehicle or trailer, other than a public vehicle, or a two axle tank-truck or two axle truck while either is used as referred to in subsection 6, shall be operated or drawn on any portion of the King's Highway to which the provisions of this subsection are declared applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where any axle of such commercial motor vehicle or trailer transmits to the highway a weight in excess of 11,000 pounds, and the Lieutenant Governor in Council may declare this subsection to apply. Weight of load during March and April

(6) Subject to section 66, during the months of March and April no two axle tank-truck, while used exclusively for the transportation of liquid or gaseous heating fuel, and no two axle truck, while used exclusively for the transportation of live stock feed, shall be operated on any portion of the King's Highway to which the provisions of subsection 5 are declared applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where any axle transmits to the highway a weight in excess of 16,500 pounds. Idem

(7) Subject to section 66, during the months of March and April no vehicle having a carrying capacity in excess Idem

of 2,200 pounds, other than a motor vehicle or trailer, shall be operated on any portion of the King's Highway to which the provisions of this subsection are declared to be applicable by the Lieutenant Governor in Council or upon any other highway not within a city or separated town, where the weight upon any inch in the width of tire exceeds 280 pounds, and the Lieutenant Governor in Council may declare this subsection to apply.

Vehicles
exempt from
provisions
of subs. 5, 7

(8) Subsections 5 and 7 do not apply to,

(a) a vehicle operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway, where such vehicle is engaged in highway maintenance, including the carriage and application of abrasives or chemicals to the highway, the stockpiling of abrasives or chemicals for use on a highway, or engaged in the removal of snow from a highway; or

(b) vehicles used exclusively for the transportation of milk.

Extension of
period on
King's
Highway,
etc.

(9) In the case of the King's Highway and highways in territory without municipal organization, the Lieutenant Governor in Council may declare the provisions of subsections 5, 7 and 13 to apply during any period of the year.

Extension of
period by
municipality

(10) The municipal corporation or other authority having jurisdiction over any highway may declare the provisions of subsections 5, 7 and 13 to apply to highways under its jurisdiction during any period of the year.

Regulations
limiting
weight
passing
over bridge

(11) The Lieutenant Governor in Council may make regulations limiting the gross vehicle weight of any vehicle or any class thereof passing over a bridge forming part of the King's Highway or a highway in territory without municipal organization and notice of the limit of the weights fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

By-laws
limiting
weight
passing
over bridge

(12) The municipal corporation or other authority having jurisdiction over a bridge may by by-law limit the gross vehicle weight of any vehicle or any class thereof passing over such bridge, and the requirements of subsection 11 with respect to the posting up of notice apply thereto.

Penalty

(13) Every person who contravenes any of the provisions of subsection 1, 5, 6 or 7 or of a regulation made under subsection 11 or a by-law made under section 12 is guilty

of an offence and on summary conviction is liable to a fine as if he had been convicted under section 79 and, in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the permit issued under section 6 for the vehicle or vehicles involved, and such suspension shall continue until a new permit at the maximum gross vehicle weight allowable has been issued for the vehicle or vehicles and the fee therefor has been paid.

78.—(1) Where a police officer or officer appointed for carrying out the provisions of this Act has reasonable and probable grounds to believe that the gross vehicle weight of a vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or a permit issued for the vehicle or combination of vehicles, he may weigh the same, by means of either portable or stationary scales, and may require that the vehicle or combination of vehicles be driven to the nearest weigh scales.

Power of officer to have load weighed

(2) Subsection 1 does not apply where the driver of a commercial motor vehicle produces an inventory showing the true gross vehicle weight of the vehicle or combination of vehicles.

Production of inventory

(3) Where a police officer or officer appointed for carrying out the provisions of this Act has reasonable and probable grounds to question the validity of any documents produced in accordance with subsection 2, or to believe the axle unit weight or axle group weight of a vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or a permit issued for the vehicle or combination of vehicles, he may weigh the same, by means of either portable or stationary scales, and may require that the vehicle or combination of vehicles be driven to the nearest weigh scales.

Power of officer to have load weighed

(4) To determine whether the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may conduct such examination as is necessary to ascertain the distance between the axles of the vehicle or combination of vehicles.

Power of officer to measure part of axle space

(5) Where it is found that the gross vehicle weight of any vehicle or combination of vehicles is in excess of that permitted under this Act or the regulations or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this

Power of officer to require part of load removed

Act may require the driver to remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

Penalty

(6) Every driver who,

- (a) when required, pursuant to subsection 1 or 3, to proceed to a weighing machine refuses or fails to do so;
- (b) when required, pursuant to subsection 5, to remove part of a load refuses or fails to do so or to make arrangements to do so; or
- (c) obstructs any weighing, measuring or examination authorized by this section,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Penalty

79. Every person who contravenes any of the provisions of subsection 1 of section 71, sections 72, 73 and 74, subsection 3 of section 75 or section 76 is guilty of an offence and on summary conviction is liable to a fine of,

- (a) \$0.91 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is less than 11,000 pounds, but in no case shall the fine be less than \$50;
- (b) \$1.82 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 11,000 pounds or more but is less than 16,500 pounds;
- (c) \$2.73 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 16,500 pounds or more but is less than 22,000 pounds;
- (d) \$3.64 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 22,000 pounds or more but is less than 33,000 pounds; and

- (e) \$4.55 per hundredweight, or part thereof, for any weight in excess of that permitted under this Act or the regulations, where the overweight is 33,000 pounds or more.

80. Every consignor of goods, or his agent or employee, ^{Over-}loading by ^{consignor} who causes a vehicle or combination of vehicles not owned by the consignor to be loaded,

- (a) knowing that so loaded the weight of the vehicle, or combination of vehicles, and load when operated on a highway exceeds the limits for weight in any of the provisions of subsection 1 of section 71, section 74 or 75, or in the regulations, or in a permit referred to in subsection 1 of section 77; and
- (b) intending that the vehicle or combination of vehicles so loaded be operated on a highway,

is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under section 79.

81. The Lieutenant Governor in Council may make regu-^{Regulations}lations,

- (a) prescribing maximum allowable gross vehicle weights;
- (b) designating classes of vehicles which are exempt from the provisions of sections 72, 73 and 74 and prescribing the weights applicable for the vehicles so exempted; and
- (c) prescribing markings to be placed on vehicles.

TABLE 1
 MAXIMUM ALLOWABLE WEIGHT FOR
 DUAL AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Inches)	Maximum Allowable Weight (Pounds)
39.5 to less than 47.0	34,000
47.0 to less than 51.0	37,000
51.0 to less than 55.0	37,900
55.0 to less than 59.0	38,600
59.0 to less than 63.0	39,500
63.0 to less than 67.0	40,300
67.0 to less than 71.0	41,200
71.0 or more	42,100

TABLE 2
 MAXIMUM ALLOWABLE WEIGHT FOR
 TRIPLE AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Inches)	Maximum Allowable Weight (Pounds)
78.5 to less than 94.5	43,000
94.5 to less than 110.0	47,000
110.0 to less than 114.0	47,800
114.0 to less than 118.0	48,500
118.0 to less than 122.0	49,400
122.0 to less than 126.0	50,000
126.0 to less than 130.0	50,900
130.0 to less than 134.0	51,600
134.0 to less than 138.0	52,500
138.0 to less than 141.5	53,100
141.5 to less than 145.5	53,800
145.5 to less than 149.5	54,700
149.5 to less than 153.5	55,300
153.5 to less than 157.7	56,200
157.5 to less than 161.5	56,900
161.5 to less than 165.5	57,800
165.5 to less than 169.5	58,400
169.5 to less than 173.0	59,300
173.0 to less than 177.0	60,000
177.0 to less than 181.0	60,800
181.0 to less than 185.0	61,500
185.0 to less than 189.0	62,400
189.0 or more	63,000

TABLE 3

MAXIMUM ALLOWABLE WEIGHT FOR
TWO AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
39.5 to less than 47.0	33,100
47.0 to less than 51.0	35,900
51.0 to less than 55.0	36,800
55.0 to less than 59.0	37,500
59.0 to less than 63.0	38,400
63.0 to less than 67.0	39,200
67.0 to less than 71.0	40,100
71.0 to less than 75.0	41,000
75.0 to less than 78.5	42,100

TABLE 4

MAXIMUM ALLOWABLE WEIGHT FOR
THREE AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
78.5 to less than 94.5	41,900
94.5 to less than 102.5	45,000
102.5 to less than 110.0	46,300
110.0 to less than 114.0	47,200
114.0 to less than 118.0	47,800
118.0 to less than 122.0	48,500
122.0 to less than 126.0	49,400
126.0 to less than 130.0	50,000
130.0 to less than 134.0	50,700
134.0 to less than 138.0	51,600
138.0 to less than 141.5	52,200
141.5 to less than 145.5	52,900
145.5 to less than 149.5	53,800
149.5 to less than 153.5	54,500
153.5 to less than 157.5	55,100
157.5 to less than 161.5	56,000
161.5 to less than 165.5	56,700
165.5 to less than 169.5	57,300
169.5 to less than 173.0	58,200
173.0 to less than 177.0	58,900
177.0 to less than 181.0	59,500
181.0 to less than 185.0	60,400
185.0 to less than 189.0	61,100
189.0 to less than 193.0	61,700
193.0 to less than 197.0	62,400
197.0 or more	63,000

TABLE 5

MAXIMUM ALLOWABLE WEIGHT FOR
FOUR AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Inches)	Maximum Allowable Weight (Pounds)
less than 141.5	51,800
141.5 to less than 145.5	52,700
145.5 to less than 149.5	53,400
149.5 to less than 153.5	54,200
153.5 to less than 157.5	54,900
157.5 to less than 161.5	55,800
161.5 to less than 165.5	56,700
165.5 to less than 169.5	57,300
169.5 to less than 173.0	58,200
173.0 to less than 177.0	58,900
177.0 to less than 181.0	59,700
181.0 to less than 185.0	60,600
185.0 to less than 189.0	61,300
189.0 to less than 193.0	62,200
193.0 to less than 197.0	62,800
197.0 to less than 201.0	63,700
201.0 to less than 204.5	64,600
204.5 to less than 208.5	65,300
208.5 to less than 212.5	66,100
212.5 to less than 216.5	66,800
216.5 to less than 220.5	67,700
220.5 to less than 224.5	68,600
224.5 to less than 228.5	69,200
228.5 to less than 232.5	70,100
232.5 to less than 236.0	70,800
236.0 to less than 240.0	71,600
240.0 to less than 244.0	72,500
244.0 to less than 248.0	73,200
248.0 to less than 252.0	74,100
252.0 to less than 256.0	74,700
256.0 to less than 260.0	75,600
260.0 to less than 264.0	76,500
264.0 to less than 267.5	77,200
267.5 to less than 271.5	78,000
271.5 to less than 275.5	78,700
275.5 to less than 279.5	79,600
279.5 to less than 283.5	80,500
283.5 to less than 287.5	81,100
287.5 to less than 291.5	82,000
291.5 to less than 295.5	82,900
295.5 or more	83,800

- 4.—(1) This Act, except subsection 4 of section 72 as re-enacted ^{Commence-} by section 3, comes into force on the 1st day of January, ^{ment} 1978.
- (2) Subsection 4 of section 72, as re-enacted by section 3, ^{Idem} comes into force on the 1st day of July, 1978.
5. The short title of this Act is *The Highway Traffic Amendment* ^{Short title} Act, 1977.





An Act to amend
The Highway Traffic Act

1st Reading

November 17th, 1977.

2nd Reading

December 13th, 1977

3rd Reading

December 13th, 1977

THE HON. J. W. SNOW
Minister of Transportation and
Communications

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Condominium Act

MR. LELUK

EXPLANATORY NOTE

The purpose of the Bill is to give priority to the lien that a condominium corporation holds against a condominium unit when a unit owner defaults in the payment of common expenses.

BILL 108

1977

An Act to amend The Condominium Act

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

1. Subsection 4 of section 13 of *The Condominium Act*, being ^{s.13 (4).} chapter 77 of the Revised Statutes of Ontario, 1970, as re-_{re-enacted} enacted by the Statutes of Ontario, 1974, chapter 133, section 10, is repealed and the following substituted therefor:

(4) Where an owner defaults in his obligation to con-^{Lien}tribute to the corporation towards the common expenses in the proportion allocated to his unit, the corporation has a lien for the unpaid amount against that unit and its appurtenant common interest and the lien of the corporation has priority to every other claim against the unit and appurtenant common interest except a lien for arrears of municipal taxes.

2. This Act comes into force on the day it receives Royal Assent. ^{Commence-}ment
3. The short title of this Act is *The Condominium Amendment* ^{Short title} *Act, 1977*.

An Act to amend
The Condominium Act

1st Reading

November 17th, 1977

2nd Reading

3rd Reading

MR. LEIUK

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act respecting Special Education Programs

Ms. GIGANTES

EXPLANATORY NOTE

This Bill guarantees access to education to all children of compulsory school age who suffer from any kind of chronic physical disability, or any kind of learning disability including the blind, deaf, autistic, mentally handicapped and perceptually handicapped, or for children who are exceptionally gifted.

BILL 109

1977

An Act respecting Special Education Programs

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, "board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board. Interpretation

2. Every board shall,

- (a) establish special education programs to provide special education services to pupils who require such services in order to make educational progress and who have a right to attend a school under the jurisdiction of the board; Board to establish special education programs
- (b) establish special education programs to provide special education services to gifted pupils who require such services in order to realize their full learning potential;
- (c) establish and administer tests for the purpose of testing the children, with parents' or guardian's consent, under the jurisdiction of the board in order to determine those children who are likely to benefit from special education programs provided by the board.

3. The fact that a child is chronically physically disabled, blind, deaf, autistic, mentally handicapped or suffers from a perceptual handicap or other learning disability, or that a child is exceptionally gifted does not release a board from its duty under this Act to provide special education services to that child unless the child's parent or guardian consents to the placing of that child in and the child is admitted to a school or class for trainable retarded children, the Ontario School Alternative educational services

for the Blind, an Ontario School for the Deaf, or other educational institution adequate to meet the child's needs.

Costs to
be borne
by board

4. Where a child receives special education services from a board or other educational institution referred to in section 3, any additional transportation, food and accommodation costs incurred as a result of that child receiving such services shall be paid,

(a) by the board that has jurisdiction over the child;
or

(b) where the child attends an educational institution not under board jurisdiction, by the board that would have jurisdiction over the child if that child was not receiving special education services.

Consent
required

5. Nothing in this Act shall be deemed to authorize a board to place a child in a special education program without the consent of the parent or guardian of that child and where a parent or guardian refuses to provide such consent, the board is under a duty to integrate the child into the regular school program and to make all reasonable effort to help the child make educational progress in that program.

Commence-
ment

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

Short title

7. The short title of this Act is *The Special Education Programs Act, 1977*.







An Act respecting
Special Education Programs

1st Reading

November 22nd, 1977

2nd Reading

3rd Reading

MS. GIGANTES

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Planning Act

THE HON. J. R. RHODES
Minister of Housing

EXPLANATORY NOTES

SECTIONS 1, 2, 3, 4 AND 5. The amendments contained in sections 1 to 5 of the Bill are complementary to the amendments contained in section 7. Section 7 repeals the present subsections 13 to 20 of section 42 of the Act and replaces them with new subsections 13 to 25. Consequently, it is necessary to change certain references to those subsections in other sections of the Act (sections 29, 30, 30a, 30b and 32) to provide the correct reference.

SECTION 6. Subsections 24 to 28 of section 35 of the Act provide a procedure whereby a zoning by-law may come into effect without the approval of the Municipal Board where no person objects. The re-enactment of subsection 28 will deem such by-laws to conform to the municipality's official plan as is now the case where a zoning by-law is approved by the Board. Set out below is subsection 28 as proposed to be re-enacted showing underlined the words to be added:

(28) *Any by-law approved by the Municipal Board under this section and any by-law that comes into effect under subsection 25 shall be conclusively deemed to be in conformity with the official plan then in effect in the municipality.*

The re-enactment of subsection 26 brings its wording into conformity with subsection 9. Set out below is subsection 26 as it now reads showing underlined the words to be changed by the re-enactment:

(26) *Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and a notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law does not come into effect until approved by the Municipal Board.*

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. Subsection 6 of section 29 of *The Planning Act*, being chapter ^{s. 29 (6),} 349 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 2, section 1, is further amended by striking out "20" in the sixth line and inserting in lieu thereof "25". _{amended}
2. Subsection 4 of section 30 of the said Act, as amended by ^{s. 30 (4),} the Statutes of Ontario, 1971, chapter 2, section 2, is further amended by striking out "3 to 20" in the second line and inserting in lieu thereof "3 to 25". _{amended}
3. Subsection 3 of section 30a of the said Act, as enacted by ^{s. 30a (3),} the Statutes of Ontario, 1976, chapter 64, section 1, is amended by striking out "3 to 20" in the third line and inserting in lieu thereof "3 to 25". _{amended}
4. Subsection 4 of section 30b of the said Act, as enacted by ^{s. 30b (4),} the Statutes of Ontario, 1976, chapter 64, section 1, is amended by striking out "3 to 20" in the fourth line and inserting in lieu thereof "3 to 25". _{amended}
5. Subsection 2 of section 32 of the said Act is amended by ^{s. 32 (2),} striking out "4 to 19" in the sixth line and inserting in lieu thereof "4 to 24". _{amended}
- 6.—(1) Subsection 26 of section 35 of the said Act is repealed ^{s. 35 (26),} and the following substituted therefor: _{re-enacted}

(26) Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and a notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law does not come into effect without the approval of the Municipal Board. ^{Where notice of objection filed}

s. 35 (28).
re-enacted

(2) Subsection 28 of the said section 35 is repealed and the following substituted therefor:

Approved
by-law
deemed to
conform
to plan

(28) Any by-law approved by the Municipal Board under this section and any by-law that comes into effect under subsection 25 shall be conclusively deemed to be in conformity with the official plan then in effect in the municipality.

s. 42.
subss. (13-20).
re-enacted

7. Section 42 of the said Act is amended by striking out,

- (a) subsection 13, as re-enacted by the Statutes of Ontario, 1972, chapter 118, section 10;
- (b) subsection 13a, as enacted by the Statutes of Ontario, 1972, chapter 118, section 10;
- (c) subsection 14, as amended by the Statutes of Ontario, 1972, chapter 118, section 10;
- (d) subsection 15, as re-enacted by the Statutes of Ontario, 1976, chapter 64, section 6;
- (e) subsections 16 and 17;
- (f) subsection 18, as re-enacted by the Statutes of Ontario, 1976, chapter 64, section 6;
- (g) subsection 19, as re-enacted by the Statutes of Ontario, 1976, chapter 64, section 6; and
- (h) subsection 20,

and inserting in lieu thereof:

Appeal

(13) An appeal to the Municipal Board from a decision of the committee may be brought if leave to appeal the decision is granted by the Municipal Board as hereinafter in this section provided.

Idem

(14) The applicant, the Minister or any other person who has an interest in the matter may apply for leave to appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee notice of the application for leave to appeal specifying the grounds of appeal, accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under *The Ontario Municipal Board Act* as payable on an appeal from a committee of adjustment to the Board, within twenty-one days after the sending of the notice under subsection 11.

R.S.O. 1970.
c. 323

SECTION 7. Subsections 13 to 20 of section 42 of the Act provide for the right to appeal to the Municipal Board from any decision of a committee of adjustment and for other matters related to any such appeal. These provisions also apply to the decisions made by land division committees and by planning boards delegated the consent-granting function in the territorial districts.

Under the subsections as re-enacted, an appeal to the Municipal Board will lie only if leave to appeal has first been obtained from the Municipal Board. The Municipal Board is empowered to deal with an application for leave to appeal without holding a public hearing, but the application to the Board must be accompanied by an affidavit setting out the facts in support of the appeal. Where the Board refuses leave to appeal, it shall give reasons therefor.

In addition, the amendments provide that the decision or order of the Municipal Board on an application for leave to appeal and on the appeal itself is not subject to petition to the Executive Council under section 94 of *The Ontario Municipal Board Act*.

Subsections 13 to 20 as they now appear are set out below:

- (13) *The applicant, the Minister or any other person who has an interest in the matter may appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee notice of appeal accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under The Ontario Municipal Board Act as payable on an appeal from a committee of adjustment to the Board, within twenty-one days after the sending of the notice under subsection 11.*
- (13a) *The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection 13 shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection 13 to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Municipal Board.*
- (14) *If within such twenty-one days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality.*
- (15) *On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine.*
- (16) *The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.*
- (17) *The costs on the appeal are in the discretion of the Municipal Board.*
- (18) *When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.*

- (19) *The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.*
- (20) *When a consent has been granted on an application under subsection 3, the secretary-treasurer shall, after the decision of the committee is final and binding under subsection 14, give a certificate to the applicant stating that such consent has been given, and the certificate is conclusive evidence that such consent was given and that the provisions of this Act leading to such consent have been complied with.*

(15) The notice of an application for leave to appeal shall be accompanied by an affidavit setting out the facts in support of the appeal. ^{Affidavit}

(16) The secretary-treasurer of a committee, upon receipt of a notice of an application for leave to appeal served or sent to him under subsection 14 shall forthwith forward the application for leave to appeal and the amount of the fee mentioned in subsection 14 to the Municipal Board by registered mail together with a certified copy of the decision setting out the reasons for the decision, all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Municipal Board. ^{Duty of secretary-treasurer}

(17) If within such twenty-one days no application for leave to appeal is made, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. ^{Where no appeal}

(18) In making the determination on an application for leave to appeal, the Municipal Board shall not be required to hold a hearing and the decision or order of the Board is not subject to petition under section 94 of *The Ontario Municipal Board Act*. ^{Powers of Board on application for leave to appeal R.S.O. 1970, c. 323}

(19) The Municipal Board shall notify in writing the person who applied for leave to appeal of the decision of the Board on the application, including, in the case where leave to appeal is refused, reasons for the decision, and the Board shall likewise notify the secretary-treasurer of the committee of adjustment as well as the person who made the application to the committee where such person is not the same person who applied for leave to appeal. ^{Notice}

(20) Where leave to appeal is granted, the Municipal Board shall hold a hearing of the appeal of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine. ^{Hearing}

(21) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application and the decision or order of the Board is not subject to petition under section 94 of *The Ontario Municipal Board Act*. ^{Powers of Board on appeal}

(22) The costs on the appeal are in the discretion of the Municipal Board. ^{Costs}

- Notice of decision (23) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.
- Idem (24) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.
- Certificate that consent given (25) When a consent has been granted on an application under subsection 3, the secretary-treasurer shall, after the decision of the committee is final and binding under subsection 17, give a certificate to the applicant stating that such consent has been given, and the certificate is conclusive evidence that such consent was given and that the provisions of this Act leading to such consent have been complied with, provided that where a consent has been granted on an appeal to the Municipal Board the order made by the Municipal Board has the same force and effect as a certificate.
- Commencement **8.**—(1) This Act, except sections 1, 2, 3, 4, 5 and 7, comes into force on the day it receives Royal Assent.
- Idem (2) Sections 1, 2, 3, 4, 5 and 7 come into force on the 1st day of January, 1978.
- Short title **9.** The short title of this Act is *The Planning Amendment Act, 1977*.





An Act to amend
The Planning Act

1st Reading

November 24th, 1977

2nd Reading

3rd Reading

THE HON. J. R. RHODES
Minister of Housing

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide for Municipal Hydro-Electric Service
in the County of Oxford**

THE HON. J. A. TAYLOR
Minister of Energy

EXPLANATORY NOTE

The Bill establishes new municipal electric power supply commissions for the area municipalities in the County of Oxford.

A transitional period of up to three months is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members who are qualified as municipal electors in the municipality and who are customers of the commissions.

The council of each area municipality will determine whether, after December 31st, 1978, the members of its commissions should be elected or appointed.

Commencing the 1st day of January, 1978, customers within Tillsonburg presently served by Ontario Hydro's rural retail power distribution system will be supplied with power by the new Tillsonburg commission.

Customers within a township presently served by Ontario Hydro will continue to be served by Ontario Hydro.

The supply of retail power will be reviewed every five years by an Oxford Power Supply Review Committee.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 111

1977

**An Act to provide for
Municipal Hydro-Electric Service
in the County of Oxford**

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

1. In this Act,

Interpre-
tation

- (a) "accumulated net retail equity" means the portion of the equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for rural retail customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" has the same meaning as in *The County of Oxford Act, 1974*; 1974, c. 57
- (c) "County" has the same meaning as in *The County of Oxford Act, 1974*;
- (d) "County Council" has the same meaning as in *The County of Oxford Act, 1974*;
- (e) "electrical service area" means an area supplied with retail power by a commission established by section 2;
- (f) "hydro-electric commission" means,
 - (i) a hydro-electric commission or public utility commission or public utilities commission entrusted with the control and management of works for the retail supply of power and established or deemed to be established under Part III of *The Public Utilities Act*, and R.S.O. 1970,
c. 390

- (ii) a committee of the council of a municipality entrusted with the control and management of works for the retail supply of power on the 31st day of December, 1974;
- (g) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (h) "power" means electrical power and includes electrical energy;
- (i) "regulations" means the regulations made under this Act;
- (j) "retail distribution facilities" means works for the transmission and supply of power at voltages less than 50 kilovolts other than works located within a transformer station that transforms power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Com-
missions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the City of Woodstock, the Town of Ingersoll, the Town of Tillsonburg, the Township of Blandford-Blenheim, the Township of East Zorra-Tavistock, the Township of Norwich, the Township of South-West Oxford and the Township of Zorra is hereby established, and each commission shall be deemed to be a commission established under Part III of *The Public Utilities Act*, and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,
cc. 390, 354

Com-
position.
Woodstock
Public
Utility
Commission

1972, c. 95

(2) The commission for the City of Woodstock established by subsection 1 shall be known as the Woodstock Public Utility Commission and shall consist of the mayor of the City of Woodstock and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the City of Woodstock.

Idem.
Ingersoll
Public
Utility
Commission

(3) The commission for the Town of Ingersoll established by subsection 1 shall be known as the Ingersoll Public Utility Commission and shall consist of the mayor of the Town of Ingersoll and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Town of Ingersoll.

Idem.
Tillsonburg
Public
Utility
Commission

(4) The commission established for the Town of Tillsonburg by subsection 1 shall be known as the Tillsonburg Public Utility Commission and shall consist of the mayor of the Town of Tillsonburg and four additional members who are

qualified electors under *The Municipal Elections Act, 1972* in 1972, c. 95
the Town of Tillsonburg.

(5) The commission established for the Township of Blandford-Blenheim by subsection 1 shall be known as the Blandford-Blenheim Public Utility Commission and shall consist of the mayor of the Township of Blandford-Blenheim and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of Blandford-Blenheim, Idem.
Blandford-
Blenheim
Public
Utility
Commission

- (a) one of whom is a customer of the commission in the electrical service area commonly known as Drumbo;
- (b) one of whom is a customer of the commission in the electrical service area commonly known as Plattsville;
- (c) one of whom is a customer of the commission in the electrical service area commonly known as Princeton; and
- (d) one of whom is a customer of the commission in one of the electrical service areas commonly known as Drumbo, Plattsville and Princeton.

(6) The commission established for the Township of East Zorra-Tavistock by subsection 1 shall be known as the East Zorra-Tavistock Public Utility Commission and shall consist of the mayor of the Township of East Zorra-Tavistock and two additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of East Zorra-Tavistock and who are customers of the commission. Idem.
East Zorra-
Tavistock
Public
Utility
Commission

(7) The commission established for the Township of Norwich by subsection 1 shall be known as the Norwich Public Utility Commission and shall consist of the mayor of the Township of Norwich and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of Norwich, Idem.
Norwich
Public
Utility
Commission

- (a) one of whom is a customer of the commission in the electrical service area commonly known as Burgessville;
- (b) two of whom are customers of the commission in the electrical service area commonly known as Norwich; and

- (c) one of whom is a customer of the commission in the electrical service area commonly known as Otterville.

Idem,
South-West
Oxford
Public
Utility
Commission

1972, c. 95

(8) The commission established for the Township of South-West Oxford by subsection 1 shall be known as the South-West Oxford Public Utility Commission and shall consist of the mayor of the Township of South-West Oxford and two additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of South-West Oxford and who are customers of the commission.

Idem,
Zorra Public
Utility
Commission

(9) The commission established for the Township of Zorra by subsection 1 shall be known as the Zorra Public Utility Commission and shall consist of the mayor of the Township of Zorra and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of Zorra,

- (a) two of whom are customers of the commission in the electrical service area commonly known as Embro; and
- (b) two of whom are customers of the commission in the electrical service area commonly known as Thamesford.

Additional
members of
first com-
missions

(10) For the term expiring with the 31st day of December, 1978, the additional members,

- (a) of the Ingersoll Public Utility Commission established by subsection 1 shall be,
- (i) the two members who are not *ex officio* members of the Ingersoll Public Utilities Commission immediately before the coming into force of this Act, and
- (ii) two persons appointed by the council of the Town of Ingersoll;
- (b) of the Tillsonburg Public Utility Commission established by subsection 1 shall be the members, other than the mayor, of the Tillsonburg Public Utilities Commission immediately before the coming into force of this Act; and
- (c) of the Woodstock Public Utility Commission established by subsection 1 shall be the members, other than the mayor, of the Woodstock Public

Utilities Commission immediately before the coming into force of this Act.

(11) For the term expiring with the 31st day of December, 1978, the additional members of each of the Blandford-Blenheim Public Utility Commission, the East Zorra-Tavistock Public Utility Commission, the Norwich Public Utility Commission, the South-West Oxford Public Utility Commission and the Zorra Public Utility Commission, established under subsection 1, shall be appointed by the council of the area municipality served by each such commission from the members of the hydro-electric commissions that serve the area municipality immediately before the coming into force of this Act. Idem

(12) For terms commencing after the 31st day of December, 1978, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1978, the council of the area municipality provides by by-law that the additional members shall be appointed by the council. Additional members of subsequent commissions

(13) Members of the council of an area municipality served by a commission established by subsection 1 may be appointed as members of the commission, but the members of the council shall not form a majority of the commission. Eligibility of members of council

(14) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed. Term of office

(15) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission. Delegates

(16) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 31st day of December, 1978 shall be fixed on or before the 1st day of April, 1978 in an amount that does not exceed the highest salary paid to members of hydro-electric commissions operating in the County of Oxford on the 1st day of September, 1977. Salary of first commissions

(17) A resignation from the council of a member of a council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the commission and the council. Resignation

Powers
of com-
missions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power, shall, on and after the 1st day of April, 1978, be exercised on behalf of each area municipality by the commission established by section 2 in respect of that area municipality and not by the council of any municipality or any other body.

Idem

R.S.O. 1970,
c. 312

(2) Subject to subsections 3 and 5 and to any subsisting contracts for the supply of power to customers within the meaning of section 37a of *The Ontario Energy Board Act*, on and after the 1st day of April, 1978, each commission established by section 2 has the sole right to supply power within the area municipality in respect of which it is established, and, on behalf of the area municipality, may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality, without electoral assent or other approval or authorization and such contract shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

R.S.O. 1970,
c. 284

Where
Ontario
Hydro to
continue to
supply
power

(3) Notwithstanding subsection 2, but subject to section 4, Ontario Hydro shall continue to supply power in those areas of the townships of Blandford-Blenheim, East Zorra-Tavistock, Norwich, South-West Oxford, and Zorra that it served immediately before the coming into force of this Act, and subsections 8 and 9 and section 7 do not apply.

Application
of
R.S.O. 1970,
c. 354

(4) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the supply of power to the municipal corporation apply to each of the commissions established by section 2.

Direct
customers

(5) With the consent of a commission established by section 2, Ontario Hydro may supply power directly to customers within the municipality in respect of which the commission is established.

Tran-
sitional

(6) Such management and control of works for the distribution and supply of power within the area municipalities as are exercised by hydro-electric commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of March, 1978, but, subject to subsections 7 and 8, any of the assets, powers and responsibilities of such commissions may by agreement be transferred before that date to a commission established by section 2.

(7) On the 1st day of April, 1978, all assets under the control and management of and all liabilities of hydro-electric commissions distributing and selling power in an area municipality to the extent that they pertain to the distribution and supply of power in the municipality, are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Transfer of
assets and
liabilities

(8) Subject to subsections 3 and 5, section 4 and the regulations, each commission established by section 2 shall acquire, on behalf of the area municipality served by the commission, the retail distribution facilities within the municipality used by Ontario Hydro on the 31st day of March, 1978, in the retail distribution of power, including equipment leased by Ontario Hydro to retail customers within the municipality for the use of such power, and the price of the facilities shall be equal to the original cost of the facilities less the sum of the accumulated net retail equity of the customers supplied with power through the facilities and the accumulated depreciation associated with the facilities.

Purchase
of retail
distribu-
tion
facilities
from
Ontario
Hydro

(9) If the price of the facilities referred to in subsection 8 has not been determined by the parties before the 1st day of July, 1978, the price shall be determined by arbitration by a single arbitrator pursuant to *The Arbitrations Act* in accordance with subsection 8 and the regulations, and the decision of the arbitrator shall not be subject to appeal.

Where price
to be deter-
mined by
arbitration

R.S.O. 1970.
c. 25

(10) The references to the 1st day of April, 1978 in subsections 1, 2 and 7 and sections 7 and 8 shall be deemed to refer to the 1st day of January, 1978 and the references to the 31st day of March, 1978 in subsections 6 and 8 and section 7 shall be deemed to refer to the 31st day of December, 1977 both in respect of the Town of Tillsonburg.

Tillsonburg

4.—(1) This section applies when retail power is supplied in any area municipality by both Ontario Hydro and a commission established by section 2.

Application
of section

(2) At least once in every five years, there shall be appointed a committee to be known as the Oxford Power Supply Review Committee composed of eight members, one of whom shall be appointed by the council of each area municipality.

Oxford
Power
Supply
Review
Committee

(3) The Committee shall review the retail supply of power in the County and shall include in its review an evaluation of,

Duties

- (a) the supply of power throughout the County by a single hydro-electric commission; and
- (b) the supply of power throughout an area municipality by a commission established by section 2.

Report

(4) Each Committee shall complete its review within twelve months from the date that it is fully constituted and shall file its report forthwith with Ontario Hydro and send copies of the report to the clerk of the County, to the clerk of each area municipality and to each commission established by section 2.

Vesting
of real
property

5.—(1) All real property transferred pursuant to section 3 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission, shall be vested in the area municipality served by the commission.

Disposi-
tion of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to retain the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater and the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the area municipality served by the commission does not wish to retain the real property in accordance with paragraph 1, the area municipality shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality, and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor pursuant to this subsection shall be paid over to the commission and shall be applied in accordance with *The Public Utilities Act*.

6. Except as otherwise provided in this Act, sections 91 ^{Borrowing} to 112 of *The County of Oxford Act, 1974* apply with neces- ^{1972, c. 57} sary modifications to any borrowing for the purposes of a commission established by section 2.

7.—(1) In this section, “transfer date”, when used in ^{Interpre-} respect of an employee of a hydro-electric commission or ^{tation} Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

(2) On or before the 31st day of March, 1978, each hydro- ^{Transfer of} electric commission in the area municipalities and Ontario ^{employees} Hydro shall designate those of their full-time employees who were employed in the distribution and supply of power in the municipalities on the 1st day of March, 1977, and who continued such employment until the 31st day of March, 1978 or until their transfer dates, as the case may be, and the commissions established by section 2 in respect of those municipalities shall offer employment to the employees so designated.

(3) A person who accepts employment under this section ^{Wages or} is entitled to receive, for a period of one year commencing ^{salaries} on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

(4) Each commission established by section 2 shall be ^{Participa-} deemed to have elected to participate in the Ontario Muni- ^{tion in} cipal Employees Retirement System on the day this Act ^{O.M.E.R.S.} comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

(5) Where a person who accepts employment under this ^{Supple-} section with a commission established by section 2 is ^{mentary} entitled to the benefit of a supplementary agreement between ^{agreements} a hydro-electric commission operating within an area municipality and the Ontario Municipal Employees Retirement Board immediately before his transfer date, the commission shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the hydro-electric commission.

(6) Where a person who accepts employment under this ^{Transfer of} section is a contributor to The Pension and Insurance Fund ^{pension} ^{credits from} Ontario ^{Hydro plan}

of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension
guarantee

(7) Notwithstanding subsection 5, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit to which he would have been entitled under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1977, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 5 shall be apportioned and paid as provided by the regulations.

Group life
insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Idem

(9) On or before the 31st day of December, 1979, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the employee was entitled immediately before his transfer date.

(10) A person who accepts employment under this section shall continue to enjoy as a term of his employment the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Sick
leave

(11) The commissions established by section 2 shall continue the provision of life insurance to pensioners formerly employed in the distribution and supply of power in the area municipalities by hydro-electric commissions.

Life
insurance
provided to
pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Termina-
tion for
cause

(13) Where, under this section, an employee, in the opinion of the Minister, experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Special
circum-
stances

8. For the purposes of section 134 of *The County of Oxford Act, 1974*, the 1st day of April, 1978 is the date determined by the Minister in respect of all areas within the County, and on that date the municipal hydro-electric commissions supplying electrical power and energy in the County are dissolved and the by-laws establishing them passed pursuant to section 38 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

Dissolution
of existing
com-
missions
1974, c. 57

R.S.O. 1970.
c. 390

9. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) for the purposes of subsection 8 of section 3 in respect of,
- (i) the method of determining the original cost of the facilities or of any facility or of any part of any facility,
 - (ii) the allocation of the original cost of the facilities or of any facility or of any part of any facility,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,

- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
- (v) the method of calculating accumulated depreciation or any component of accumulated depreciation,
- (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
- (vii) the method of payment of the price of the facilities;

(b) for the purposes of subsection 8 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-
ment

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

Short title

11. The short title of this Act is *The Oxford Municipal Hydro-Electric Service Act, 1977*.



An Act to provide for
Municipal Hydro-Electric Service
in the County of Oxford

1st Reading

November 25th, 1977

2nd Reading

3rd Reading

THE HON. J. A. TAYLOR
Minister of Energy

(Government Bill)

BILL 111

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to provide for Municipal Hydro-Electric Service in the County of Oxford

THE HON. J. A. TAYLOR
Minister of Energy



BILL 111

1977

**An Act to provide for
Municipal Hydro-Electric Service
in the County of Oxford**

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

1. In this Act,

Interpre-
tation

(a) "accumulated net retail equity" means the portion of the equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for rural retail customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;

(b) "area municipality" has the same meaning as in *The County of Oxford Act, 1974*;

1974, c. 57

(c) "County" has the same meaning as in *The County of Oxford Act, 1974*;

(d) "County Council" has the same meaning as in *The County of Oxford Act, 1974*;

(e) "electrical service area" means an area supplied with retail power by a commission established by section 2;

(f) "hydro-electric commission" means,

(i) a hydro-electric commission or public utility commission or public utilities commission entrusted with the control and management of works for the retail supply of power and established or deemed to be established under Part III of *The Public Utilities Act*, and

R.S.O. 1970,
c. 390

- (ii) a committee of the council of a municipality entrusted with the control and management of works for the retail supply of power on the 31st day of December, 1974;
- (g) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (h) "power" means electrical power and includes electrical energy;
- (i) "regulations" means the regulations made under this Act;
- (j) "retail distribution facilities" means works for the transmission and supply of power at voltages less than 50 kilovolts other than works located within a transformer station that transforms power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Com-
missions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the City of Woodstock, the Town of Ingersoll, the Town of Tillsonburg, the Township of Blandford-Blenheim, the Township of East Zorra-Tavistock, the Township of Norwich, the Township of South-West Oxford and the Township of Zorra is hereby established, and each commission shall be deemed to be a commission established under Part III of *The Public Utilities Act*, and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,
cc. 390, 354

Com-
position.
Woodstock
Public
Utility
Commission

1972, c. 95

(2) The commission for the City of Woodstock established by subsection 1 shall be known as the Woodstock Public Utility Commission and shall consist of the mayor of the City of Woodstock and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the City of Woodstock.

Idem.
Ingersoll
Public
Utility
Commission

(3) The commission for the Town of Ingersoll established by subsection 1 shall be known as the Ingersoll Public Utility Commission and shall consist of the mayor of the Town of Ingersoll and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Town of Ingersoll.

Idem.
Tillsonburg
Public
Utility
Commission

(4) The commission established for the Town of Tillsonburg by subsection 1 shall be known as the Tillsonburg Public Utility Commission and shall consist of the mayor of the Town of Tillsonburg and four additional members who are

qualified electors under *The Municipal Elections Act, 1972* in 1972, c. 95
the Town of Tillsonburg.

(5) The commission established for the Township of Blandford-Blenheim by subsection 1 shall be known as the Blandford-Blenheim Public Utility Commission and shall consist of the mayor of the Township of Blandford-Blenheim and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of Blandford-Blenheim, Idem, Blandford-Blenheim Public Utility Commission

- (a) one of whom is a customer of the commission in the electrical service area commonly known as Drumbo;
- (b) one of whom is a customer of the commission in the electrical service area commonly known as Plattsville;
- (c) one of whom is a customer of the commission in the electrical service area commonly known as Princeton; and
- (d) one of whom is a customer of the commission in one of the electrical service areas commonly known as Drumbo, Plattsville and Princeton.

(6) The commission established for the Township of East Zorra-Tavistock by subsection 1 shall be known as the East Zorra-Tavistock Public Utility Commission and shall consist of the mayor of the Township of East Zorra-Tavistock and two additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of East Zorra-Tavistock and who are customers of the commission. Idem, East Zorra-Tavistock Public Utility Commission

(7) The commission established for the Township of Norwich by subsection 1 shall be known as the Norwich Public Utility Commission and shall consist of the mayor of the Township of Norwich and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of Norwich, Idem, Norwich Public Utility Commission

- (a) one of whom is a customer of the commission in the electrical service area commonly known as Burgessville;
- (b) two of whom are customers of the commission in the electrical service area commonly known as Norwich; and

- (c) one of whom is a customer of the commission in the electrical service area commonly known as Otterville.

Idem.
South-West
Oxford
Public
Utility
Commission

1972, c. 95

(8) The commission established for the Township of South-West Oxford by subsection 1 shall be known as the South-West Oxford Public Utility Commission and shall consist of the mayor of the Township of South-West Oxford and two additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of South-West Oxford and who are customers of the commission.

Idem.
Zorra Public
Utility
Commission

(9) The commission established for the Township of Zorra by subsection 1 shall be known as the Zorra Public Utility Commission and shall consist of the mayor of the Township of Zorra and four additional members who are qualified electors under *The Municipal Elections Act, 1972* in the Township of Zorra,

- (a) two of whom are customers of the commission in the electrical service area commonly known as Embro; and
- (b) two of whom are customers of the commission in the electrical service area commonly known as Thamesford.

Additional
members of
first com-
missions

(10) For the term expiring with the 31st day of December, 1978, the additional members,

- (a) of the Ingersoll Public Utility Commission established by subsection 1 shall be,
- (i) the two members who are not *ex officio* members of the Ingersoll Public Utilities Commission immediately before the coming into force of this Act, and
- (ii) two persons appointed by the council of the Town of Ingersoll;
- (b) of the Tillsonburg Public Utility Commission established by subsection 1 shall be the members, other than the mayor, of the Tillsonburg Public Utilities Commission immediately before the coming into force of this Act; and
- (c) of the Woodstock Public Utility Commission established by subsection 1 shall be the members, other than the mayor, of the Woodstock Public

Utilities Commission immediately before the coming into force of this Act.

(11) For the term expiring with the 31st day of December, 1978, the additional members of each of the Blandford-Blenheim Public Utility Commission, the East Zorra-Tavistock Public Utility Commission, the Norwich Public Utility Commission, the South-West Oxford Public Utility Commission and the Zorra Public Utility Commission, established under subsection 1, shall be appointed by the council of the area municipality served by each such commission from the members of the hydro-electric commissions that serve the area municipality immediately before the coming into force of this Act. Idem

(12) For terms commencing after the 31st day of December, 1978, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1978, the council of the area municipality provides by by-law that the additional members shall be appointed by the council. Additional members of subsequent commissions

(13) Members of the council of an area municipality served by a commission established by subsection 1 may be appointed as members of the commission, but the members of the council shall not form a majority of the commission. Eligibility of members of council

(14) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed. Term of office

(15) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission. Delegates

(16) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 31st day of December, 1978 shall be fixed on or before the 1st day of April, 1978 in an amount that does not exceed the highest salary paid to members of hydro-electric commissions operating in the County of Oxford on the 1st day of September, 1977. Salary of first commissions

(17) A resignation from the council of a member of a council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the commission and the council. Resignation

Powers
of com-
missions
R.S.O. 1970.
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power, shall, on and after the 1st day of April, 1978, be exercised on behalf of each area municipality by the commission established by section 2 in respect of that area municipality and not by the council of any municipality or any other body.

Idem

R.S.O. 1970.
c. 312

(2) Subject to subsections 3 and 5 and to any subsisting contracts for the supply of power to customers within the meaning of section 37a of *The Ontario Energy Board Act*, on and after the 1st day of April, 1978, each commission established by section 2 has the sole right to supply power within the area municipality in respect of which it is established, and, on behalf of the area municipality, may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality, without electoral assent or other approval or authorization and such contract shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

R.S.O. 1970.
c. 284

Where
Ontario
Hydro to
continue to
supply
power

(3) Notwithstanding subsection 2, but subject to section 4, Ontario Hydro shall continue to supply power in those areas of the townships of Blandford-Blenheim, East Zorra-Tavistock, Norwich, South-West Oxford, and Zorra that it served immediately before the coming into force of this Act, and subsections 8 and 9 and section 7 do not apply.

Application
of
R.S.O. 1970.
c. 354

(4) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the supply of power to the municipal corporation apply to each of the commissions established by section 2.

Direct
customers

(5) With the consent of a commission established by section 2, Ontario Hydro may supply power directly to customers within the municipality in respect of which the commission is established.

Tran-
sitional

(6) Such management and control of works for the distribution and supply of power within the area municipalities as are exercised by hydro-electric commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of March, 1978, but, subject to subsections 7 and 8, any of the assets, powers and responsibilities of such commissions may by agreement be transferred before that date to a commission established by section 2.

(7) On the 1st day of April, 1978, all assets under the control and management of and all liabilities of hydro-electric commissions distributing and selling power in an area municipality to the extent that they pertain to the distribution and supply of power in the municipality, are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Transfer of
assets and
liabilities

(8) Subject to subsections 3 and 5, section 4 and the regulations, each commission established by section 2 shall acquire, on behalf of the area municipality served by the commission, the retail distribution facilities within the municipality used by Ontario Hydro on the 31st day of March, 1978, in the retail distribution of power, including equipment leased by Ontario Hydro to retail customers within the municipality for the use of such power, and the price of the facilities shall be equal to the original cost of the facilities less the sum of the accumulated net retail equity of the customers supplied with power through the facilities and the accumulated depreciation associated with the facilities.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

(9) If the price of the facilities referred to in subsection 8 has not been determined by the parties before the 1st day of July, 1978, the price shall be determined by arbitration by a single arbitrator pursuant to *The Arbitrations Act* in accordance with subsection 8 and the regulations, and the decision of the arbitrator shall not be subject to appeal.

Where price
to be deter-
mined by
arbitration

R.S.O. 1970.
c. 25

(10) The references to the 1st day of April, 1978 in subsections 1, 2 and 7 and sections 7 and 8 shall be deemed to refer to the 1st day of January, 1978 and the references to the 31st day of March, 1978 in subsections 6 and 8 and section 7 shall be deemed to refer to the 31st day of December, 1977 both in respect of the Town of Tillsonburg.

Tillsonburg

4.—(1) This section applies when retail power is supplied in any area municipality by both Ontario Hydro and a commission established by section 2.

Application
of section

(2) At least once in every five years, there shall be appointed a committee to be known as the Oxford Power Supply Review Committee composed of eight members, one of whom shall be appointed by the council of each area municipality.

Oxford
Power
Supply
Review
Committee

(3) The Committee shall review the retail supply of power in the County and shall include in its review an evaluation of,

Duties

- (a) the supply of power throughout the County by a single hydro-electric commission; and
- (b) the supply of power throughout an area municipality by a commission established by section 2.

Report

(4) Each Committee shall complete its review within twelve months from the date that it is fully constituted and shall file its report forthwith with Ontario Hydro and send copies of the report to the clerk of the County, to the clerk of each area municipality and to each commission established by section 2.

Vesting
of real
property

5.—(1) All real property transferred pursuant to section 3 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission, shall be vested in the area municipality served by the commission.

Disposi-
tion of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to retain the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater and the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the area municipality served by the commission does not wish to retain the real property in accordance with paragraph 1, the area municipality shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality, and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor pursuant to this subsection shall be paid over to the commission and shall be applied in accordance with *The Public Utilities Act*.

6. Except as otherwise provided in this Act, sections 91 ^{Borrowing} to 112 of *The County of Oxford Act, 1974* apply with neces- ^{1972, c. 57} sary modifications to any borrowing for the purposes of a commission established by section 2.

7.—(1) In this section, "transfer date", when used in ^{Interpre-} respect of an employee of a hydro-electric commission or ^{tation} Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

(2) On or before the 31st day of March, 1978, each hydro- ^{Transfer of} electric commission in the area municipalities and Ontario ^{employees} Hydro shall designate those of their full-time employees who were employed in the distribution and supply of power in the municipalities on the 1st day of March, 1977, and who continued such employment until the 31st day of March, 1978 or until their transfer dates, as the case may be, and the commissions established by section 2 in respect of those municipalities shall offer employment to the employees so designated.

(3) A person who accepts employment under this section ^{Wages or} is entitled to receive, for a period of one year commencing ^{salaries} on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

(4) Each commission established by section 2 shall be ^{Participa-} deemed to have elected to participate in the Ontario Muni- ^{tion in} cipal Employees Retirement System on the day this Act ^{O.M.E.R.S.} comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the ^{R.S.O. 1970,} System. ^{c. 324}

(5) Where a person who accepts employment under this ^{Supple-} section with a commission established by section 2 is ^{mentary} entitled to the benefit of a supplementary agreement between ^{agreements} a hydro-electric commission operating within an area municipality and the Ontario Municipal Employees Retirement Board immediately before his transfer date, the commission shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the hydro-electric commission.

(6) Where a person who accepts employment under this ^{Transfer of} section is a contributor to The Pension and Insurance Fund ^{pension} ^{credits from} Ontario ^{Hydro plan}

of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension
guarantee

(7) Notwithstanding subsection 5, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit to which he would have been entitled under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1977, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 5 shall be apportioned and paid as provided by the regulations.

Group life
insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Idem

(9) On or before the 31st day of December, 1979, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the employee was entitled immediately before his transfer date.

(10) A person who accepts employment under this section shall continue to enjoy as a term of his employment the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Sick
leave

(11) The commissions established by section 2 shall continue the provision of life insurance to pensioners formerly employed in the distribution and supply of power in the area municipalities by hydro-electric commissions.

Life
insurance
provided to
pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Termina-
tion for
cause

(13) Where, under this section, an employee, in the opinion of the Minister, experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Special
circum-
stances

8. For the purposes of section 134 of *The County of Oxford Act, 1974*, the 1st day of April, 1978 is the date determined by the Minister in respect of all areas within the County, and on that date the municipal hydro-electric commissions supplying electrical power and energy in the County are dissolved and the by-laws establishing them passed pursuant to section 38 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

Dissolution
of existing
com-
missions
1974, c. 57

R.S.O. 1970.
c. 390

9. The Lieutenant Governor in Council may make regulations,

Regulations

(a) for the purposes of subsection 8 of section 3 in respect of,

- (i) the method of determining the original cost of the facilities or of any facility or of any part of any facility,
- (ii) the allocation of the original cost of the facilities or of any facility or of any part of any facility,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,

(iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,

(v) the method of calculating accumulated depreciation or any component of accumulated depreciation,

(vi) the allocation of accumulated depreciation or any component of accumulated depreciation,

(vii) the method of payment of the price of the facilities;

(b) for the purposes of subsection 8 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-
ment

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

Short title

11. The short title of this Act is *The Oxford Municipal Hydro-Electric Service Act, 1977*.



An Act to provide for
Municipal Hydro-Electric Service
in the County of Oxford

1st Reading

November 25th, 1977

2nd Reading

December 7th, 1977

3rd Reading

December 7th, 1977

THE HON. J. A. TAYLOR
Minister of Energy

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. JOHN P. MACBETH
Solicitor General

EXPLANATORY NOTE

The purpose of the Bill is to make it an offence to drive on a highway a motor vehicle that is equipped with or that carries or contains a radar warning device.

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. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 52a. enacted

52a.—(1) In this section, “radar warning device” means Interpretation any device or equipment designed or intended for use in a motor vehicle to warn the driver of the presence of radar speed measuring equipment in the vicinity and includes any device or equipment designed or intended for use in a motor vehicle to interfere with the transmissions of radar speed measuring equipment.

(2) No person shall drive on a highway a motor vehicle that is equipped with or that carries or contains a radar warning device. Radar warning device prohibited

(3) A police officer may at any time, without a warrant, enter and search a motor vehicle that he has reasonable grounds to believe is equipped with or carries or contains a radar warning device contrary to subsection 2 and may seize and take away any radar warning device found in or upon the motor vehicle. Powers of police officer

(4) Where a person is convicted of an offence under this section, any device seized under subsection 3 by means of which the offence was committed is forfeited to the Crown. Forfeiture of device

(5) Every person who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. Penalty

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, 1977*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

November 29th, 1977

2nd Reading

3rd Reading

THE HON. JOHN P. MACBETH
Solicitor General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. JOHN P. MACBETH
Solicitor General

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

EXPLANATORY NOTE

The purpose of the Bill is to make it an offence to drive on a highway a motor vehicle that is equipped with or that carries or contains a radar warning device.

An Act to amend The Highway Traffic Act

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1. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

52a.—(1) In this section, “radar warning device” means any device or equipment designed or intended for use in a motor vehicle to warn the driver of the presence of radar speed measuring equipment in the vicinity and includes any device or equipment designed or intended for use in a motor vehicle to interfere with the transmissions of radar speed measuring equipment.

(2) No person shall drive on a highway a motor vehicle that is equipped with or that carries or contains a radar warning device.

(3) A police officer may at any time, without a warrant, stop, enter and search a motor vehicle that he has reasonable grounds to believe is equipped with or carries or contains a radar warning device contrary to subsection 2 and may seize and take away any radar warning device found in or upon the motor vehicle.

(4) Where a person is convicted of an offence under this section, any device seized under subsection 3 by means of which the offence was committed is forfeited to the Crown.

(5) Every person who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

(6) Subsection 2 does not apply to a person who is transporting radar warning devices in sealed packages in a motor vehicle from a manufacturer to a consignee.

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 Highway Traffic Amendment Act, 1977*.







An Act to amend
The Highway Traffic Act

1st Reading

November 29th, 1977

2nd Reading

December 12th, 1977

3rd Reading

THE HON. JOHN P. MACBETH
Solicitor General

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

BILL 112

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. JOHN P. MACBETH
Solicitor General



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. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

52a.—(1) In this section, “radar warning device” means any device or equipment designed or intended for use in a motor vehicle to warn the driver of the presence of radar speed measuring equipment in the vicinity and includes any device or equipment designed or intended for use in a motor vehicle to interfere with the transmissions of radar speed measuring equipment.

(2) No person shall drive on a highway a motor vehicle that is equipped with or that carries or contains a radar warning device.

(3) A police officer may at any time, without a warrant, stop, enter and search a motor vehicle that he has reasonable grounds to believe is equipped with or carries or contains a radar warning device contrary to subsection 2 and may seize and take away any radar warning device found in or upon the motor vehicle.

(4) Where a person is convicted of an offence under this section, any device seized under subsection 3 by means of which the offence was committed is forfeited to the Crown.

(5) Every person who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

(6) Subsection 2 does not apply to a person who is transporting radar warning devices in sealed packages in a motor vehicle from a manufacturer to a consignee.

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 Highway Traffic Amendment Act, 1977*.







An Act to amend
The Highway Traffic Act

1st Reading

November 29th, 1977

2nd Reading

December 12th, 1977

3rd Reading

December 13th, 1977

THE HON. JOHN P. MACBETH
Solicitor General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Police Act

THE HON. JOHN P. MACBETH
Solicitor General

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 2 of section 8 of the Act now reads as follows:

(2) *The board, except as provided in subsection 3, shall consist of,*

(a) *the head of the council;*

(b) *a judge of any county or district court designated by the Lieutenant Governor in Council; and*

(c) *such person as the Lieutenant Governor in Council may designate.*

The requirement that one of the members of a board of police commissioners shall be a county or district court judge is removed.

Subsection 2. Subsections 3 and 4 of section 8 of the Act now read as follows:

(3) *Where a vacancy occurs on the board by reason of the death of a member designated by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Solicitor General may in writing appoint some other judge or person, as the case may be, to act as a member of the board for a period of six months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member.*

(4) *The council shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations, to the members of the board designated by the Lieutenant Governor in Council or appointed by the Solicitor General and may provide for the payment of an allowance to the head of the council.*

The re-enactment of the subsections is complementary to subsection 1.

An Act to amend The Police Act

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

- 1.—(1) Subsection 2 of section 8 of *The Police Act*, being chapter 351 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 - (2) The board, except as provided in subsection 3, shall consist of,
 - (a) the head of the council; and
 - (b) two persons appointed by the Lieutenant Governor in Council.
 - (2) Subsections 3 and 4 of the said section 8, as amended by the Statutes of Ontario, 1972, chapter 1, section 97, are repealed and the following substituted therefor:
 - (3) Where a vacancy occurs on the board by reason of the death of a member appointed by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Solicitor General may in writing appoint some other person to act as a member of the board for a period of six months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member.
 - (4) The council shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations, to the members of the board appointed by the Lieutenant Governor in Council or the Solicitor General and may provide for the payment of an allowance to the head of the council.

s. 9 (2),
re-enacted

2. Subsection 2 of section 9 of the said Act is repealed and the following substituted therefor:

Composition
of board

(2) A joint board established under subsection 1 shall consist of,

- (a) the head of the council of each of the municipalities;
and
(b) such other persons as the Lieutenant Governor in Council may appoint.

s. 13,
re-enacted

3. Section 13 of the said Act is repealed and the following substituted therefor:

Powers of
council or
board

13. A council of a municipality or, where there is a board, the board may investigate and inquire into any matter connected with the execution of its duties under this Act and for the purposes of an inquiry the council or board 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

s. 14 (1),
amended

- 4.—(1) Subsection 1 of section 14 of the said Act is amended by striking out "subsection 3 and to" in the first line.

s. 14,
amended

- (2) The said section 14 is amended by adding thereto the following subsection:

Idem

(2a) The council may include in its estimates the sums estimated to be required by the board under subsection 2, or such greater or lesser sums as the council may determine.

s. 14 (3),
re-enacted

- (3) Subsection 3 of the said section 14 is repealed and the following substituted therefor:

Commission
may order
council to
provide
additional
moneys

(3) Where the board is of the opinion that the council has failed to make adequate provision in its estimates for the proper discharge of the responsibilities referred to in subsection 1, the board may appeal to the Commission which may, after a hearing, order that additional moneys be provided where essential for providing and maintaining an adequate police force in accordance with the police needs of the municipality.

s. 16,
re-enacted

5. Section 16 of the said Act is repealed and the following substituted therefor:

Regulations
by council
or board

16.—(1) A council of a municipality or, where there is a board, the board may by by-law make regulations not inconsistent with the regulations under section 72 for the govern-

SECTION 2. Subsection 2 of section 9 of the Act now reads as follows:

- (2) *A joint board established under subsection 1 shall consist of,*
 - (a) *the head of the council of each of the municipalities;*
 - (b) *such judge and such other persons as the Lieutenant Governor in Council may designate.*

The re-enactment is complementary to section 1 of the Bill.

SECTION 3. Section 13 of the Act now reads as follows:

13. *A board has the same power to summon and examine witnesses on oath as to any matter connected with the execution of its duties, to enforce their attendance, and to compel them to give evidence, as is vested in any court of law in civil cases.*

The authority of a board to investigate and inquire into any matter connected with the execution of its duties and its powers on an inquiry are revised and updated and the section is made to apply to a council.

SECTION 4.—Subsection 1. Subsection 1 of section 14 of the Act now reads as follows:

- (1) *Subject to subsection 3 and to clause g of section 41, the police force in a municipality having a board shall consist of a chief of police and such other police officers and such constables, assistants and civilian employees as the board considers adequate, and shall be provided with such accommodation, arms, equipment, clothing and other things as the board considers adequate.*

The amendment is complementary to subsection 3.

Subsection 2. The new subsection clarifies the authority of a council to vary the estimates submitted by a board.

Subsection 3. Subsection 3 of section 14 of the Act now reads as follows:

- (3) *Where the council does not agree with the board on the estimates or on the adequacy of the number of members of the police force or the accommodation, arms, equipment or other things for the use and maintenance of the force, the Commission shall determine the question after a hearing.*

The subsection as re-enacted authorizes a board to appeal to the Ontario Police Commission where it is dissatisfied with the estimates of the council.

SECTION 5. Section 16 of the Act now reads as follows:

16. *A board may by by-law make regulations not inconsistent with the regulations under section 72 for the government of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties.*

The re-enactment of section 16 clarifies the authority of a council to make regulations. The new subsections provide that regulations made by a council or board are subject to approval by the Ontario Police Commission and shall be filed with the Commission and made available for public inspection.

SECTION 6. Subsection 1 of section 20 of the Act now reads as follows:

(1) Where a municipality that has established a police force does not have a board, the council shall appoint the members of the police force.

The re-enactment clarifies the authority of a council to govern the members of its police force.

SECTION 7. The new section 24a empowers the council of a municipality to pay legal costs incurred by a member of a police force in respect of an inquiry where the conduct of the member is the subject-matter of the inquiry.

The new section 24b deals with the reducing of the size of a police force, the probationary period of a police officer and the retirement of the members of a police force.

ment of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties.

(2) Regulations made under subsection 1 shall be filed idem with and are subject to the approval of the Commission.

(3) The council or board and the Commission shall make available for public inspection regulations made under subsection 1. Regulations to be available for inspection

(4) Regulations heretofore made under subsection 1 that are in force when this subsection comes into force shall within thirty days thereafter be submitted to the Commission for approval and shall continue in force unless disapproved by the Commission. Regulations continue in force

6. Subsection 1 of section 20 of the said Act is repealed and the following substituted therefor: s. 20 (1), re-enacted

(1) Where a municipality that has established a police force does not have a board, the council shall appoint the members of the police force and such members are subject to the government of the council and shall obey its lawful directions. Appointment of members where no board

7. The said Act is amended by adding thereto the following sections: ss. 24a, 24b, enacted

24a.—(1) The council of a municipality may, to such extent as it thinks fit, pay the legal costs incurred by a member of the police force maintained by the council in respect of an inquiry held by a commission under Part II of *The Public Inquiries Act, 1971* where the subject-matter of the inquiry includes in whole or in part the conduct of the member in the performance or purported performance of his duties. Council may pay legal costs 1971, c. 49

(2) For the purposes of this section, "municipality" includes a district, metropolitan or regional municipality that maintains a police force. Interpretation

24b. The council of a municipality or, where there is a board, the board may, Powers of council or board

(a) without a hearing but subject to the consent of the Commission, dispense with the services of any member of the police force for the purpose of reducing the size of or abolishing the police force, where the reduction or abolition is not in contravention of this Act;

- (b) without a hearing dispense with the services of any police officer within eighteen months of his becoming a police officer; and
- (c) make rules or regulations, not inconsistent with an agreement made under section 29, 30 or 31 or a decision or award of an arbitrator made under section 32, for the retirement of members of the police force who are entitled to a pension under a pension plan established for the members of the police force and, without a hearing, may retire the members in accordance with those rules or regulations.

s. 42 (3),
re-enacted

8. Subsection 3 of section 42 of the said Act is repealed and the following substituted therefor:

Powers of
Commission,
Com-
missioner
and deputy
commissioner

1971, c. 49

(3) The Commission, the Commissioner or a deputy commissioner may investigate and inquire into the conduct of any member of the Ontario Provincial Police Force or of any employee connected therewith and for the purposes of an inquiry has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

s. 47b,
enacted

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

Payment
of legal
costs

47b. The Treasurer of Ontario may, to such extent as he thinks fit, pay out of the Consolidated Revenue Fund the legal costs incurred by a member of the Ontario Provincial Police Force in respect of an inquiry held by a commission under Part II of *The Public Inquiries Act, 1971* where the subject-matter of the inquiry includes in whole or in part the conduct of the member in the performance or purported performance of his duties.

s. 56 (3),
re-enacted

- 10.—(1) Subsection 3 of section 56 of the said Act is repealed and the following substituted therefor:

Powers on
inquiry

(3) For the purpose of an inquiry under this section, the Commission 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.

s. 56 (6),
re-enacted

- (2) Subsection 6 of the said section 56 is repealed and the following substituted therefor:

Powers of
council or
board

(6) Where the Commission reports that a police officer has misconducted himself or is not performing or is incapable of performing his duties in a manner that satisfies the require-

SECTION 8. Subsection 3 of section 42 of the Act now reads as follows:

- (3) *The Commission, the Commissioner or a deputy commissioner may hold an inquiry into the conduct of any member of the Ontario Provincial Police Force or of any employee connected therewith and upon such inquiry it or he has and may exercise all the powers and authority that may be conferred upon a person appointed under The Public Inquiries Act.*

The authority of the Commission, the Commissioner of the Ontario Provincial Police Force or a deputy commissioner to inquire into the conduct of a member of the Ontario Provincial Police Force and its and his powers on an inquiry are revised and updated.

SECTION 9. The new section 47b empowers the Treasurer of Ontario to pay legal costs incurred by a member of the Ontario Provincial Police Force in respect of an inquiry where the conduct of the member is the subject-matter of the inquiry.

SECTION 10.—Subsection 1. Subsection 3 of section 56 of the Act now reads as follows:

- (3) *The Commission or person holding an investigation under this section has and may exercise all the powers and authority that may be conferred upon a person appointed under The Public Inquiries Act.*

The powers of the Ontario Police Commission on an inquiry are revised and updated.

Subsection 2. Subsection 6 of section 56 of the Act now reads as follows:

- (6) *The Commission may grant to a person attending to give evidence at an inquiry or investigation under this section such fees and expenses as are set out in the Schedule to The Crown Witnesses Act.*

The repeal of the subsection is complementary to the re-enactment of subsection 3 of section 56. The new subsection sets out the powers of a council or board following a report of the Ontario Police Commission.

SECTION 11. Section 57 of the Act deals with inquiries by the Ontario Police Commission.

The re-enactment revises and updates the powers of the Ontario Police Commission on an inquiry and removes provisions that are no longer applicable by reason of *The Public Inquiries Act, 1971*.

SECTION 12. Section 58 of the Act now reads as follows:

58. The chairman of the Commission may authorize one or more members of the Commission to exercise the powers and perform the duties of the Commission under section 41 or 57.

The amendment is editorial.

ments of his position, the council or, where there is a board, the board may, without a hearing,

- (a) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced; or
- (b) where the report so recommends, dismiss the police officer or place him on retirement if he is entitled thereto.

11. Subsections 2 to 10 of section 57 of the said Act are repealed and the following substituted therefor: s. 57 (2-4), re-enacted
s. 57 (5-10), repealed

(2) For the purpose of an inquiry under this section, the Commission 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. Powers on inquiry
1971, c. 49

(3) Sections 3 to 6 of *The Public Inquiries Act, 1971* apply with necessary modifications to an inquiry under this section. Application of 1971, c. 49

(4) Where the Lieutenant Governor in Council is satisfied that it is necessary to achieve the purposes of an inquiry, the Lieutenant Governor in Council may in the order in council directing the inquiry, or by a subsequent order in council, declare that Part III of *The Public Inquiries Act, 1971* applies to the inquiry and to the Commission. Idem

12. Section 58 of the said Act is amended by inserting after "41" in the third line "56". s. 58, amended

13. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-ment

14. The short title of this Act is *The Police Amendment Act, 1977*. Short title

An Act to amend The Police Act

1st Reading

November 29th, 1977

2nd Reading

3rd Reading

THE HON. JOHN P. MACBETH
Solicitor General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Police Act

THE HON. JOHN P. MACBETH
Solicitor General

EXPLANATORY NOTES

SECTION 1. A new Part (Part V-A) is added to *The Police Act* and deals with citizen complaints and police discipline.

The major provisions of the Part are as follows :

1. Section 53*b* provides for the manner in which a chief of police or a council or board shall deal with a citizen complaint.
2. Provision is made for the appointment of a Commissioner of Citizen Complaints and his general powers are set out. (Section 53*c*).
3. Sections 53*d*, 53*e*, 53*f*, 53*g* and 53*h* deal with the powers of investigation conferred on the Complaints Commissioner.
4. Section 53*i* provides for the review by the Complaints Commissioner of a decision made on a disciplinary proceeding.
5. Section 53*j* establishes the Citizen Complaints and Police Discipline Review Board and provides for its membership, its quorum and its sittings.
6. Section 53*k* determines the parties to a hearing by the Review Board held on the direction of the Complaints Commissioner and empowers the Review Board to impose disciplinary penalties on a police officer.
7. Section 53*l* empowers a chief of police to suspend a police officer from duty pending an investigation into the conduct or performance of the officer and confers a similar power on the chairman of a board or the head of council in respect of an investigation into the conduct or performance of a chief of police.
8. Section 53*m* deals with disciplinary proceedings by a chief of police and sets out the procedures for such proceedings and the penalties that may be imposed thereafter.

The provisions of the section also apply with the necessary modifications to a proceeding by a council or board in respect of the conduct or performance of a chief of police.

9. Section 53*n* provides for a review by a council or board of a decision of a chief of police on a disciplinary proceeding.

10. Sections 53o and 53p provide for appeals to the Ontario Police Commission and set out procedures thereon.
11. Section 53q provides for a hearing by the Review Board where required by a police officer.
12. Section 53r provides for an appeal to the Divisional Court on a question of law.
13. Section 53s deals with the giving or serving of notices required under Part V-A.
14. Section 53t provides a limitation period of eighteen months in respect of disciplinary proceedings.
15. Sections 53u, 53v and 53w are self-explanatory.

SECTION 2. Obstruction of a person making an investigation under the new section 53d is made an offence and a penalty therefor is provided.

SECTION 3. Subsection 1 of section 72 of the Act authorizes the Lieutenant Governor in Council to make regulations respecting the matters set out in the clauses.

The amendment is complementary to the new Part V-A.



BILL 114

1977

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. *The Police Act*, being chapter 351 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following Part: Pt. V-A
(ss. 53a-53w),
enacted

PART V-A

CITIZEN COMPLAINTS AND POLICE DISCIPLINE

53a. In this Part,

Interpre-
tation

- (a) "chief of police", except where the context otherwise requires, includes the Commissioner of the Ontario Provincial Police Force;
- (b) "Complaints Commissioner" means the Commissioner of Citizen Complaints;
- (c) "police force" includes the Ontario Provincial Police Force;
- (d) "Review Board" means the Citizen Complaints and Police Discipline Review Board.

53b.—(1) Where a chief of police receives a complaint from any person concerning the conduct of or the performance of duties by any police officer on his police force, he shall record the complaint in the prescribed manner and investigate it forthwith and shall forward a copy of the recorded complaint to the Complaints Commissioner. Complaints

(2) Where a chief of police receives a complaint from any person concerning his conduct or the performance of his duties, he shall forthwith refer the complaint to the Com- Referral of
complaint

plaints Commissioner and give notice of such referral to the council or, where there is a board, the board.

Idem (3) Where a council or board receives a complaint from any person concerning the conduct of the chief of police or the performance of his duties, it shall forthwith refer the complaint to the Complaints Commissioner.

Idem (4) Where a council or board receives a complaint from any person concerning the conduct of or the performance of duties by any police officer on its police force, other than the chief of police, it shall forthwith refer the complaint to the chief of police and such complaint is deemed to be a complaint received under subsection 1.

Idem (5) Where a complaint is referred to the Complaints Commissioner under subsection 2 or 3, the Complaints Commissioner shall forthwith give notice thereof in writing to the complainant.

Resolution of complaint (6) Where the chief of police is of the opinion that a complaint received under subsection 1 involves an allegation of misconduct or unsatisfactory performance by a police officer that is of a minor nature, he may attempt to resolve the complaint informally or may approve any informal resolution that has taken place and shall report thereon to the Complaints Commissioner and the complainant.

How complaint to be dealt with (7) Where the chief of police is of the opinion that a complaint received under subsection 1 involves an allegation of misconduct or unsatisfactory performance by a police officer that is of a serious nature, he,

(a) shall cause disciplinary proceedings to be commenced under section 53m; or

(b) shall refer the report of the investigation to the Complaints Commissioner,

and may refer the report of the investigation to the Crown attorney who shall consider whether a criminal or other offence may have been committed.

No disciplinary proceedings, etc., until notice to police officer (8) No disciplinary proceedings shall be commenced under section 53m and no reference to a complaint dealt with under subsection 6 shall be entered in the personal record of a police officer who is the subject of a complaint unless the officer has been notified of the complaint and given at

least seven days in which to submit in writing any explanations or representations he may wish to make concerning the matter.

(9) Where disciplinary proceedings are commenced pursuant to clause *a* of subsection 7, the chief of police shall forthwith give notice thereof in writing to the complainant and the Complaints Commissioner. Notice

(10) Where a report of an investigation is referred to the Complaints Commissioner under clause *b* of subsection 7, the chief of police shall forthwith give notice thereof in writing to the complainant. Idem

(11) A chief of police may designate any police officer on his police force to exercise any of his powers and perform any of his duties under this Part and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the designated officer. Designation
by chief
of police

53c.—(1) The Lieutenant Governor in Council shall appoint a Commissioner of Citizen Complaints to exercise the powers and perform the duties assigned to him by this Act and the regulations, subject to the direction of the Solicitor General. Appointment
of Complaints
Com-
missioner

(2) The Complaints Commissioner,

Powers and
duties of
Complaints
Com-
missioner

- (a) may receive from any person a complaint concerning the conduct of or the performance of duties by any chief of police or other police officer;
- (b) may investigate a complaint made to him or refer the complaint for investigation and disposition under section 53b;
- (c) shall monitor the handling of complaints under section 53b;
- (d) shall investigate a complaint referred to him under subsection 2, 3 or 7 of section 53b;
- (e) may refer the report of an investigation to the Crown attorney who shall consider whether a criminal or other offence may have been committed;

- (f) shall receive a request under section 53i;
- (g) shall maintain a system of statistical records and research studies of complaints and their disposition; and
- (h) shall perform such other duties as are assigned to him under this Act or the regulations.

Idem (3) Notwithstanding section 53b and notwithstanding that a complaint has been referred under clause b of subsection 2, the Complaints Commissioner may investigate at any time a complaint concerning the conduct of or the performance of duties by a police officer.

Annual report (4) The Complaints Commissioner shall report annually upon the affairs of his office to the Solicitor General who shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Audit (5) The accounts of the Complaints Commissioner shall be audited annually by the Provincial Auditor.

Powers on investigation 53d.—(1) For the purpose of an investigation, the Complaints Commissioner may inquire into and examine the affairs of the police officer in respect of whom the investigation is being made and may,

- (a) enter at any reasonable time the premises of such police officer, not including any premises or part thereof occupied as living accommodation, and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) after informing the chief of police or the council of the municipality, or, where there is a board, the board, of his intention to make the investigation, enter the premises of the police force and inspect the premises and carry out therein any investigation he is authorized to make,

and for the purposes of the inquiry, the Complaints Commissioner 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.

(2) No person shall obstruct the Complaints Commissioner ^{Obstruction} or a person appointed to make an investigation or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

(3) Where a provincial judge is satisfied upon an *ex parte* ^{Search warrant} application by the Complaints Commissioner 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 police officer whose conduct is 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 subsection 1, issue an order authorizing the Complaints Commissioner, 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 Complaints Commissioner to make the search at night.

(4) The Complaints Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection 1 or 3 relating to the police officer whose conduct is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person from whom they were removed. ^{Removal of books, etc.}

(5) Any copy made as provided in subsection 4 and certified to be a true copy by the Complaints Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. ^{Admissibility of copies}

(6) The Complaints Commissioner may appoint any expert to examine books, papers, documents or things examined under subsection 1 or 3. ^{Appointment of experts}

53e.—(1) Every person employed in the administration of this Part, including any person making an inquiry, inspection or an investigation under this Part, 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 Part and the regulations or any proceedings under this Part;
- (b) as may be required for the due enforcement of the law;
- (c) to his counsel; or
- (d) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation, except in a proceeding under this Part.

Complaints
Com-
missioner
may refuse
to investigate
complaint

53f.—(1) The Complaints Commissioner may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any matter of which the complainant has had knowledge for more than twelve months before the complaint is received by the Complaints Commissioner, or, if in his opinion,

- (a) the subject-matter of the complaint is trivial; or
- (b) the complaint is frivolous or vexatious or is not made in good faith.

Complainant
to be
informed

(2) In any case where the Complaints Commissioner decides not to investigate or further investigate a complaint he shall inform the complainant in writing of his decision, and, may, if he thinks fit, state his reasons therefor.

Procedure
after
investigation

(3) Where an investigation has been completed, the Complaints Commissioner,

- (a) shall refer the matter to the chief of police, together with his recommendations, where he is of the opinion that there is evidence of misconduct or unsatisfactory performance by a police officer that is of a minor nature;
- (b) shall direct that a hearing be held by the Review Board, where he is of the opinion,
 - (i) that there is evidence of misconduct or unsatisfactory performance by a police officer that is of a serious nature, or

(ii) that there is evidence of misconduct or unsatisfactory performance by a chief of police; or

(c) may decide in any other case to take no further action,

and shall notify in writing the complainant and any other person or body he considers proper of the action taken or of his decision to take no further action.

(4) Where the Complaints Commissioner directs a hearing under subclause i of clause *b* of subsection 3, no disciplinary proceeding shall be commenced under section 53*m* or, where such proceeding has been commenced, it shall terminate forthwith. No proceeding where hearing directed

53*g*.—(1) Every investigation by the Complaints Commissioner shall be conducted in private. Investigation to be in private

(2) The Complaints Commissioner may hear or obtain information from such persons as he thinks fit, and may make such inquiries as he thinks fit and it is not necessary for the Complaints Commissioner to hold any hearing but, if at any time during the course of an investigation, it appears to the Complaints Commissioner that there may be sufficient grounds for his making any report or recommendation that may adversely affect a chief of police or other police officer or a municipal council or, where there is a board, the board, he shall give to that person or body an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel. Representations may be made

(3) The Complaints Commissioner may, in his discretion, at any time during or after any investigation, consult any chief of police or council or, where there is a board, the board, that is concerned in the matter of the investigation. Consultation by Complaints Commissioner

(4) On the request of the chief of police or council or, where there is a board, the board, in relation to an investigation, the Complaints Commissioner shall consult that person or body after making the investigation and before he takes any further action. Complaints Commissioner must consult

(5) The Complaints Commissioner may, in writing, appoint a person to make any investigation he is authorized to make and the person so appointed has all the powers and duties of the Complaints Commissioner relating to an investigation. Appointment of person to make investigation

(6) The person appointed to make an investigation shall report the result of his investigation to the Complaints Commissioner. Report

Report by
Complaints
Com-
missioner

53*h*. Where, after making an investigation under this Part, the Complaints Commissioner is of the opinion that a police practice or procedure should be altered, the Complaints Commissioner shall report his opinion, and his reasons therefor, to the council or, where there is a board, the board concerned, the Commission and the Solicitor General, together with such recommendations as he thinks fit.

Request
for review

53*i*.—(1) A complainant who is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of the Review Board or with a decision not to commence a disciplinary proceeding may request the Complaints Commissioner to review the matter.

Review Board
to hold
hearing

(2) Where the Complaints Commissioner receives a request under subsection 1, he shall investigate the matter and may, after such investigation, direct that a hearing be held by the Review Board in any case where he is of the opinion that there is evidence of misconduct or unsatisfactory performance by a police officer that is of a serious nature and in any other case may decide to take no further action.

Notice

(3) Where the Complaints Commissioner directs a hearing under subsection 2, he shall so notify in writing the complainant and the chief of police and, where applicable, the council or board.

Idem

(4) Where the Complaints Commissioner decides under subsection 2 to take no further action, he shall so notify in writing the complainant and any other person or body he considers proper.

Where
hearing not
to be
directed

(5) The Complaints Commissioner shall not direct a hearing by the Review Board where a hearing has been required under section 53*q*.

Review
Board
established

53*j*.—(1) The Citizen Complaints and Police Discipline Review Board is established and shall consist of not more than seven members who shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall appoint one of such members as chairman.

Term of
office

(2) The members of the Review Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for further successive terms not exceeding three years each.

(3) The members of the Review Board shall be paid such salaries or other remuneration and expenses as may be fixed by the Lieutenant Governor in Council. ^{Remuneration}

(4) The chairman shall have general supervision and direction over the conduct of the affairs of the Review Board, and shall arrange the sittings of the Review Board and assign members to conduct hearings as circumstances require. ^{Duties of chairman}

(5) Three members of the Review Board constitute a quorum, but the chairman may in writing authorize one member of the Review Board to hear and determine any matter, and for such purpose such member may exercise all the jurisdiction and powers of the Review Board and his decision shall be a decision of the Review Board. ^{Quorum}

(6) The Review Board shall prepare and periodically publish a summary of its decisions and the reasons therefor and shall report annually on its affairs to the Solicitor General who shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. ^{Summaries and report}

(7) The accounts of the Review Board shall be audited annually by the Provincial Auditor. ^{Audit}

53k.—(1) Where a hearing by the Review Board is directed under clause *b* of subsection 3 of section 53f or subsection 2 of section 53i, the Review Board shall appoint a time for and hold the hearing and may, by order, impose any penalty a chief of police may impose under subsection 2 of section 53m. ^{Hearing}

(2) The Complaints Commissioner, the chief of police and the police officer whose conduct or performance is being investigated are parties to the proceedings under this section. ^{Parties}

(3) Where the conduct or performance of a chief of police is being investigated, the Complaints Commissioner, the council or, where there is a board, the board, and the chief of police are parties to the proceedings under this section. ^{Idem}

(4) A police officer whose conduct or performance is being investigated in proceedings before the Review Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or ^{Opportunity to examine evidence}

any report the contents of which will be given in evidence at the hearing.

Member holding hearing not to communicate with party

(5) A member of the Review Board holding a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Review Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Oral evidence

(6) The oral evidence taken before the Review Board shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only members at hearing to participate in decision

(7) No member of the Review Board shall participate in a decision of the Review Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Review Board shall be given unless all members so present participate in the decision.

Release of documents

(8) Documents and things put in evidence at a hearing of the Review Board shall, upon the request of the person who produced them, be released to him by the Review Board within a reasonable time after the matter in issue has been finally determined.

Police officer not required to give evidence
1971, c. 47

(9) Notwithstanding section 12 of *The Statutory Powers Procedure Act, 1971*, the police officer whose conduct or performance is being investigated shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the allegations made against him be admitted as evidence at the hearing except for the purpose of cross-examining him, but the Review Board may draw such inferences as it thinks appropriate from the failure of the police officer to explain or answer allegations made against him.

Proof of misconduct, etc.

(10) Before making a finding of misconduct or unsatisfactory performance, the Review Board shall be satisfied that the misconduct or unsatisfactory performance has been established by a fair and reasonable preponderance of credible testimony.

Decision and reasons

(11) The Review Board shall forthwith serve notice in writing of its decision and the reasons therefor on the complainant and the parties to the proceedings.

53l.—(1) A chief of police, pending an investigation by him or by the Complaints Commissioner, as the case may be, of the conduct or performance of a police officer, may suspend the police officer from duty with pay for a period not exceeding thirty days. Police officer may be suspended

(2) Where in the opinion of the chief of police an additional period of time is required to complete the investigation or any proceedings resulting therefrom, the chief of police may renew the suspension under subsection 1 for an additional period or periods of thirty days. Renewal of suspension

(3) Notwithstanding subsections 1 and 2, where a penalty provided in clause *a* or *b* of subsection 2 or clause *b* of subsection 4 of section 53m is imposed on a disciplinary proceeding, the chief of police may direct that the police officer be suspended from duty without pay pending the final disposition of any appeal that may be taken. Suspension pending appeal

(4) The chief of police may, at any time, revoke a suspension and order that the suspended police officer be returned to duty and may, from time to time, reimpose the suspension as he considers necessary. Revocation of suspension

(5) During the period of suspension, the police officer shall not, Prohibition

(a) exercise any power or authority vested in him as a police officer; or

(b) wear or use any article of clothing or equipment issued to him as a police officer.

(6) Suspension of a police officer shall cease upon the final disposition of any proceedings in which his conduct or performance is in issue. When suspension to cease

(7) The head of council or, where there is a board, the chairman of the board, may suspend a chief of police from duty pending an investigation, and the provisions of this section apply with necessary modifications to the head of council or chairman of the board, as the case may be, and to the chief of police. Chief of police may be suspended

53m.—(1) Where, in the opinion of the chief of police, a police officer has misconducted himself or is not performing or is incapable of performing his duties in a manner that satisfies the requirements of his position, the chief of police may, after a hearing, impose a penalty provided in subsection 2 or 3 or take action under subsection 4, as the case may be. Powers re imposition of penalties on disciplinary proceeding

Idem

(2) Where the chief of police finds the police officer guilty of misconduct or unsatisfactory performance that, in his opinion, is of a serious nature, he may by order,

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer resign from the police force and, in default of resigning within seven days, be summarily dismissed;
- (c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;
- (d) direct that days off not exceeding twenty days be forfeited;
- (e) direct that pay not exceeding five days pay be forfeited; or
- (f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

Idem

(3) Where the chief of police finds the police officer guilty of misconduct or unsatisfactory performance that, in his opinion, is of a minor nature, he may by order,

- (a) direct that days off not exceeding five days be forfeited;
- (b) direct that pay not exceeding three days pay be forfeited; or
- (c) reprimand the police officer.

Idem

(4) Where the chief of police finds that the police officer is not performing or is incapable of performing his duties in a manner that satisfies the requirements of his position, he may by order,

- (a) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced; or
- (b) dismiss the police officer or place him on retirement if he is entitled thereto.

Medical
evidence

(5) A finding that a police officer is incapable, due to mental or physical disability, of performing his duties in a manner that satisfies the requirements of his position shall be based on the evidence of not less than two legally qualified medical practitioners.

(6) No police officer shall be liable to a penalty under subsection 2 or 4 unless the notice of hearing served upon him included a notice that he would be liable to such penalty if the misconduct or unsatisfactory performance is established on the hearing or he is given notice to that effect during the course of the hearing. No penalty without notice

(7) Notwithstanding section 9 of *The Statutory Powers Procedure Act, 1971*, and except where the hearing arises out of a complaint, hearings under this section shall be held *in camera*, but, if the police officer whose conduct or performance is being investigated requests otherwise by a notice delivered to the chief of police before the day fixed for the hearing, the chief of police shall conduct the hearing in public except where he is of the opinion that, Hearings to be held in camera 1971, c. 47

(a) matters involving public security may be disclosed; or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(8) Subsections 4, 8, 9 and 10 of section 53*k* apply with necessary modifications to a hearing under this section. Application

(9) The chief of police shall forthwith serve notice in writing of his decision and the reasons therefor on the council or, where there is a board, the board, the police officer whose conduct or performance is being investigated and, where the hearing arose out of a complaint, on the complainant and the Complaints Commissioner. Notice of decision

(10) Subject to subsection 11, the council or, where there is a board, the board, may hold a hearing under this section where the conduct or performance of the chief of police is in question, and the provisions of this section apply with necessary modifications to such a hearing. Hearing by council or board

(11) No council or board shall hold a hearing under subsection 10 where a complaint has been made concerning the conduct or performance of the chief of police. Where no hearing to be held

(12) No reference to a proceeding under this section or section 53*k* shall be made in the personal record of a police officer against whom misconduct or unsatisfactory performance was alleged unless the misconduct or unsatisfactory performance is established in the proceeding. No reference in personal record of police officer

53*n*.—(1) The council or, where there is a board, the board, may within thirty days of being served with notice Review of decision

of a decision pursuant to subsection 9 of section 53*m* review and confirm, alter or revoke the decision as it considers proper, and for the purposes of a review, the council or board is not required to hold a hearing but may afford to the police officer an opportunity to make representations in any case it considers proper and shall afford such opportunity to the police officer in every case where it proposes to impose a penalty that, in its opinion, is more severe.

When
decision
deemed
affirmed

(2) Where a council or board fails to make the review under subsection 1, the decision shall be deemed to have been confirmed.

Notice

(3) The police officer whose conduct or performance is being investigated, the chief of police and, where the review was of a decision made on a disciplinary proceeding arising out of a complaint, the complainant and the Complaints Commissioner shall be served forthwith with notice in writing of the results of the review.

Appeal to
Commission

53*o*.—(1) Except where the decision is made on a disciplinary proceeding arising out of a complaint, a police officer who is aggrieved by a decision made under section 53*m* or the results of a review made under section 53*n* may appeal to the Commission.

Notice of
appeal

(2) A notice of appeal to the Commission shall be served on the Commission within fifteen days after notice of the results of a review under subsection 1 of section 53*n* was received by the police officer or the time for such review has elapsed.

Parties

(3) The appellant and the chief of police are parties to the appeal.

Extension
of time

(4) Notwithstanding subsection 2, where the Commission is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for granting an extension, it may extend the time for giving the notice either before or after the expiration of the fifteen-day period referred to in subsection 2 and may give such directions as it considers proper consequent upon such extension.

Hearing
of appeal

(5) Where an appeal is taken under this section, the Commission shall appoint a time for and hear the appeal and may by order confirm, alter or revoke the decision made under section 53*m* or 53*n* as it considers proper.

Application

(6) Subsections 4 to 10 of section 53*k* apply with necessary modifications to a hearing of an appeal under this section.

(7) The Commission shall forthwith serve notice in writing ^{Notice of decision} of its decision and the reasons therefor upon the parties to the appeal.

53p.—(1) A chief of police who is aggrieved by a decision ^{Appeal to Commission} of a council or board respecting his conduct or performance may appeal to the Commission.

(2) A notice of appeal to the Commission shall be served on the Commission within fifteen days after the chief of police receives notice of the decision of the council or board. ^{Notice of appeal}

(3) The chief of police and the council or board, as the ^{Parties} case may be, are parties to the appeal under this section.

(4) Notwithstanding subsection 2, where the Commission ^{Extension of time} is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for granting an extension, it may extend the time for giving the notice either before or after the expiration of the fifteen-day period referred to in subsection 2 and may give such directions as it considers proper consequent upon such extension.

(5) Where an appeal is taken under this section, the ^{Hearing} Commission shall appoint a time for and hear the appeal and may by order confirm, alter or revoke the decision made under section 53m as it considers proper.

(6) Subsections 4 to 10 of section 53k apply with necessary ^{Application} modifications to a hearing of an appeal under this section.

(7) The Commission shall forthwith serve notice in writing ^{Notice of decision} of its decision and the reasons therefor upon the parties to the appeal.

53q.—(1) Where the decision is made on a disciplinary ^{Hearing by Review Board may be required} proceeding arising out of a complaint, a police officer who is aggrieved by a decision made under section 53m or the results of a review made under section 53n may require a hearing by the Review Board.

(2) A notice in writing requiring a hearing by the Review ^{Notice that hearing required} Board shall be served on the Review Board within fifteen days after notice of the results of a review under subsection 1 of section 53n was received by the police officer or the time for such review has elapsed.

(3) The police officer, the chief of police and the Complaints ^{Parties} Commissioner are parties to proceedings before the Review Board under this section.

Extension
of time

(4) Notwithstanding subsection 2, where the Review Board is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for granting an extension, it may extend the time for giving the notice either before or after the expiration of the fifteen day period referred to in subsection 2 and may give such directions as it considers proper consequent upon such extension.

Hearing

(5) Where a police officer requires a hearing by the Review Board in accordance with subsection 1, the Review Board shall appoint a time for and hold the hearing and may by order confirm, alter or revoke the decision made under section 53*m* or 53*n* as it considers proper.

Notice

(6) The Review Board shall give to the complainant, the chief of police and, where applicable, the council or board, notice in writing of the hearing and of the time appointed therefor.

Application

(7) Subsections 4 to 10 of section 53*k* apply with necessary modifications to a hearing under this section.

Notice of
decision

(8) The Review Board shall forthwith serve notice in writing of its decision and the reasons therefor upon the complainant and the parties to the hearing.

Appeal

53*r*.—(1) Any party to proceedings before the Commission or the Review Board may appeal from the decision of the Commission or the Review Board to the Divisional Court in accordance with the rules of court.

Solicitor
General
entitled
to be heard

(2) The Solicitor General is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Appeal on
questions of
law only

(3) An appeal under this section may be made on questions of law only.

How notice
may be
given

53*s*.—(1) Any notice required to be given or served under this Part is sufficiently given or served if delivered personally or sent by prepaid first class mail addressed to the person to whom delivery or service is required to be made.

When
service
deemed
made

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

53*t*. Notwithstanding section 11 of *The Public Authorities Protection Act*, a proceeding under clause *b* of subsection 3 of section 53*f*, subsection 2 of section 53*i* or section 53*m* may be instituted against a police officer in respect of an act done in the performance of his duties, or in respect of any alleged neglect or default in the performance of his duties up to eighteen months next after the act or the alleged neglect or default occurred.

Limitation
on
instituting
proceedings
R.S.O. 1970,
c. 374

53u. *The Ombudsman Act, 1975* does not apply to a member of a police force, the functions of police forces, the Commission, the Complaints Commissioner or the Review Board.

1975, c. 42
does not
apply

53v. Such officers and employees as are considered necessary from time to time for the purposes of the Complaints Commissioner and the Review Board may be appointed under *The Public Service Act*.

Officers,
etc.

R. S. O. 1970,
c. 386

53w. The moneys required for the purposes of the Complaints Commissioner and the Review Board shall, until the 31st day of March, 1978, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

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

s. 69a,
enacted

69a. Any person who contravenes subsection 2 of section 53d is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000.

Offence

- 3.—(1) Clauses *a* and *b* of subsection 1 of section 72 of the said Act are repealed and the following substituted therefor:

s. 72 (1) (a, b),
re-enacted

- (a) for the government of police forces and governing the duties and conduct of members thereof;
- (b) respecting any matter ancillary to the provisions of this Act with regard to the discipline, suspension, dismissal and retirement of members of police forces;
- (ba) establishing procedures respecting the making of complaints and the recording thereof;
- (bb) defining misconduct for the purposes of Part V-A and providing for a code of conduct for police officers;

(bc) respecting the reporting and publication of decisions in complaint and disciplinary matters;

(bd) assigning duties to the Complaints Commissioner;

(be) governing working conditions;

(bf) prescribing forms and providing for their use.

s. 72 (1) (q).
re-enacted

(2) Clause *q* of subsection 1 of the said section 72 is repealed and the following substituted therefor:

(q) prescribing any matter that by this Act is required to be or is referred to as prescribed.

Commence-
ment

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

Short title

5. The short title of this Act is *The Police Amendment Act, 1977*.



An Act to amend The Police Act

1st Reading

November 29th, 1977

2nd Reading

3rd Reading

THE HON. JOHN P. MACBETH
Solicitor General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Condominium Act

THE HON. L. GROSSMAN
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Act presently provides that the condominium corporation has a lien upon the unit of an owner who is in default of payment in his contribution towards common expenses. Notice of lien must be registered within three months of default or the lien expires.

With two exceptions the amendments affect liens only in respect of units used for residential purposes and give such liens priority over existing mortgages, charges or other encumbrances. However, to preserve priority the corporation must give and register notice of the lien within three months of the lien arising to all encumbrancers whose encumbrances are registered. Also, the condominium corporation has an obligation to provide a mortgagee with a statement in respect of any default in payment by the unit owner towards common expenses. The Bill further provides that certain provisions are deemed to be part of a mortgage on a residential unit. These provisions permit the mortgagee to collect and pay the unit owner's contribution towards common expenses. Where paid by the mortgagee without reimbursement by the unit owner, these amounts may be added to the mortgage debt and the mortgage treated as in default.

The two exceptions referred to above occur in the amendment to section 13 (4) and the re-enactment of section 13 (4a). These refer to residential and non-residential units alike. The effect of the amendment to section 13 (4) is to add to the amount included in the lien the costs of collecting or attempting to collect the defaulted payment. The recasting of section 13 (6) is complementary to the amendment to section 13 (4). The effect of the re-enactment of section 13 (4a) is to obviate the need to register, every three months, notice of lien where there is re-occurring default. Once notice is registered, it will serve as notice of default continuing or occurring after registration until such time as a discharge of lien is registered.

An Act to amend The Condominium Act

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

- 1.—(1) Subsection 4 of section 13 of *The Condominium Act*, ^{s. 13 (4),} amended being chapter 77 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 133, section 10, is amended by adding at the end thereof “together with all reasonable costs, charges and expenses incurred by the corporation in connection with the collection or attempted collection of the unpaid amount”.
- (2) Subsection 4a of the said section 13, as enacted by the ^{s. 13 (4a),} re-enacted Statutes of Ontario, 1974, chapter 133, section 10, is repealed and the following substituted therefor:
 - (4a) The lien mentioned in subsection 4 expires three ^{Expiration} months after the default that gave rise to the lien first ^{of lien} occurred unless the corporation within that time registers a notice of lien in the prescribed form, and, where the notice is registered, no further registration is required in respect of default in payment occurring or continuing after registration.
- (3) Subsection 6 of the said section 13 is repealed and the ^{s. 13 (6),} re-enacted following substituted therefor:
 - (6) Upon payment of the unpaid amount together with all ^{Discharge} reasonable costs, charges and expenses incurred by the corporation in connection with the collection or attempted collection of the unpaid amount and upon demand, the corporation shall give the owner a discharge in the prescribed form.
2. The said Act is amended by adding thereto the following ^{s. 13a,} enacted section:
 - 13a.—(1) Where a lien created by subsection 4 of section 13 ^{Lien has} is in respect of a unit for residential purposes, that lien has ^{priority}

priority over every registered and unregistered encumbrance notwithstanding that such encumbrance existed prior to the lien arising.

Where
subs. 1 does
not apply

(2) Subsection 1 does not apply,

- (a) to a lien arising before this section comes into force;
- (b) in respect of a claim of the Crown other than by way of a mortgage or charge;
- (c) in respect of a claim for taxes, charges, rates or assessments levied or recoverable under *The Municipal Act, The Education Act, 1974, The Local Roads Boards Act, The Statute Labour Act or The Local Improvement Act*; or
- (d) such lien or claim that may be designated by regulation.

R.S.O. 1970,
cc. 284, 256,
445, 255,
1974, c. 109

Provisions
deemed in
mortgage

(3) Every mortgage or charge of a unit for residential purposes shall be deemed to contain a provision that,

- (a) the mortgagee or chargee has the right to collect the owner's contribution towards common expenses and shall forthwith pay any amount so collected to the corporation on behalf of the unit owner;
- (b) the owner's default in the payment of common expenses shall constitute default under the mortgage or charge; and
- (c) the mortgagee or chargee shall have the right to pay the owner's contribution towards common expenses which shall from time to time fall due and be unpaid in respect of the mortgaged premises and that such payments together with all reasonable costs, charges and expenses incurred in respect thereto, shall be added to the debt thereby secured and shall be payable forthwith with interest at the rate payable on the mortgage or charge, and, if after demand the owner fails to fully reimburse the mortgagee or chargee, the mortgage or charge shall immediately become due and payable at the option of the mortgagee or chargee.

Statement
to
mortgagor

(4) A corporation shall, where so requested by the holder of a mortgage or charge on a unit for residential purposes, provide, free of charge, to the person making the request a written statement setting out, in respect of the unit, the

common expenses of the owner and all payments thereof in default.

(5) Where a lien arises in respect of a unit for residential purposes, the corporation shall, on or before the day a notice of lien is registered, give notice of the lien to every encumbrancer whose encumbrance is registered against the title of the unit, by personal service of the notice or by sending the notice by registered prepaid post addressed to the encumbrancer at his last known address. Notice of lien to be given

(6) Where notice of lien is not given as provided in subsection 5, then subsection 1 ceases to apply three months after the default that gave rise to the lien first occurred, provided that where notice is given after registration of notice of lien then the corporation may register another notice of lien, but subsection 1 shall continue to apply to any lien which arose not earlier than three months before the last registration of notice of lien. Where notice of lien not given

3. Section 25 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 133, section 17, is further amended by adding thereto the following clause: s. 25, amended

(p) designating liens or claims for the purposes of clause *d* of subsection 2 of section 13a.

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement
5. The short title of this Act is *The Condominium Amendment Act, 1977*. Short title





An Act to amend
The Condominium Act

1st Reading

November 29th, 1977

2nd Reading

3rd Reading

THE HON. L. GROSSMAN
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 115

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Condominium Act

THE HON. L. GROSSMAN
Minister of Consumer and Commercial Relations



An Act to amend The Condominium Act

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

- 1.—(1) Subsection 4 of section 13 of *The Condominium Act*, <sup>s. 13 (4),
amended</sup> being chapter 77 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 133, section 10, is amended by adding at the end thereof “together with all reasonable costs, charges and expenses incurred by the corporation in connection with the collection or attempted collection of the unpaid amount”.
- (2) Subsection 4a of the said section 13, as enacted by the <sup>s. 13 (4a),
re-enacted</sup> Statutes of Ontario, 1974, chapter 133, section 10, is repealed and the following substituted therefor:
- (4a) The lien mentioned in subsection 4 expires three <sup>Expiration
of lien</sup> months after the default that gave rise to the lien first occurred unless the corporation within that time registers a notice of lien in the prescribed form, and, where the notice is registered, no further registration is required in respect of default in payment occurring or continuing after registration.
- (3) Subsection 6 of the said section 13 is repealed and the <sup>s. 13 (6),
re-enacted</sup> following substituted therefor:
- (6) Upon payment of the unpaid amount together with all ^{Discharge} reasonable costs, charges and expenses incurred by the corporation in connection with the collection or attempted collection of the unpaid amount and upon demand, the corporation shall give the owner a discharge in the prescribed form.
2. The said Act is amended by adding thereto the following <sup>s. 13a,
enacted</sup> section:
- 13a.—(1) Where a lien created by subsection 4 of section 13 <sup>Lien has
priority</sup> is in respect of a unit for residential purposes, that lien has

priority over every registered and unregistered encumbrance notwithstanding that such encumbrance existed prior to the lien arising.

Where
subs. 1 does
not apply

(2) Subsection 1 does not apply,

- (a) to a lien arising before this section comes into force;
- (b) in respect of a claim of the Crown other than by way of a mortgage or charge;
- (c) in respect of a claim for taxes, charges, rates or assessments levied or recoverable under *The Municipal Act, The Education Act, 1974, The Local Roads Boards Act, The Statute Labour Act or The Local Improvement Act*; or
- (d) to such lien or claim that may be designated by regulation.

R.S.O. 1970,
cc. 284, 256,
445, 255,
1974, c. 109

Provisions
deemed in
mortgage

(3) Every mortgage or charge of a unit for residential purposes shall be deemed to contain a provision that,

- (a) the mortgagee or chargee has the right to collect the owner's contribution towards common expenses and shall forthwith pay any amount so collected to the corporation on behalf of the unit owner;
- (b) the owner's default in the payment of common expenses shall constitute default under the mortgage or charge; and
- (c) the mortgagee or chargee shall have the right to pay the owner's contribution towards common expenses which shall from time to time fall due and be unpaid in respect of the mortgaged premises and that such payments together with all reasonable costs, charges and expenses incurred in respect thereto, shall be added to the debt thereby secured and shall be payable forthwith with interest at the rate payable on the mortgage or charge, and, if after demand the owner fails to fully reimburse the mortgagee or chargee, the mortgage or charge shall immediately become due and payable at the option of the mortgagee or chargee.

Statement
to
mortgagee

(4) A corporation shall, where so requested by the holder of a mortgage or charge on a unit for residential purposes, provide, free of charge, to the person making the request a written statement setting out, in respect of the unit, the

common expenses of the owner and all payments thereof in default.

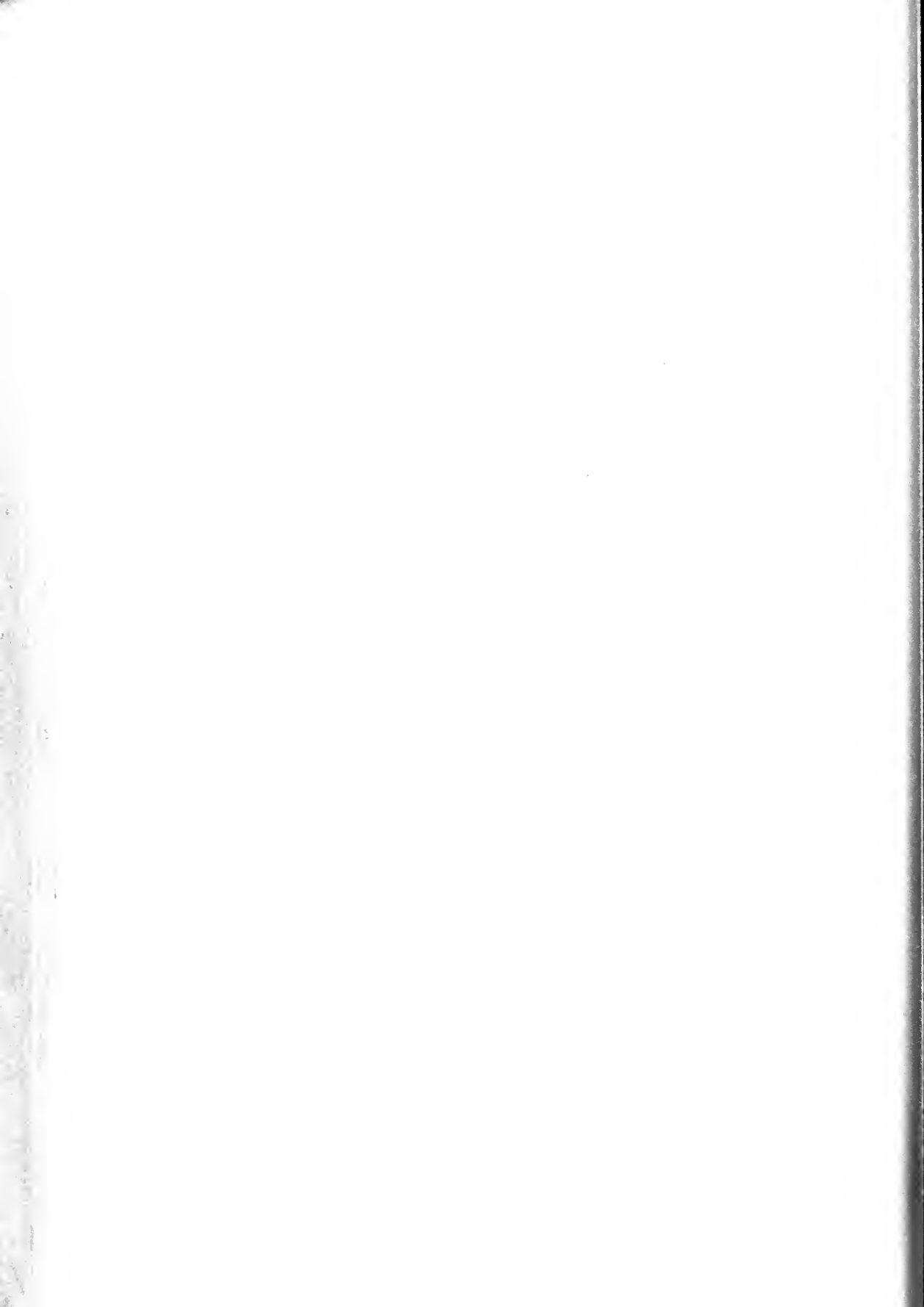
(5) Where a lien arises in respect of a unit for residential purposes, the corporation shall, on or before the day a notice of lien is registered, give notice of the lien to every encumbrancer whose encumbrance is registered against the title of the unit, by personal service of the notice or by sending the notice by registered prepaid post addressed to the encumbrancer at his last known address. Notice of lien to be given

(6) Where notice of lien is not given as provided in subsection 5, then subsection 1 ceases to apply three months after the default that gave rise to the lien first occurred, provided that where notice is given after registration of notice of lien then the corporation may register another notice of lien, but subsection 1 shall continue to apply to any lien which arose not earlier than three months before the last registration of notice of lien. Where notice of lien not given

3. Section 25 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 133, section 17, is further amended by adding thereto the following clause: s. 25, amended

(p) designating liens or claims for the purposes of clause *d* of subsection 2 of section 13a.

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement
5. The short title of this Act is *The Condominium Amendment Act, 1977*. Short title





An Act to amend
The Condominium Act

1st Reading

November 29th, 1977

2nd Reading

December 13th, 1977

3rd Reading

December 13th, 1977

THE HON. I. GROSSMAN
Minister of Consumer and
Commercial Relations

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Election Act

MR. BREITHAAPT

EXPLANATORY NOTE

The Bill amends *The Election Act* for several purposes. The principal changes to the Act include the following:

1. The "British subject" basis for qualification as a voter or candidate in an election is removed so that all voters and candidates must now be Canadian citizens.
2. The Chief Election Officer is given authority to set standards for convenient access to polling places by persons who are physically handicapped.
3. The Bill provides that so far as is reasonably possible all polling stations should be and all advance polls must be accessible to persons who are physically handicapped.
4. Persons who are physically handicapped are permitted to name voting proxies up to and including the day of the election.
5. The political affiliation of candidates will be shown on the ballot.
6. Campaign material is prohibited from being brought into or placed near a polling place on election day.
7. The procedure for establishing the qualifications of a voter whose name has been omitted in error from the polling list is extended to all polling subdivisions rather than simply "rural" subdivisions.
8. The restriction that limits a person to assisting only one blind person in voting is removed.

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 clause:
 - (ha) "International Symbol of Access" means the symbol that is described and illustrated in the Schedule to this Act.
2. Subsection 6 of section 3 of the said Act is repealed and the following substituted therefor:
 - (6) The Chief Election Officer may make regulations,
 - (a) prescribing the forms for use under this Act;
 - (b) prescribing standards for convenient access to polling stations by persons who are physically handicapped.
3. Clause *b* of subsection 1 of section 9 of the said Act is amended by striking out "or other British subject".
- 4.—(1) Clause *c* of 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:
 - (c) a person who is physically incapable of attending a polling place; or

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:

Proxies by
physically
handicapped
persons

(5a) Notwithstanding anything in this section, a person who is physically incapable of attending a polling place may appoint in writing a proxy up to and including polling day, and where the proxy makes a statement on oath before the returning officer or deputy returning officer that the person appointing the proxy is physically incapable of attending a polling place and that the proxy is qualified to act for the person making the appointment, the returning officer or deputy returning officer shall give a certificate across the face of the appointment of the voting proxy to that effect.

s. 35 (7),
re-enacted

(3) Subsection 7 of the said section 35 is repealed and the following substituted therefor:

Oath on
voting

(7) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy with the certificate thereon as provided in subsections 5 and 5a at the time of voting and takes the prescribed oath.

s. 36 (b),
amended

5. Clause *b* of section 36 of the said Act is amended by striking out "or other British subject".

s. 51 (3),
re-enacted

6. Subsection 3 of section 51 of the said Act is repealed and the following substituted therefor:

Form of
ballot

(3) The ballot shall contain the names of the candidates and their political party affiliations and the names of the candidates shall be arranged on the ballot alphabetically by surname with the surname in bold type, with given names preceding the surnames and with consecutive numbers preceding each candidate's name, and the party affiliation of each candidate shall be indicated below the candidate's name.

s. 53 (3),
re-enacted

7. Subsection 3 of section 53 of the said Act is repealed and the following substituted therefor:

Location of
polling
places

(3) A polling place may be situated in a schoolhouse, hall or other public building or on private property and, so far as is reasonably possible, shall conform to the standards for convenient access to polling places by persons who are physically handicapped prescribed by the Chief Election Officer and those polling places that conform to the standards shall be signified by the International Symbol of

Access marked clearly on a sign that is posted in a conspicuous location near the polling place.

(3a) Upon the request of any voter, the returning officer shall provide to the voter a list of the polling places in the electoral district in which the voter is entitled to vote and all the polling places that conform to the standards for convenient access prescribed by the Chief Election Officer shall be designated on the list with the International Symbol of Access. List of polling places

8. Subsection 1 of section 54 of the said Act is amended by striking out "or infirm persons" in the seventh and eighth lines and inserting in lieu thereof "infirm or physically handicapped". s. 54 (1), amended

9. The said Act is amended by adding thereto the following section: s. 59a, enacted

59a. A person who is physically handicapped may vote at any polling place that is designated with or signified by the International Symbol of Access so long as that polling place is within the electoral district in which his name appears on a polling list, and, where the name of the person does not appear on the polling list for the polling place at which he votes, the deputy returning officer or poll clerk shall forthwith notify the deputy returning officer or poll clerk of the polling place at which he is entitled to vote that the person has voted. Handicapped person voting at designated polling place

10. The said Act is further amended by adding thereto the following section: s. 69a, enacted

69a. No person shall bring into or place near a polling place any campaign material displaying the name of a candidate or otherwise designed to promote the election of a particular candidate and every person permitted to remain in the polling place during the time the poll remains open shall remove and destroy any such material brought into or placed near the polling place that comes to his attention. Campaign material prohibition

11. Subsection 4 of section 70 of the said Act is repealed and the following substituted therefor: s. 70 (4), re-enacted

(4) The returning officer, in fixing the location of the polling places, shall select public places or premises that conform to the standards for convenient access to polling places by persons who are physically handicapped prescribed by the Chief Election Officer and such polling places shall be signified by the International Symbol of Access marked Accessibility to polling places

clearly on a sign that is posted in a conspicuous location near the polling place.

s. 78 (1),
amended

- 12.** Subsection 1 of section 78 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 100, section 8, is further amended by striking out "In polling subdivisions declared to be rural polling subdivisions by the Chief Election Officer" in the first line and in the amendment of 1971.

s. 84 (1),
re-enacted

- 13.—**(1) Subsection 1 of section 84 of the said Act is repealed and the following substituted therefor:

Voters
requiring
assistance

(1) On the application of any voter who by reason of inability to read, blindness or physical handicap, is unable to vote in accordance with the other provisions of this Act, the deputy returning officer shall require the voter making the application to take an oath of his need for assistance in order to vote and shall thereafter assist the voter by marking his ballot in the manner directed by the voter in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

s. 84 (4),
repealed

(2) Subsection 4 of the said section 84 is repealed.

Schedule

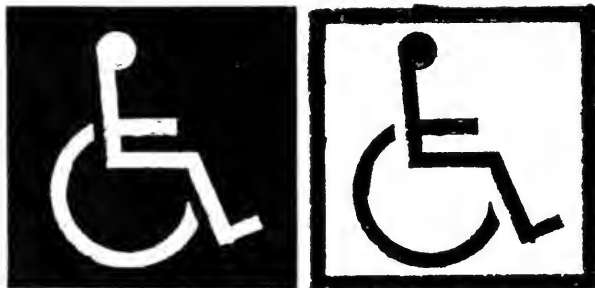
- 14.** The said Act is further amended by adding thereto the following Schedule:

SCHEDULE

1. Description

The symbol of access is composed of two elements—the wheelchair figure and either a square background or square border. The correct colour for the symbol of access 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.

2. Illustration



Commence-
ment

- 15.** This Act comes into force on the day it receives Royal Assent.

Short title

- 16.** The short title of this Act is *The Election Amendment Act, 1977*.



An Act to amend
The Election Act

1st Reading

November 29th, 1977

2nd Reading

3rd Reading

MR. BREITHAUPF

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Landlord and Tenant Act

MR. WILDMAN

EXPLANATORY NOTE

The purpose of the Bill is to provide a remedy to a person who, having bought or leased a mobile home, is unable to conclude a tenancy agreement with the person who owns the mobile home park. A landlord in these circumstances cannot arbitrarily or unreasonably refuse to make or renew a tenancy agreement and where a question arises in respect of such a refusal, an application may be made to a county or district court for a determination of the matter.

BILL 117

1977

**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.—(1) Section 111 of *The Landlord and Tenant Act*, being ^{s. 111, amended} chapter 236 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, (2nd Session), chapter 13, section 10, is amended by adding thereto the following subsection:

(4a) A landlord shall not arbitrarily or unreasonably refuse to renew a tenancy agreement or enter into a new ^{Refusal to enter tenancy agreement} tenancy agreement with a person who has purchased, leased or otherwise taken possession of a mobile home from a tenant of the landlord.

- (2) Subsection 5 of the said section 111 is amended by ^{s. 111 (5), amended} striking out "3 and 4" in the fifth line and inserting in lieu thereof "3, 4 and 4a".

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, 1977*. ^{Short title}

An Act to amend
The Landlord and Tenant Act

1st Reading

December 5th, 1977

2nd Reading

3rd Reading

MR. WILDMAN

(Private Member's Bill)

BILL 118

Private Member's Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Condominium Act

MR. WILDMAN

EXPLANATORY NOTE

This Bill amends *The Condominium Act* to enable mobile home parks to be registered as condominium projects. The Bill also clarifies the existing law by stating that a designated unit can consist of vacant land.

This Bill, thereby, provides for flexibility in the development of mobile home condominium projects by enabling a developer to choose between designating a mobile home as a unit in itself or, alternately, designating a vacant lot as a unit upon which a mobile home may be placed.

An Act to amend The Condominium Act

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

- 1.—(1) Clauses *b* and *r* of subsection 1 of section 1 of *The Condominium Act*, being chapter 77 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

(*b*) “buildings” means the buildings included in a property and includes a mobile home where the mobile home is affixed to the land;

.

(*r*) “unit” means a part or parts of the land included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and description are registered and may consist of vacant land not contained within a building.

- (2) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 133, section 1, is further amended by adding thereto the following clause:

(*ka*) “mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.

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

(*na*) a specification of the nature or type of structure which may be built or placed upon a unit where

the unit consists of vacant land not contained within a building; and

s. 4 (1),
re-enacted

- 3.** Subsection 1 of section 4 of the said Act is repealed and the following substituted therefor:

What
description
must
contain

(1) A description shall contain,

- (a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings, if any;
- (b) structural plans of the buildings, if any;
- (c) diagrams showing the boundaries, shape and dimensions of each unit and the approximate location of each unit in relation to other units and buildings;
- (d) a certificate of a surveyor that all buildings have been constructed substantially in accordance with the structural plans and that the diagrams of the units are substantially accurate; and
- (e) a description of any interests appurtenant to the land that are included in the property,

prepared in accordance with the regulations.

s. 24b (1) (b),
re-enacted

- 4.—(1)** Clause *b* of subsection 1 of section 24*b* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 133, section 14, is repealed and the following substituted therefor:

- (b) those parts of the description showing,
 - (i) the perimeter of the horizontal surface of the land and the perimeter of the buildings,
 - (ii) the boundaries, shape and dimensions of the unit and the approximate location of the unit in relation to the other units and buildings, and
 - (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners.

s. 24b (2) (b),
re-enacted

- (2) Clause *b* of subsection 2 of the said section 24*b* is repealed and the following substituted therefor:

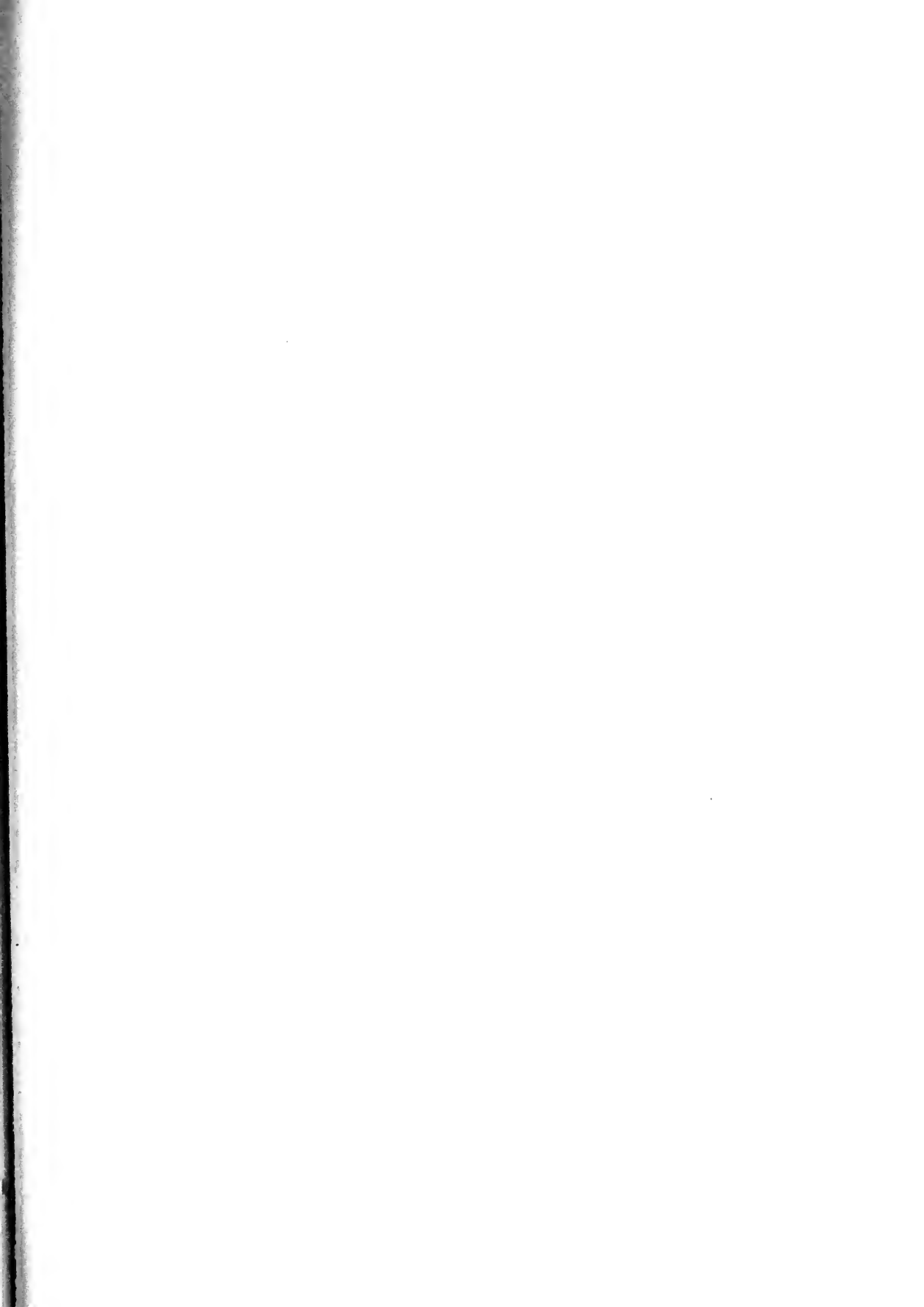
(b) those parts of the proposed description showing,

- (i) the perimeter of the horizontal surface of the land and perimeter of the buildings,
- (ii) the boundaries, shape and dimensions of the unit and the approximate location of the units in relation to the other units and buildings, and
- (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners.

5. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
_{ment}

6. The short title of this Act is *The Condominium Amendment Act, 1977*. ^{Short title}





An Act to amend
The Condominium Act

1st Reading

December 5th, 1977

2nd Reading

3rd Reading

MR. WILDMAN

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide for the
Licensing of Businesses by Municipalities**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTE

The Bill removes from *The Municipal Act* a large number of provisions for the licensing and regulating of a variety of specific trades or businesses and confers a general authority on all local municipalities to pass by-laws to licence, regulate and govern any business carried on within the municipality, provided the terms of any such licensing and regulating by-law are not inconsistent with Provincial statutes or regulations thereunder dealing with any particular business.

Among the principal features of the Bill are the following:

1. Authority is conferred on the councils of all local municipalities to pass by-laws for licensing, regulating and governing any business carried on within the municipality (s. 2 (1)).
2. The specific powers that are comprised within the general power to license, regulate and govern are set out: some examples of these included powers are,
 - (a) the power to prohibit the carrying on of a business without a licence (s. 2 (3) (a));
 - (b) the power to define a class or classes of business and to separately license each such class (s. 2 (3) (c));
 - (c) the power to regulate the hours of operation of a business (s. 2 (3) (d));
 - (d) the power to require an applicant for a licence to submit to an examination to determine his competence in the relevant field (s. 2 (3) (e));
 - (e) the power to require persons carrying on a business to maintain adequate insurance coverage (s. 2 (3) (g));
 - (f) the power to refuse, revoke or suspend a licence following a hearing (s. 2 (3) (h)).
3. By-laws are not to be inconsistent with Provincial statutes or regulations thereunder (s. 2 (4)).
4. Monopoly rights are not to be granted (s. 3).
5. The penalty and enforcement provisions of *The Municipal Act* are made applicable to the licensing and regulating by-laws (s. 4).
6. Certain additional powers as specified may be exercised in respect of body-rub parlours, taxicab brokers, billiard tables, auctioneers and others (s. 5 (1-5)).
7. Where a licence is revoked, a proportionate part of the fee is to be refunded (s. 5 (7)).
8. The included powers set out in s. 2 (3) of the Bill are conferred in respect of by-laws passed under those sections of *The Municipal Act* that remain in that Act for the licensing of certain businesses (s. 6).
9. A large number of provisions relating to licensing and regulating specific business presently to be found in *The Municipal Act* are repealed (ss. 7-23).
10. The Act is to come into force on the 1st day of January, 1979 (s. 24).

BILL 119

1977

An Act to provide for the Licensing of Businesses by 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, "business" means any trade, calling, business, occupation, manufacture or industry and includes the sale or hire of goods or services on an intermittent or one-time basis. Interpre-
tation

2.—(1) Notwithstanding any provision in any other general or special Act, but subject to subsection 4, by-laws may be passed by the councils of local municipalities for licensing, regulating and governing any business carried on within the municipality. Licensing,
regulating,
etc.,
businesses

(2) Where a person in pursuit of a business exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards, he shall, for the purpose of subsection 1, be deemed to be carrying on business in the municipality. Where
business
deemed
carried on in
muni-
cipality

(3) The power to license, regulate and govern a business includes, Included
powers

- (a) the power to prohibit the carrying on of or the engaging in the business without a licence;
- (b) the power to license, regulate or govern the place or premises used in the carrying on of such business and the persons carrying it on or engaged in it;
- (c) the power to define a class or classes of a business and to separately license, regulate and govern each of such class or classes or to specify that any of such class or classes shall not be subject to the provisions, or to any particular provision, of the by-law;

(d) subject to paragraph 1 and sections 357 and 358 of *The Municipal Act*, the power to regulate the hours of operation of the business:

1. Nothing in this clause confers the power to regulate the hours of operation of a shop as defined in subsection 1 of section 355 of *The Municipal Act*;

(e) the power to require an applicant, as a condition of the granting to him of a licence, to submit to an examination to determine his competence to carry on or engage in the business or any class of the business in respect of which he is applying for a licence and to refuse to grant a licence or to grant a licence upon conditions to such an applicant in respect of a business or any class of a business where he fails to pass the required examination:

1. The power to require an examination of an applicant for a licence to carry on or engage in a business includes the power to require an examination of an applicant who did not hold a licence to carry on or engage in that business in the municipality for a period immediately preceding the period for which he is applying for the licence and of an applicant or holder of a licence where the licence last held by him for the carrying on or engaging in of the business in the municipality or in another municipality was revoked on the grounds that the applicant or holder of the licence was shown to have carried on or engaged in the business in an incompetent manner whether or not such grounds were the sole grounds on which the licence was revoked.

A. Where the holder of a licence fails to pass an examination required of him under paragraph 1, the council may revoke his licence.

2. The power to require an examination of an applicant for a licence to carry on or engage in a business includes the power to exempt from such requirement any applicant who holds such certificate or other evidence of qualification as may be prescribed in the by-law;

- (f) the power to regulate, govern and inspect the premises, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business and to provide for imposing a fine upon any person carrying on or engaged in the business who refuses to allow the carrying out of an inspection at any reasonable time pursuant to a by-law passed under this clause;
- (g) the power to require the persons carrying on or engaged in the business to provide such public liability, property damage, cargo, or other insurance in such form and to such amounts of coverage as may be prescribed in the by-law, and where such insurance is not so provided, the council may refuse to grant a licence to that person for the carrying on of that business or may revoke or suspend any such licence;
- (h) the power to grant or refuse a licence for the carrying on or engaging in of such business or to revoke or suspend such licence and to make any suspension subject to such terms or conditions as council may prescribe:

1. Subject to *The Theatres Act*, the exercise of the power mentioned in this clause is in the discretion of the council, which discretion shall be exercised upon such grounds as are set out in a by-law passed under subsection 1, and a decision made pursuant to the exercise of that power is final. R.S.O. 1970.
c. 459
2. The council shall not refuse to grant a licence to any applicant or suspend or revoke the licence of any person without first affording to such applicant or person the opportunity to be heard.
3. The council shall not refuse to grant a licence with respect to the carrying on of a business by reason only of the location of such business except that the council shall refuse to grant a licence where the location of the business proposed to be carried on is such that the carrying on of the business would be in contravention of a by-law passed under section 35 of *The Planning Act* or a predecessor of such section or of an order of the Minister made under clause a of subsection 1 of section 32 of *The Planning Act*. R.S.O. 1970.
c. 349

4. The council may refuse to grant a licence or may revoke or suspend a licence where the business in respect of which the licence is to be or has been granted is to be carried on or is carried on in contravention of a by-law of the municipality;

(i) the power to fix the time for which the licence shall be in force.

No by-law
re business
otherwise
regulated

(4) No by-law shall be passed under subsection 1 for the licensing, regulating or governing of a business that is licensed, regulated or otherwise controlled or authorized to be licensed, regulated or otherwise controlled by the provisions of any other general or special Act where the provisions of the by-law are inconsistent with the provisions or the intent of the Act or of a regulation made under the Act in respect of the business.

Regulations

(5) The Lieutenant Governor in Council may make regulations providing that any business or class of businesses mentioned in the regulation shall be deemed not to be a business for purposes of subsection 1.

Granting
monopolies
prohibited
R.S.O. 1970.
cc. 284, 165,
457

3. Subject to section 252 of *The Municipal Act* and to section 6 of *The Ferries Act* and to section 100 of *The Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any business, or impose a special tax on any person exercising it, or require a licence to be taken for exercising it, unless authorized or required by this or any other Act so to do.

Application
of
R.S.O. 1970.
c. 284,
Pt. XXI

4. Part XXI of *The Municipal Act* applies, with necessary modifications, to a by-law passed under this Act.

Scope of
by-law,
body-rub
parlours

5.—(1) Where a by-law has been passed under subsection 1 of section 2 for licensing or regulating body-rub parlours, such by-law may,

(a) limit the number of licences to be granted, in accordance with clause c, and fix the fee to be paid for the licence;

(b) regulate the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or prohibit such signs, advertising, or advertising devices;

(c) define the area or areas of the municipality in which body-rub parlours may or may not operate and may

limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted;

(d) provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law:

1. Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law mentioned in this subsection has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of the by-law.

2. For the purposes of this subsection,

i. "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and

ii. "body-rub" includes the kneading, manipulating, rubbing, massaging, touching or stimulating, by any means, of a person's body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

(2) Where a by-law has been passed under subsection 1 of section 2 for licensing or regulating taxicab brokers or owners or drivers of cabs or buses, used for hire, such by-law may,

Scope of
by-law,
taxicab
brokers, etc.

(a) fix the fee to be paid for the licence;

- (b) establish the rates or fares to be charged by the owners or drivers of such vehicles for the conveyance of goods or passengers either wholly within the municipality or to any point not more than three miles beyond its limits and provide for the collection of such rates or fares;
- (c) limit the number of cabs or buses, used for hire, or any class or classes thereof:

1. In this subsection, "taxicab broker" means any person who accepts calls in any manner for taxicabs that are used for hire and that are owned by persons other than himself, his immediate family or his employer.
2. No by-law mentioned in this subsection passed by the Council of the City of Mississauga shall apply to owners and drivers of cabs, other than cabs licensed by the said council, while such cabs are engaged in the conveyance of goods or passengers, if such conveyance commenced at the Toronto International Airport.

Scope of
by-law,
billiard
tables, etc.

(3) Where a by-law has been passed under subsection 1 of section 2 for licensing or regulating the keeping or letting of billiard, pool or other like tables, such by-law may,

- (a) provide for the licensing, regulating and governing of proprietary clubs that keep such tables;
- (b) limit the number of licences to be granted and limit the number of tables that shall be licensed:

1. "Proprietary club" means all clubs other than those in which the use of any such table is only incidental to the main objects of the club.

Scope of
by-law,
salesmen

(4) Where a by-law has been passed under subsection 1 of section 2 for the licensing, regulating and governing of persons who go from place to place or to a particular place with goods, wares or merchandise for sale,

- (a) the licensee shall at all times while carrying on his business have his licence with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so is guilty of an offence, unless the same is accounted for satisfactorily, and

on summary conviction is liable to a fine not to exceed \$200;

- (b) if a peace officer demands the production of a licence by any persons to whom the by-law applies and the demand is not complied with, it is the duty of the peace officer and he has power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to the law.

(5) Where a by-law has been passed under subsection 1 of section 2 for licensing or regulating auctioneers or other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, such by-law does not apply to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

Auctioneers,
etc., by-law
not to apply
to sheriff

(6) Where the council of a local municipality is empowered by the provisions of this section to fix a fee to be paid for a licence, the council may provide for enforcing payment of the fee and the fee may be in the nature of a tax for the privilege conferred by it.

Licence
fee may
be tax

(7) Where a licence granted in respect of a business is revoked and a fee has been paid for the granting thereof, the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which the licence was granted.

Refund
when
licence
revoked

6. Subsection 3 of section 2 and subsections 6 and 7 of section 5 apply, with necessary modifications, to the powers of the council of a municipality or of a board of commissioners of police under *The Municipal Act* for licensing, regulating or governing a business or the persons carrying it on or engaged in it or the place or things used for carrying it on except that where there is a conflict between the provisions of this section and the provisions of *The Municipal Act*, the provisions of that Act prevail to the extent of the conflict.

Application
to licensing
powers
under
R.S.O. 1970,
c. 284

7. Section 246 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 20, section 1, is repealed.

R.S.O. 1970,
c. 284, s. 246,
repealed

8. Section 247 of the said Act is repealed.

R.S.O. 1970,
c. 284, s. 247,
repealed

9. Paragraphs 26 and 77 of section 352 of the said Act are repealed.

R.S.O. 1970,
c. 284, s. 352,
para. 26, 77,
repealed

R.S.O. 1970,
c. 284,
s. 354 (1)
pars. 8, 17,
60, 119, 131,
repealed

10.—(1) Paragraphs 8, 17, 60, 119 and 131 of subsection 1 of section 354 of the said Act are repealed.

R.S.O. 1970,
c. 284,
s. 354 (1)
par. 132,
repealed

(2) Paragraph 132 of subsection 1 of the said section 354, as amended by the Statutes of Ontario, 1972, chapter 124, section 10, is repealed.

R.S.O. 1970,
c. 284,
s. 354 (1)
pars. 133, 134,
136-139,
repealed

(3) Paragraphs 133, 134, 136, 137, 138 and 139 of subsection 1 of the said section 354 are repealed.

R.S.O. 1970,
c. 284, s. 368,
pars. 1, 3,
repealed

11. Paragraphs 1 and 3 of section 368 of the said Act are repealed.

R.S.O. 1970,
c. 284, s. 368a,
repealed

12. Section 368a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 56, section 8, is repealed.

R.S.O. 1970,
c. 284,
ss. 369, 372,
repealed

13. Sections 369 and 372 of the said Act are repealed.

R.S.O. 1970,
c. 284, s. 373,
par. 10,
re-enacted

14. Paragraph 10 of section 373, as re-enacted by the Statutes of Ontario, 1975, chapter 56, section 10, is repealed and the following substituted therefor:

Regulating
traffic

10. For the exercise of the powers conferred upon the councils of local municipalities by paragraph 107 of subsection 1 of section 354 in respect of highways under the jurisdiction of the council.

R.S.O. 1970,
c. 284, s. 375
(c-e),
repealed

15. Clauses *c*, *d* and *e* of section 375 of the said Act are repealed.

R.S.O. 1970,
c. 284, s. 377,
repealed

16. Section 377 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 136, section 17, is repealed.

R.S.O. 1970,
c. 284, s. 381,
repealed

17. Section 381 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 124, section 13 and 1974, chapter 136, section 18, is repealed.

R.S.O. 1970,
c. 284, s. 382,
repealed

18. Section 382 of the said Act is repealed.

R.S.O. 1970,
c. 284, s. 383,
pars. 1-4,
repealed

19.—(1) Paragraphs 1, 2, 3 and 4 of section 383 of the said Act are repealed.

R.S.O. 1970,
c. 284, s. 383,
par. 5,
repealed

(2) Paragraph 5 of the said section 383, as amended by the Statutes of Ontario, 1972, chapter 1, section 1, is repealed.

R.S.O. 1970,
c. 284, s. 383,
par. 6,
repealed

(3) Paragraph 6 of the said section 383 is repealed.

R.S.O. 1970,
c. 284, s. 383,
par. 7,
re-enacted

(4) Paragraph 7 of the said section 383 is repealed and the following substituted therefor:

7. For prohibiting or regulating and licensing exhibitions of wax works, menageries, circus-riding, and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousels, and other like contrivances, and for fixing the fee to be paid for the licence, and for imposing penalties not exceeding the amount of the licence fee on offenders against the by-law, and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

Exhibitions
of wax works,
shows, etc.

(a) A licence shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 300 yards from the grounds of the society, or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

(b) The fee to be paid for the licence shall not exceed \$500.

(5) Paragraphs 8, 9, 10 and 11 of the said section 383 are repealed.

R.S.O. 1970,
c. 284, s. 383,
pars. 8-11,
repealed

(6) Paragraph 12 of the said section 383, as amended by the Statutes of Ontario, 1972, chapter 1, section 1, is repealed.

R.S.O. 1970,
c. 284, s. 383,
par. 12,
repealed

(7) Paragraphs 13 and 18 of the said section 383 are repealed.

R.S.O. 1970,
c. 284, s. 383,
pars. 13, 18,
repealed

20. Section 384 of the said Act is repealed.

R.S.O. 1970,
c. 284, s. 384,
repealed

21. Paragraphs 2 and 3 of section 385 of the said Act are repealed.

R.S.O. 1970,
c. 284, s. 385,
pars. 2, 3,
repealed

22. Clauses *i*, *j* and *k* of subsection 1 and subsection 2 of section 487 of the said Act are repealed.

R.S.O. 1970,
c. 284,
s. 487 (1) (*i*, *j*,
k), (2),
repealed

23. Section 640 of the said Act is repealed.

R.S.O. 1970,
c. 284, s. 640,
repealed

24. This Act comes into force on the 1st day of January, 1979.

Commence-
ment

25. The short title of this Act is *The Municipal Licensing Act, 1977*.

Short title

An Act to provide
for the Licensing of Businesses
by Municipalities

1st Reading

December 6th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTE

The Bill establishes a Board of Management of the Metropolitan Toronto Zoo, to be entrusted, by agreement with the Metropolitan Corporation, with the operation, management and maintenance of the Metropolitan Toronto Zoo. The nine members of the Board will be appointed by the Metropolitan Council and will include in their number four persons nominated by the Metropolitan Toronto Zoological Society. Provision is made for the transfer of employees of the Zoological Society to the Board of Management and for the protection of their existing salaries, pension benefits, sick leave credits and holiday entitlement.

Section 209 of the Act, as it now exists, providing for the operation and management of the Zoo by the Zoological Society is set out below:

- 209.—(1) *In this section, "Society" means the Metropolitan Toronto Zoological Society.*
- (2) *The Metropolitan Council may by by-law delegate to the Society any or all of the Council's powers to operate and manage a zoological garden and related facilities established by the Council, and may enter into one or more agreements with the Society entrusting such operation and management to the Society on such terms and conditions as the Council may consider proper.*
 - (3) *The Metropolitan Council may by by-law establish general policies to be followed by the Society in the operation and management of the zoological garden and related facilities.*
 - (4) *The Metropolitan Corporation may provide moncy to the Society for its purposes, including the operation and management of the zoological garden, but it shall not be responsible for any deficit or debt incurred by the Society unless the deficit or debt was incurred with the approval of the Metropolitan Council.*
 - (5) *Notwithstanding any delegation of powers or the making of an agreement between the Metropolitan Corporation and the Society under subsection 2, the Society shall be deemed not to be a local board of the Metropolitan Corporation provided, however, that while such delegation or agreement is in effect, the accounts and transactions of the Society shall be audited by the auditor of the Metropolitan Corporation.*
 - (5a) *Notwithstanding subsection 5, the Society shall be deemed to be a local board of the Metropolitan Corporation for the purposes of The Ontario Municipal Employees Retirement System Act.*
 - (6) *The occupation, management and control of lands by the Society under an agreement under subsection 1 shall be deemed, for the purposes of subsections 4 and 5 of section 204 of this Act and of paragraph 9 of section 3 of The Assessment Act, to be occupation, management and control by the Metropolitan Corporation of lands used for park purposes.*

BILL 120

1977

**An Act to amend
The Municipality of Metropolitan Toronto Act**

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

1. Section 209 of *The Municipality of Metropolitan Toronto Act*, ^{s. 209.} being chapter 295 of the Revised Statutes of Ontario, 1970, ^{re-enacted} as amended by the Statutes of Ontario, 1972, chapter 89, section 5, is repealed and the following substituted therefor:

209.—(1) In this section and in section 209a, Interpre-
tation

- (a) "Board of Management" means the Board of Management of the Metropolitan Toronto Zoo;
- (b) "Metropolitan Toronto Zoo" means the zoological garden and related facilities which have been established by the Metropolitan Council or which may hereafter be established by the Council;
- (c) "Society" means the Metropolitan Toronto Zoological Society.

(2) There is hereby established a corporation without <sup>Board
established</sup> share capital under the name "Board of Management of the Metropolitan Toronto Zoo" and such Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts including contracts of employment, and shall have all powers necessary for or incidental to the operation, management and maintenance of the Metropolitan Toronto Zoo.

(3) *The Corporations Act* does not apply to the Board of <sup>R.S.O. 1970.
c. 89 not
to apply</sup> Management.

(4) The Board of Management shall be composed of nine <sup>Composition
of Board</sup> members appointed by the Metropolitan Council, of whom four shall be nominees of the Society.

- Term of office (5) The members of the Board of Management shall be appointed for a term of office not exceeding the term of office of members of the Metropolitan Council and shall hold office until their successors are appointed.
- Chairman, vice-chairman, quorum (6) The Board of Management, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of its members constitutes a quorum.
- Committees (7) The Board of Management may from time to time establish such standing or other committees, appoint as members thereof such persons, including members of the Society, and assign such duties to the committees so established as the Board deems fit.
- Animal Acquisition Committee (8) Notwithstanding subsection 7, the Board of Management shall establish an Animal Acquisition Committee and the Society may appoint one member, or with the approval of the Board of Management more than one member, of such Committee.
- By-laws (9) The Board of Management may enact by-laws for the regulation of its proceedings and for the conduct and management of its affairs.
- Agreement to operate, manage and maintain Zoo (10) The Metropolitan Corporation may enter into one or more agreements with the Board of Management entrusting the operation, management and maintenance of the Metropolitan Toronto Zoo to the Board of Management on such terms and conditions as the Metropolitan Council may consider proper.
- By-laws re general policies (11) The Metropolitan Council may by by-law establish general policies to be followed by the Board of Management in the operation, management and maintenance of the Metropolitan Toronto Zoo under an agreement entered into under subsection 10.
- Surplus or deficit (12) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board of Management and is responsible for any deficit incurred by it.
- Occupation by Board deemed occupation by Metropolitan Corporation
R.S.O. 1970, c. 32 (13) The occupation, management and control of lands by the Board of Management under an agreement under subsection 10 shall be deemed for the purposes of subsections 4 and 5 of section 204 of this Act and of paragraph 9 of section 3 of *The Assessment Act*, to be occupation, management and control by the Metropolitan Corporation of lands used for park purposes.

(14) *The Municipal Conflict of Interest Act, 1972* does not apply to a member of the Board of Management in respect of a contract, proposed contract or other matter between the Board of Management and the Society by reason only of such member being a member or officer of the Society. Application of 1972, c. 142

209a.—(1) The Board of Management shall offer to employ every person who, on the 1st day of July, 1977, is employed by the Society in connection with the operation, management and maintenance of the Metropolitan Toronto Zoo and who continues to be so employed until the date of coming into force of an agreement under subsection 10 of section 209. Offer of employment

(2) Any person who accepts employment under subsection 1 shall be entitled to receive a wage or salary up to and including the 31st day of December, 1978, of not less than he was receiving on the 1st day of July, 1977. Wages and salaries

(3) Employment with the Society by a person who accepts employment with the Board of Management under subsection 1 shall be deemed to have been employment with the Board of Management for the purposes of pension benefits. Pension benefits

(4) Any sick leave credits standing, on the 31st day of December, 1977 to the credit of any person who accepts employment under subsection 1 shall be placed to the credit of such employee in any sick leave credit plan established by the Board of Management. Sick leave credits

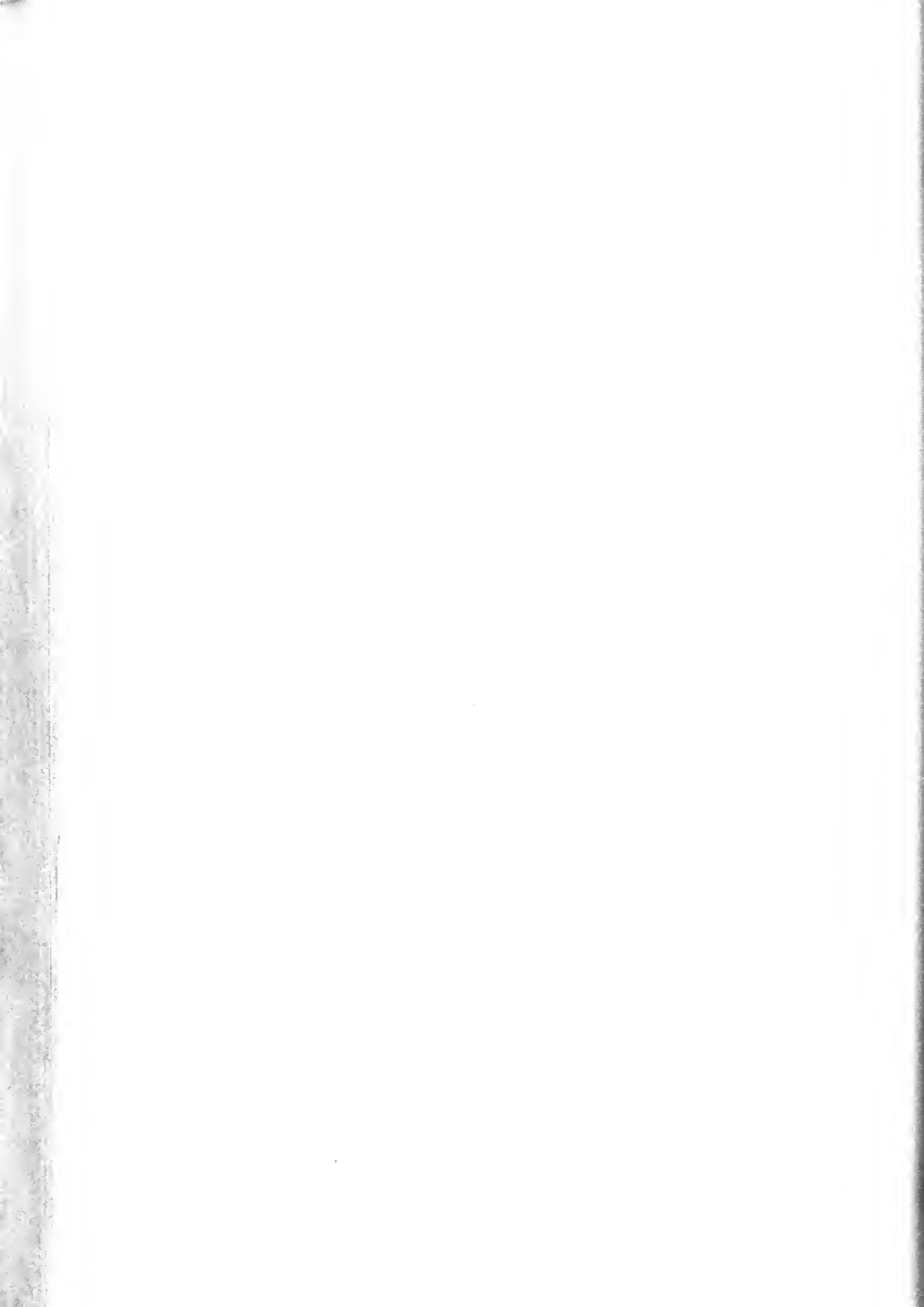
(5) Any person who accepts employment under subsection 1 shall be entitled during 1978 to holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the Society. Holidays

(6) Nothing in this section prevents the Board of Management from terminating the employment of an employee for cause. Dismissal for cause

2. Notwithstanding the repeal of section 209 of *The Municipality of Metropolitan Toronto Act* by section 1 of this Act, the Metropolitan Toronto Zoological Society shall continue to operate and manage the zoological garden under the terms of the agreement entered into under subsection 2 of the said section 209, until the coming into force of an agreement under subsection 10 of section 209, as re-enacted by section 1 of this Act. Transitional

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

4. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1977*. Short title





An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

December 8th, 1977

2nd Reading

3rd Reading

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 120

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



BILL 120

1977

**An Act to amend
The Municipality of Metropolitan Toronto Act**

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

1. Section 209 of *The Municipality of Metropolitan Toronto Act*, ^{s. 209.} being chapter 295 of the Revised Statutes of Ontario, 1970, ^{re-enacted} as amended by the Statutes of Ontario, 1972, chapter 89, section 5, is repealed and the following substituted therefor:

209.—(1) In this section and in section 209a,

Interpre-
tation

- (a) "Board of Management" means the Board of Management of the Metropolitan Toronto Zoo;
- (b) "Metropolitan Toronto Zoo" means the zoological garden and related facilities which have been established by the Metropolitan Council or which may hereafter be established by the Council;
- (c) "Society" means the Metropolitan Toronto Zoological Society.

(2) There is hereby established a corporation without share capital under the name "Board of Management of the Metropolitan Toronto Zoo" and such Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts including contracts of employment, and shall have all powers necessary for or incidental to the operation, management and maintenance of the Metropolitan Toronto Zoo.

Board
established

(3) *The Corporations Act* does not apply to the Board of Management.

R.S.O. 1970.
c. 89 not
to apply

(4) The Board of Management shall be composed of nine members appointed by the Metropolitan Council, of whom four shall be nominees of the Society.

Composition
of Board

- Term of office (5) The members of the Board of Management shall be appointed for a term of office not exceeding the term of office of members of the Metropolitan Council and shall hold office until their successors are appointed.
- Chairman, vice-chairman, quorum (6) The Board of Management, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of its members constitutes a quorum.
- Committees (7) The Board of Management may from time to time establish such standing or other committees, appoint as members thereof such persons, including members of the Society, and assign such duties to the committees so established as the Board deems fit.
- Animal Acquisition Committee (8) Notwithstanding subsection 7, the Board of Management shall establish an Animal Acquisition Committee and the Society may appoint one member, or with the approval of the Board of Management more than one member, of such Committee.
- By-laws (9) The Board of Management may enact by-laws for the regulation of its proceedings and for the conduct and management of its affairs.
- Agreement to operate, manage and maintain Zoo (10) The Metropolitan Corporation may enter into one or more agreements with the Board of Management entrusting the operation, management and maintenance of the Metropolitan Toronto Zoo to the Board of Management on such terms and conditions as the Metropolitan Council may consider proper.
- By-laws re general policies (11) The Metropolitan Council may by by-law establish general policies to be followed by the Board of Management in the operation, management and maintenance of the Metropolitan Toronto Zoo under an agreement entered into under subsection 10.
- Surplus or deficit (12) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board of Management and is responsible for any deficit incurred by it.
- Occupation by Board deemed occupation by Metropolitan Corporation
R.S.O. 1970, c. 32 (13) The occupation, management and control of lands by the Board of Management under an agreement under subsection 10 shall be deemed for the purposes of subsections 4 and 5 of section 204 of this Act and of paragraph 9 of section 3 of *The Assessment Act*, to be occupation, management and control by the Metropolitan Corporation of lands used for park purposes.

(14) *The Municipal Conflict of Interest Act, 1972* does not apply to a member of the Board of Management in respect of a contract, proposed contract or other matter between the Board of Management and the Society by reason only of such member being a member or officer of the Society. Application of 1972, c. 142

209a.—(1) The Board of Management shall offer to employ every person who, on the 1st day of July, 1977, is employed by the Society in connection with the operation, management and maintenance of the Metropolitan Toronto Zoo and who continues to be so employed until the date of coming into force of an agreement under subsection 10 of section 209. Offer of employment

(2) Any person who accepts employment under subsection 1 shall be entitled to receive a wage or salary up to and including the 31st day of December, 1978, of not less than he was receiving on the 1st day of July, 1977. Wages and salaries

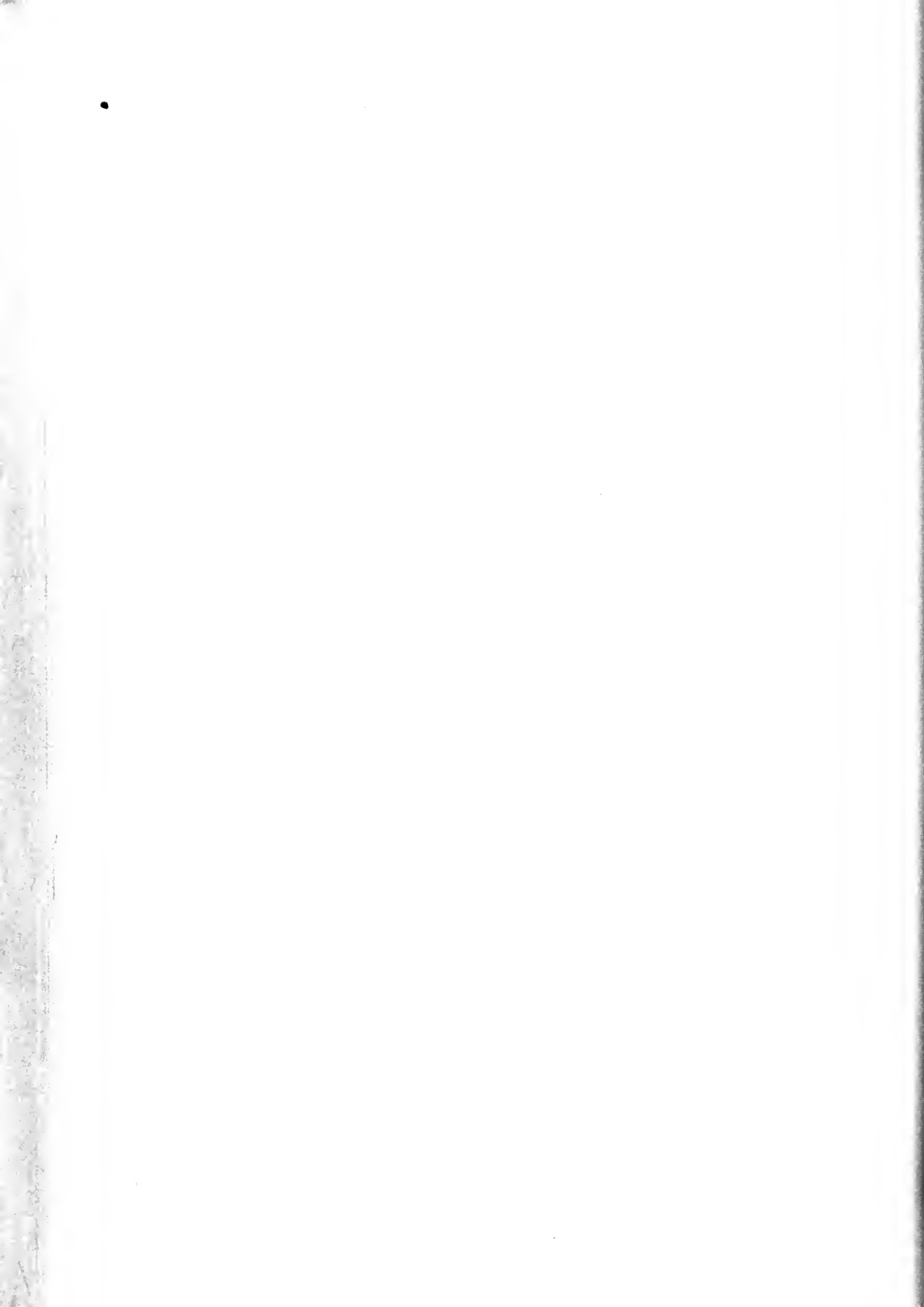
(3) Employment with the Society by a person who accepts employment with the Board of Management under subsection 1 shall be deemed to have been employment with the Board of Management for the purposes of pension benefits. Pension benefits

(4) Any sick leave credits standing, on the 31st day of December, 1977 to the credit of any person who accepts employment under subsection 1 shall be placed to the credit of such employee in any sick leave credit plan established by the Board of Management. Sick leave credits

(5) Any person who accepts employment under subsection 1 shall be entitled during 1978 to holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the Society. Holidays

(6) Nothing in this section prevents the Board of Management from terminating the employment of an employee for cause. Dismissal for cause

2. Notwithstanding the repeal of section 209 of *The Municipality of Metropolitan Toronto Act* by section 1 of this Act, the Metropolitan Toronto Zoological Society shall continue to operate and manage the zoological garden under the terms of the agreement entered into under subsection 2 of the said section 209, until the coming into force of an agreement under subsection 10 of section 209, as re-enacted by section 1 of this Act. Transitional
3. This Act comes into force on the day it receives Royal Assent. Commencement
4. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1977*. Short title





An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

December 8th, 1977

2nd Reading

December 13th, 1977

3rd Reading

December 13th, 1977

THE HON. W. D. MCKEUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act respecting Family Day

MR. WILLIAMS

EXPLANATORY NOTE

The purpose of this Bill is to provide for a public holiday known as Family Day. Family Day is established as a day to celebrate the institution of the family and will be held on a day to be named by the Lieutenant Governor.

BILL 121

1977

An Act respecting Family Day

WHEREAS the family is a source of values that are ^{Preamble} essential to the existence of a peaceful and healthy society;

AND WHEREAS the family, as the focal point of daily life, offers mutual help, comfort and support to each of its members;

AND WHEREAS it is public policy in Ontario to preserve and strengthen the family as the basic unit of society;

AND WHEREAS, since some social and economic influences threaten to fragment the family, it is desirable that every citizen honour the family by reflecting upon the benefits and obligations that he or she shares as a family member;

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

1. There shall be one day in every year, on a day to be ^{Family Day} named by proclamation of the Lieutenant Governor, that is known as Family Day and this day shall be celebrated as a public holiday throughout the Province of Ontario.

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

3. This Act may be cited as *The Family Day Act, 1977*. ^{Short title}

An Act respecting
Family Day

1st Reading

December 8th, 1977

2nd Reading

3rd Reading

MR. WILLIAMS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Legislative Assembly Act

THE HON. R. WELCH
Minister of Culture and Recreation

EXPLANATORY NOTES

SECTION 1. The members' indemnity is increased from \$17,200 to \$19,242 and the portion that may be paid per month is increased from \$1,430 to \$1,600.

SECTION 2. The amendment authorizes the Board of Internal Economy to require statements of current expenditures and forecasts of future expenditures on a monthly basis from offices, agencies, commissions and select committees whose estimates are subject to review by the Board.

BILL 122

1977

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, 1977, Chapter 26, section 1, is amended by striking out “\$17,200” in the first line and inserting in lieu thereof “\$19,242”. s. 60 (1), amended

- (2) Subsection 5 of the said section 60, as re-enacted by the Statutes of Ontario, 1977, chapter 26, section 1, is amended by striking out “\$1,430” in the fourth line and inserting in lieu thereof “\$1,600”. s. 60 (5), amended

2. The said Act is amended by adding thereto the following section: s. 83a, enacted

83a. The Board of Internal Economy may require any office, agency, commission or select committee of the Assembly whose estimates of moneys required are subject to review by the Board to submit to the Board on a monthly basis statements that set out current expenditures and forecast future expenditures and every such office, agency, commission and select committee shall submit the statements when so required. Board may require monthly statements

- 3.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent. Commencement

- (2) Section 1 shall be deemed to have come into force on the 1st day of October, 1977. Idem

4. The short title of this Act is *The Legislative Assembly Amendment Act, 1977*. Short title

An Act to amend
The Legislative Assembly Act

1st Reading

December 12th, 1977

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Culture and Recreation

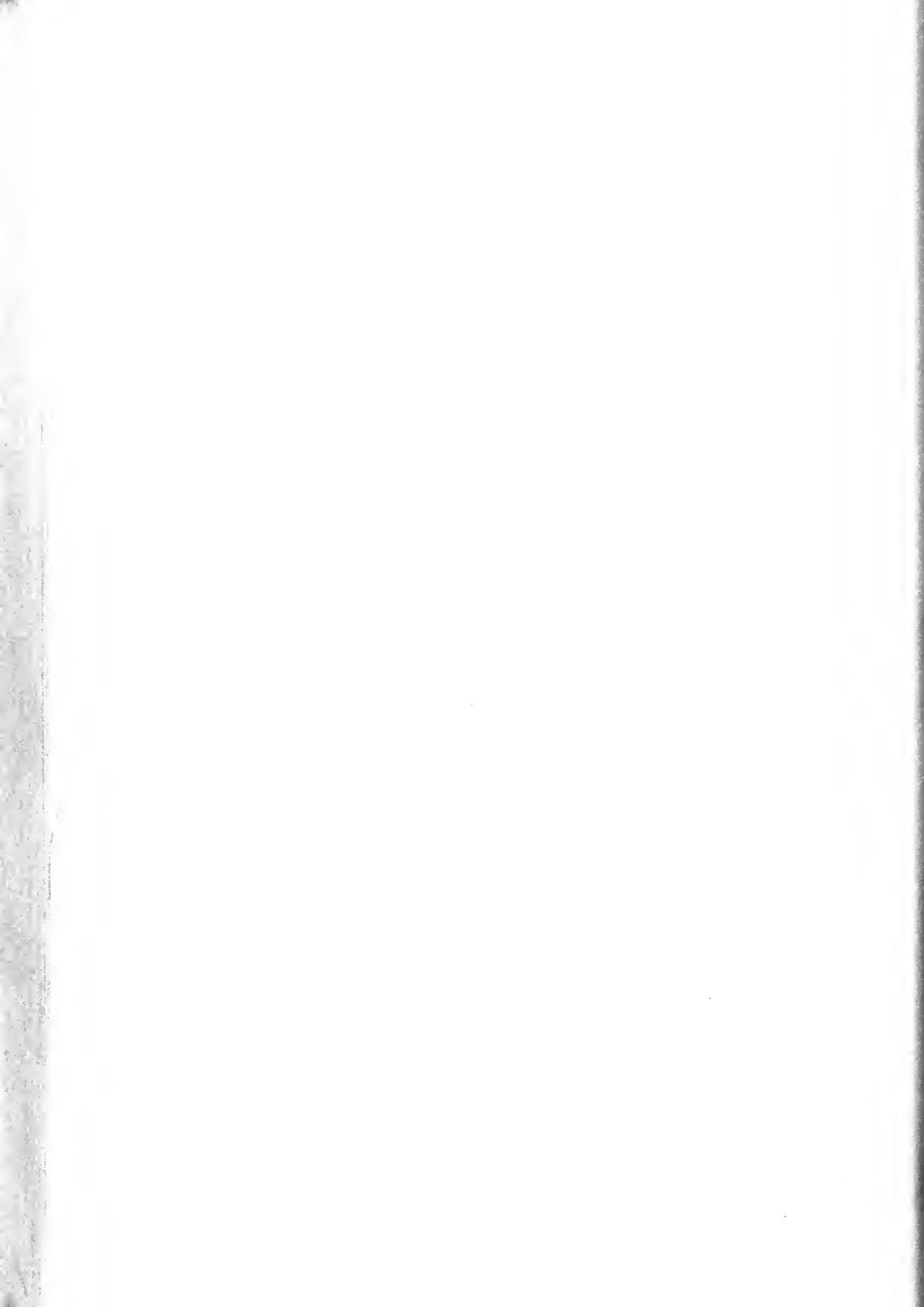
(Government Bill)

BILL 122

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Legislative Assembly Act

THE HON. R. WELCH
Minister of Culture and Recreation



BILL 122

1977

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, 1977, Chapter 26, section 1, is amended by striking out "\$17,200" in the first line and inserting in lieu thereof "\$19,242". s. 60 (1), amended

- (2) Subsection 5 of the said section 60, as re-enacted by the Statutes of Ontario, 1977, chapter 26, section 1, is amended by striking out "\$1,430" in the fourth line and inserting in lieu thereof "\$1,600". s. 60 (5), amended

2. The said Act is amended by adding thereto the following section: s. 83a, enacted

83a. The Board of Internal Economy may require any office, agency, commission or select committee of the Assembly whose estimates of moneys required are subject to review by the Board to submit to the Board on a monthly basis statements that set out current expenditures and forecast future expenditures and every such office, agency, commission and select committee shall submit the statements when so required. Board may require monthly statements

- 3.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent. Commencement

- (2) Section 1 shall be deemed to have come into force on the 1st day of October, 1977. Idem

4. The short title of this Act is *The Legislative Assembly Amendment Act, 1977*. Short title

An Act to amend
The Legislative Assembly Act

1st Reading

December 12th, 1977

2nd Reading

December 13th, 1977

3rd Reading

December 13th, 1977

THE HON. R. WELCH
Minister of Culture and Recreation

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend The Legislative Assembly
Retirement Allowances Act, 1973**

THE HON. R. WELCH
Minister of Culture and Recreation

EXPLANATORY NOTES

SECTION 1. The five year period for the calculation of average annual remuneration is reduced to three years for those who ceased or who cease to be members on or after the 1st day of October, 1977.

SECTION 2. The contribution rate is increased from 7 to 8½ per cent effective the 1st day of October, 1977.

SECTION 3. The sixty year rule is changed to a fifty-five year rule for those who ceased or who cease to be members on or after the 1st day of October, 1977.

**An Act to amend The Legislative Assembly
Retirement Allowances Act, 1973**

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 section 14 of *The Legislative Assembly Retirement Allowances Act, 1973*, being chapter 152, is repealed and the following substituted therefor: ^{s. 14 (a), re-enacted}

(a) "average annual remuneration" means,

- (i) in respect of a person who was in receipt of an allowance immediately before the 1st day of October, 1977, the average annual remuneration of the person during any five fiscal years of his service, which years need not be consecutive, during which his remuneration was the highest, or
- (ii) in respect of a person who became entitled or who becomes entitled to an allowance on or after the 1st day of October, 1977, the average annual remuneration of the person during any three fiscal years of his service, which years need not be consecutive, during which his remuneration was highest.

2. Section 17 of the said Act is amended by striking out "7" ^{s. 17, amended} in the second line and inserting in lieu thereof "8½".

3. Subsections 1 and 2 of section 18 of the said Act are repealed ^{s. 18 (1, 2), re-enacted} and the following substituted therefor:

(1) A person who has contributed in respect of at least ^{Eligibility} five years of service and who has credit in the Legislative ^{for} Assembly Retirement Allowances Account for a number of ^{allowance,} years of service that, when added to his age on the date he ^{member} ceases to be a member totals,

(a) in the case of a person who ceased to be a member before the 1st day of October, 1977, at least sixty years; or

(b) in the case of a person who ceased or who ceases to be a member on or after the 1st day of October, 1977, at least fifty-five years,

is entitled to an annual allowance during his lifetime upon his ceasing to be a member.

Deferred
or
reduced
allowance

(2) Where a person has contributed in respect of at least five years of service but has not satisfied the sixty year rule or the fifty-five year rule, as the case requires, in subsection 1 on the date he ceased or ceases to be a member, he may elect to take a deferred annual allowance under subsection 3 at the age when he does satisfy such rule or an immediate annual allowance of a reduced amount under subsection 4.

Commence-
ment

4.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent.

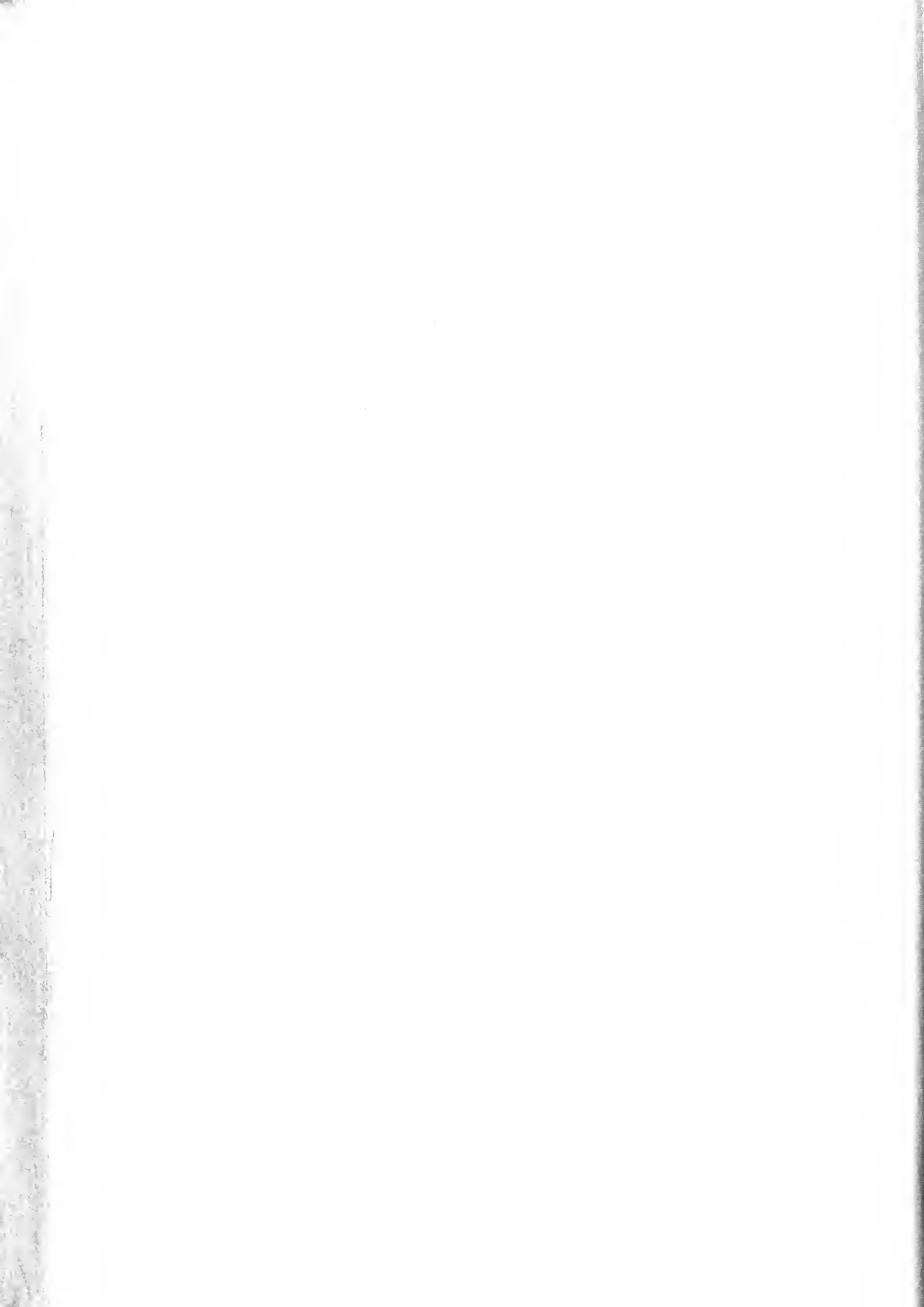
Idem

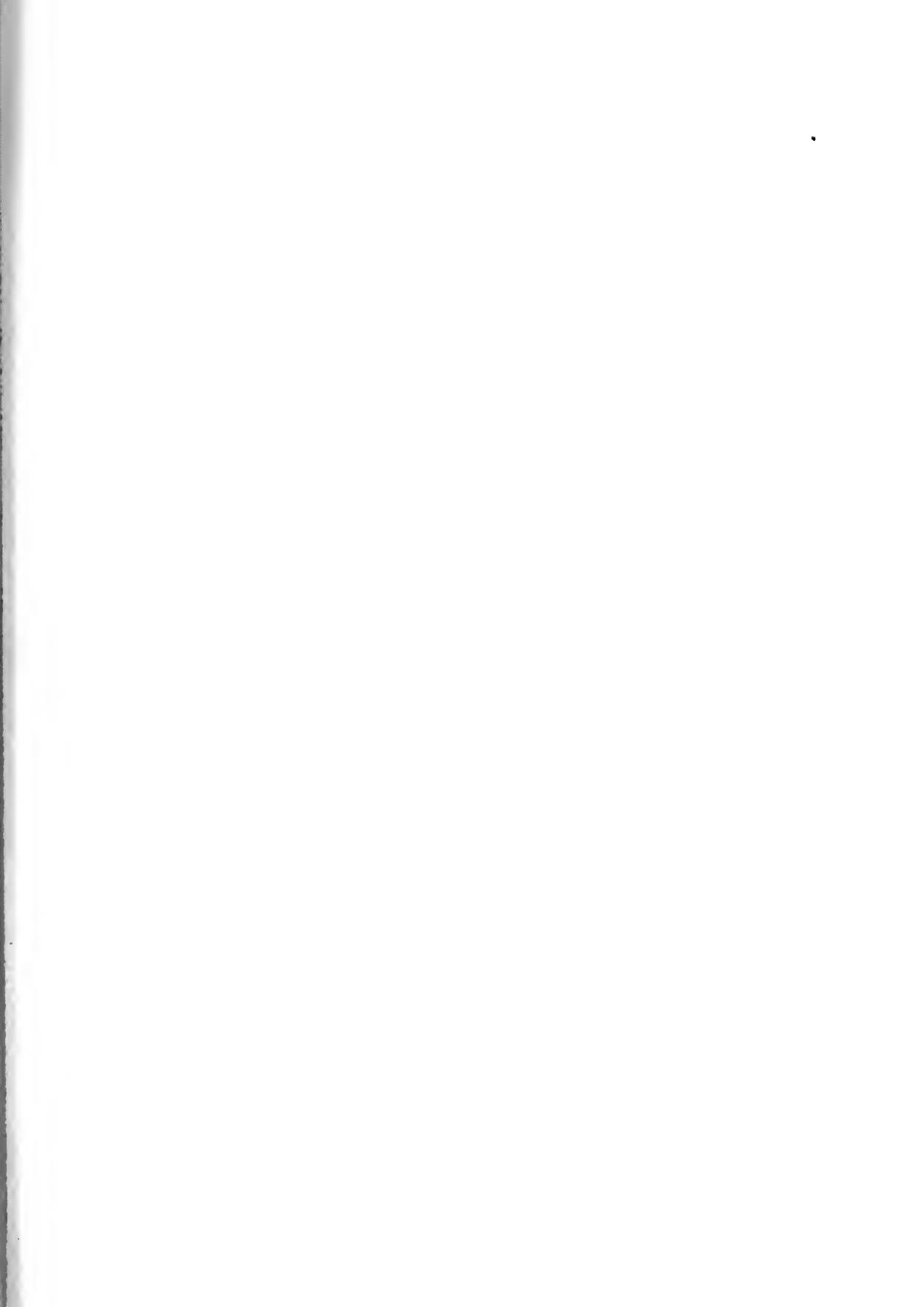
(2) Section 2 shall be deemed to have come into force on the 1st day of October, 1977.

Short title

5. The short title of this Act is *The Legislative Assembly Retirement Allowances Amendment Act, 1977*.







An Act to amend The Legislative
Assembly Retirement Allowances
Act, 1973

1st Reading

December 12th, 1977

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Culture and Recreation

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend The Legislative Assembly
Retirement Allowances Act, 1973**

THE HON. R. WELCH
Minister of Culture and Recreation

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

EXPLANATORY NOTES

SECTION 1. The amendment replaces the one-half allowance to a spouse, who qualifies under Part I of the Act, with a 60 per cent allowance. The amendment is made effective on the same date that a similar amendment came into force in respect of those who qualify under Part II of the Act.

SECTION 2. The five year period for the calculation of average annual remuneration is reduced to three years for those who ceased or who cease to be members on or after the 1st day of October, 1977.

BILL 123

1977

An Act to amend The Legislative Assembly Retirement Allowances Act, 1973

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 11 of *The Legislative Assembly Retirement Allowances Act, 1973*, being chapter 152, is amended by striking out “one-half” in the fifth line and inserting in lieu thereof “60 per cent”. s. 11 (1),
amended
- (2) Subsection 2 of the said section 11 is amended by striking out “one-half” in the thirteenth and in the seventeenth lines and inserting in lieu thereof in each instance “60 per cent”. s. 11 (2),
amended
2. Clause *a* of section 14 of the said Act is repealed and the following substituted therefor: s. 14 (a),
re-enacted

(a) “average annual remuneration” means,

- (i) in respect of a person who was in receipt of an allowance immediately before the 1st day of October, 1977, the average annual remuneration of the person during any five fiscal years of his service, which years need not be consecutive, during which his remuneration was the highest, or
- (ii) in respect of a person who became entitled or who becomes entitled to an allowance on or after the 1st day of October, 1977, the average annual remuneration of the person during any three fiscal years of his service, which years need not be consecutive, during which his remuneration was highest.

s. 17.
amended

3. Section 17 of the said Act is amended by striking out "7" in the second line and inserting in lieu thereof "8½".

s. 18 (1, 2).
re-enacted

4. Subsections 1 and 2 of section 18 of the said Act are repealed and the following substituted therefor:

Eligibility
for
allowance.
member

(1) A person who has contributed in respect of at least five years of service and who has credit in the Legislative Assembly Retirement Allowances Account for a number of years of service that, when added to his age on the date he ceases to be a member totals,

(a) in the case of a person who ceased to be a member before the 1st day of October, 1977, at least sixty years; or

(b) in the case of a person who ceased or who ceases to be a member on or after the 1st day of October, 1977, at least fifty-five years,

is entitled to an annual allowance during his lifetime upon his ceasing to be a member.

Deferred
or
reduced
allowance

(2) Where a person has contributed in respect of at least five years of service but has not satisfied the sixty year rule or the fifty-five year rule, as the case requires, in subsection 1 on the date he ceased or ceases to be a member, he may elect to take a deferred annual allowance under subsection 3 at the age when he does satisfy such rule or an immediate annual allowance of a reduced amount under subsection 4.

Commence-
ment

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

Idem

(2) Section 1 shall be deemed to have come into force on the 12th day of July, 1977.

Idem

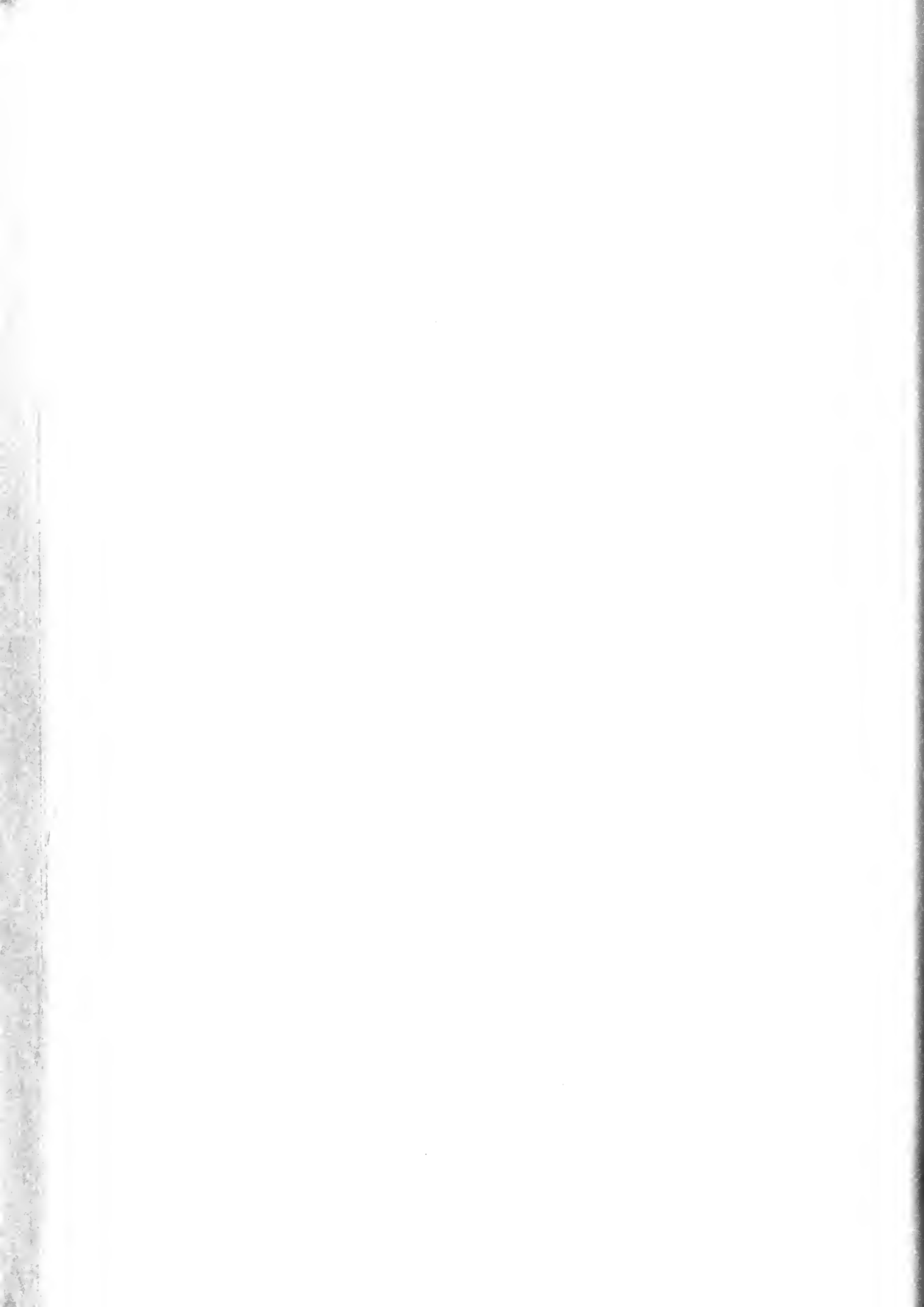
(3) Section 3 shall be deemed to have come into force on the 1st day of October, 1977.

Short title

6. The short title of this Act is *The Legislative Assembly Retirement Allowances Amendment Act, 1977.*

SECTION 3. The contribution rate is increased from 7 to 8½ per cent effective the 1st day of October, 1977.

SECTION 4. The sixty year rule is changed to a fifty-five year rule for those who ceased or who cease to be members on or after the 1st day of October, 1977.





An Act to amend The Legislative
Assembly Retirement Allowances
Act, 1973

1st Reading

December 12th, 1977

2nd Reading

December 13th, 1977

3rd Reading

THE HON. R. WELCH
Minister of Culture and Recreation

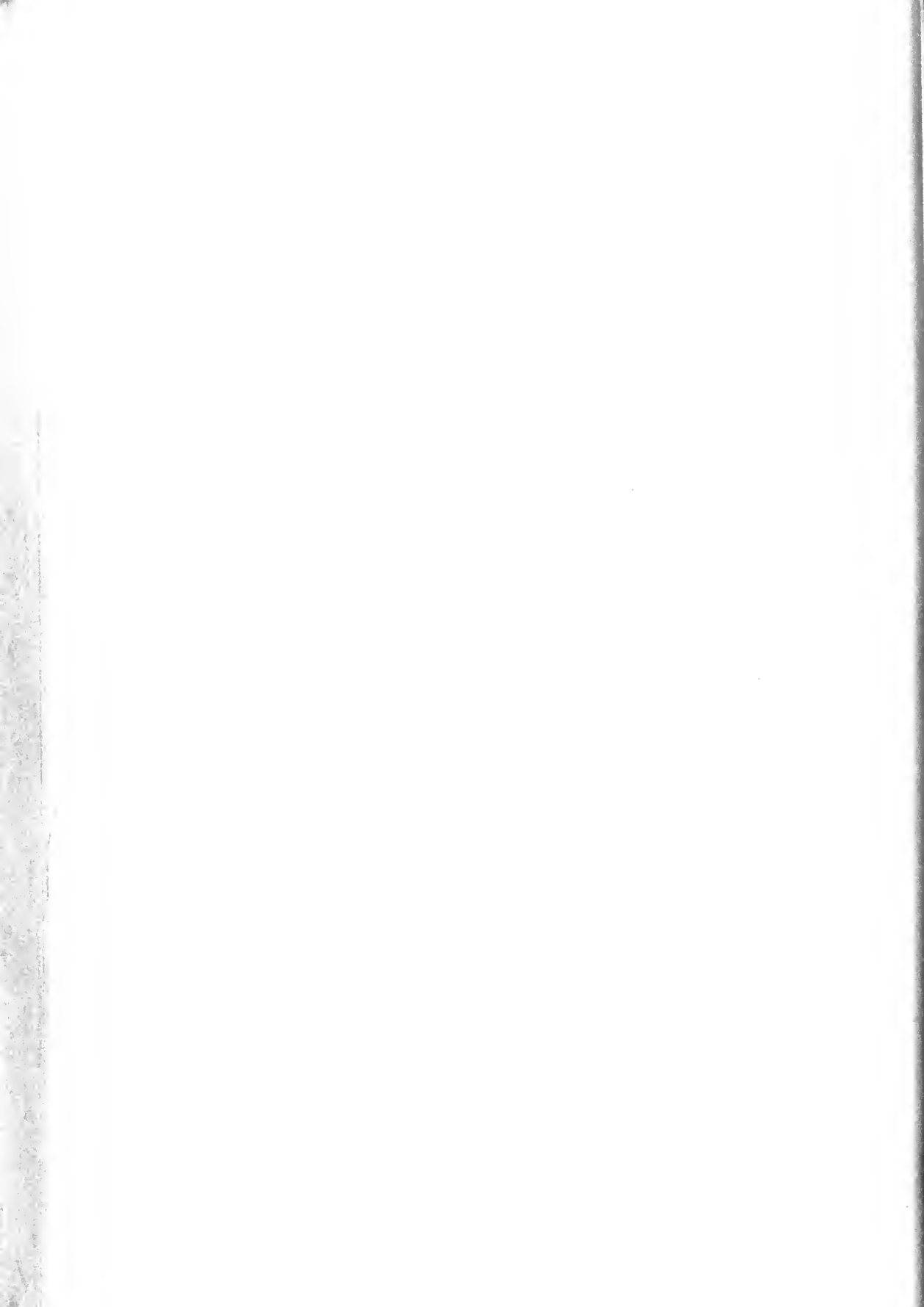
*(Reprinted as amended by the
Committee of the Whole House)*

BILL 123

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend The Legislative Assembly
Retirement Allowances Act, 1973**

THE HON. R. WELCH
Minister of Culture and Recreation



BILL 123

1977

**An Act to amend The Legislative Assembly
Retirement Allowances Act, 1973**

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 11 of *The Legislative Assembly Retirement Allowances Act, 1973*, being chapter 152, is amended by striking out “one-half” in the fifth line and inserting in lieu thereof “60 per cent”. s. 11 (1),
amended

- (2) Subsection 2 of the said section 11 is amended by striking out “one-half” in the thirteenth line and in the seventeenth line and inserting in lieu thereof in each instance “60 per cent”. s. 11 (2),
amended

2. Clause *a* of section 14 of the said Act is repealed and the following substituted therefor: s. 14 (a),
re-enacted
 - (a) “average annual remuneration” means,
 - (i) in respect of a person who was in receipt of an allowance immediately before the 1st day of October, 1977, the average annual remuneration of the person during any five fiscal years of his service, which years need not be consecutive, during which his remuneration was the highest, or
 - (ii) in respect of a person who became entitled or who becomes entitled to an allowance on or after the 1st day of October, 1977, the average annual remuneration of the person during any three fiscal years of his service, which years need not be consecutive, during which his remuneration was highest.

s. 17.
amended

- 3.** Section 17 of the said Act is amended by striking out "7" in the second line and inserting in lieu thereof "8½".

s. 18 (1, 2).
re-enacted

- 4.** Subsections 1 and 2 of section 18 of the said Act are repealed and the following substituted therefor:

Eligibility
for
allowance.
member

(1) A person who has contributed in respect of at least five years of service and who has credit in the Legislative Assembly Retirement Allowances Account for a number of years of service that, when added to his age on the date he ceases to be a member totals,

(a) in the case of a person who ceased to be a member before the 1st day of October, 1977, at least sixty years; or

(b) in the case of a person who ceased or who ceases to be a member on or after the 1st day of October, 1977, at least fifty-five years,

is entitled to an annual allowance during his lifetime upon his ceasing to be a member.

Deferred
or
reduced
allowance

(2) Where a person has contributed in respect of at least five years of service but has not satisfied the sixty year rule or the fifty-five year rule, as the case requires, in subsection 1 on the date he ceased or ceases to be a member, he may elect to take a deferred annual allowance under subsection 3 at the age when he does satisfy such rule or an immediate annual allowance of a reduced amount under subsection 4.

Commence-
ment

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

Idem

(2) Section 1 shall be deemed to have come into force on the 12th day of July, 1977.

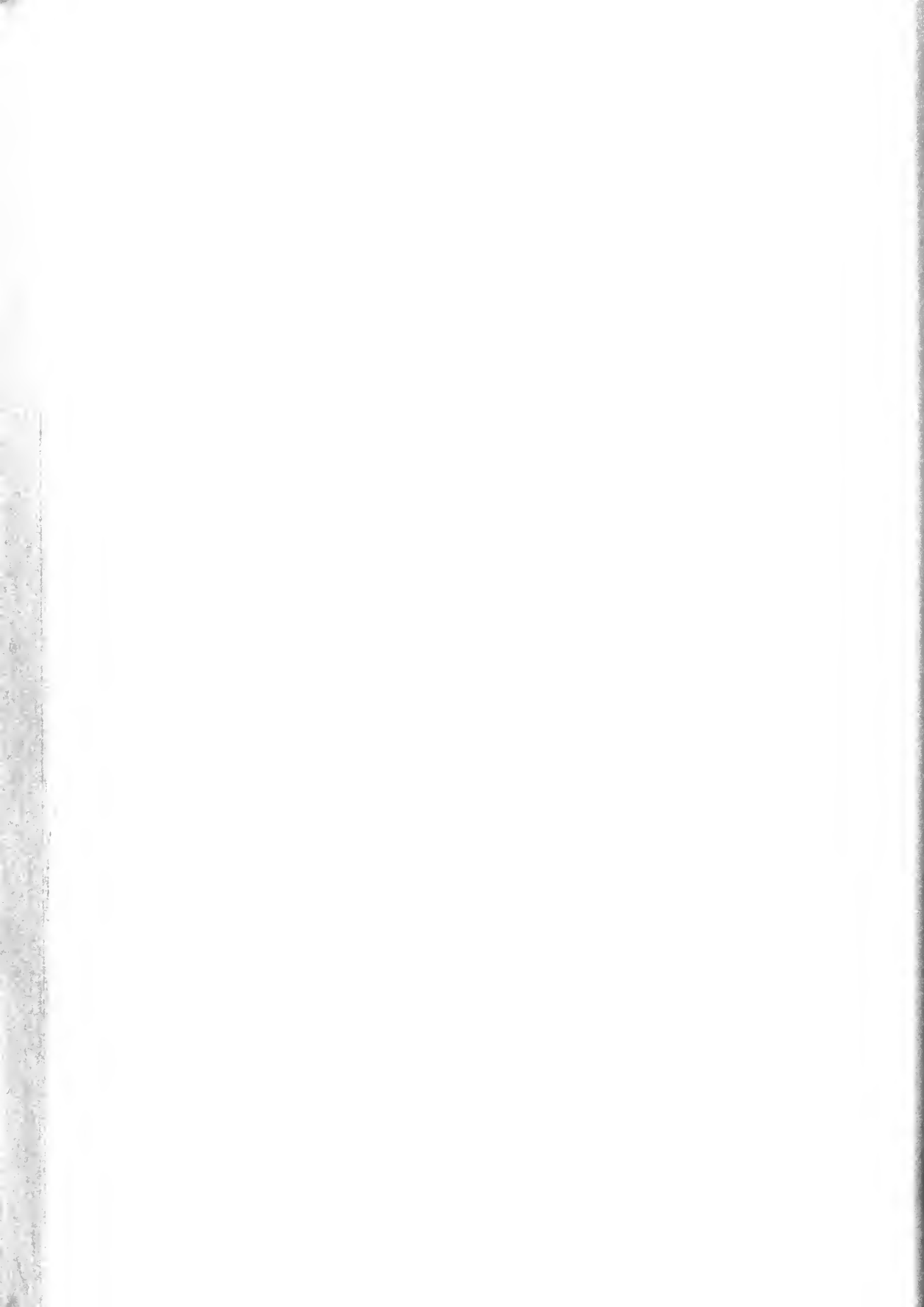
Idem

(3) Section 3 shall be deemed to have come into force on the 1st day of October, 1977.

Short title

- 6.** The short title of this Act is *The Legislative Assembly Retirement Allowances Amendment Act, 1977.*







An Act to amend The Legislative
Assembly Retirement Allowances
Act, 1973

1st Reading

December 12th, 1977

2nd Reading

December 13th, 1977

3rd Reading

December 13th, 1977

THE HON. R. WELCH
Minister of Culture and Recreation

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Mental Health Act

THE HON. D. R. TIMBRELL
Minister of Health

EXPLANATORY NOTES

SECTION 1. The definitions are complementary to the amendments that follow in the Bill.

BILL 124

1977

An Act to amend The Mental Health Act

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

1. Section 1 of *The Mental Health Act*, being chapter 269 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: ^{s.1.} amended

(ca) "involuntary patient" means a person who is detained in a psychiatric facility under a certificate of involuntary admission or a certificate of renewal;

.

(ga) "nearest relative" means,

- (i) the spouse of any age, or
 - (ii) if none or if the spouse is not available, any one of the children who has attained the age of majority, or
 - (iii) if none or if none is available, either of the parents or the guardian, or
 - (iv) if none or if neither is available, any one of the brothers or sisters who has attained the age of majority, or
 - (v) if none or if none is available, any other of the next of kin who has attained the age of majority;
-

(ha) "out-patient" means a person who is registered in a psychiatric facility for observation or treatment or both, but who is not admitted as a patient;

.

(ja) "prescribed" means prescribed by the regulations.

s. 8.
re-enacted

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

Application
for
psychiatric
assessment

8.—(1) Where a physician examines a person and has reason to believe that the person,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- (c) has shown or is showing a lack of competence to care for himself,

and the physician is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) imminent and serious physical impairment of the person,

the physician may make application in the prescribed form for a psychiatric assessment of the person.

Contents of
application

(2) An application under subsection 1 shall set out clearly that the physician who signs the application personally examined the person who is the subject of the application and made careful inquiry into all of the facts necessary for him to form his opinion as to the mental disorder of the person.

Idem

(3) A physician who signs an application under subsection 1,

- (a) shall set out in the application the facts upon which he formed his opinion of the mental disorder;
- (b) shall distinguish in the application between the facts observed by him and the facts communicated to him by others; and
- (c) shall note in the application the date on which he examined the person who is the subject of the application.

Signing of
application

(4) An application under subsection 1 is not effective unless it is signed by the physician within seven days after he examined the person who is the subject of the examination.

SECTION 2. Section 8 of the Act is re-enacted to change the grounds for admission from "mental disorder of a nature or degree so as to require hospitalization in the interests of his own safety or the safety of others" to "mental disorder of a nature or quality that likely will result in bodily harm to another person or imminent and serious physical impairment of the person".

Also, the authority to convey a person to a psychiatric facility is now set out as the authority to take in custody, and the authority of the psychiatric facility is now to detain the person and to restrain, observe, examine and care for him.

SECTION 3.—Subsection 1. Section 9 of the Act is amended so that the grounds for an order by a justice of the peace will be the same as the grounds for an application by a physician under section 8.

Subsection 2. Subsection 1 of section 9 provides that the justice of the peace may make an order for an assessment by a physician where, upon the information before him, he is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in the consequences set out in clauses *d*, *e* and *f* of subsection 1.

Subsection 3. The effect of the amendment is that the purpose of an order under the section is to provide for an assessment by a physician rather than a medical examination.

SECTION 4. Section 10 of the Act is re-enacted so that the grounds for action by a constable or other peace officer, in addition to observing conduct that in a normal person would be disorderly, will be the same as for an order by a justice of the peace under section 9 or an application by a physician under section 8.

The re-enactment of section 11 is complementary to the changes to sections 8, 9 and 10.

Section 12 is re-enacted to provide for the procedure by which an informal patient may become an involuntary patient.

(5) An application under subsection 1 is sufficient authority for seven days from and including the day on which it is signed by the physician, Authority of application

- (a) to a person to take the person who is the subject of the application in custody to a psychiatric facility; and
- (b) to detain the person who is the subject of the application in a psychiatric facility and to restrain, observe, examine and care for him in the facility for not more than seventy-two hours.

3.—(1) Subsection 1 of section 9 of the said Act is repealed and the following substituted therefor: s. 9 (1), re-enacted

(1) Where information upon oath is brought before a justice of the peace that a person within the limits of the jurisdiction of the justice, Justice of the peace's order for psychiatric assessment

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- (c) has shown or is showing a lack of competence to care for himself,

and upon the information before him the justice of the peace has reasonable cause to believe that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) imminent and serious physical impairment of the person,

the justice of the peace may issue his order in the prescribed form for the assessment of the person by a physician.

(2) Subsection 2 of the said section 9 is repealed. s. 9 (2), repealed

(3) Subsection 4 of the said section 9 is amended by striking out "medical examination" in the fourth and fifth lines and inserting in lieu thereof "assessment by a physician". s. 9 (4), amended

4. Sections 10, 11 and 12 of the said Act are repealed and the following substituted therefor: ss. 10, 11, 12, re-enacted

Action
by peace
officer

10. Where a constable or other peace officer observes a person who acts in a manner that in a normal person would be disorderly and has reason to believe that the person,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- (c) has shown or is showing a lack of competence to care for himself,

and the constable or other peace officer is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) imminent and serious physical impairment of the person,

and that it would be dangerous to proceed under section 9, the constable or other peace officer may take the person in custody to an appropriate place for assessment by a physician.

Place of
psychiatric
assessment

11. An assessment under section 9 or 10 shall be conducted by a physician forthwith after receipt of the person at the place of assessment and where practicable the place shall be a psychiatric facility or other health facility.

Change from
informal
patient to
involuntary
patient

12. Subject to subsection 4 of section 13, the attending physician may change the status of an informal patient to that of an involuntary patient by completing and filing with the officer in charge a certificate of involuntary admission.

s. 13 (1-3).
re-enacted

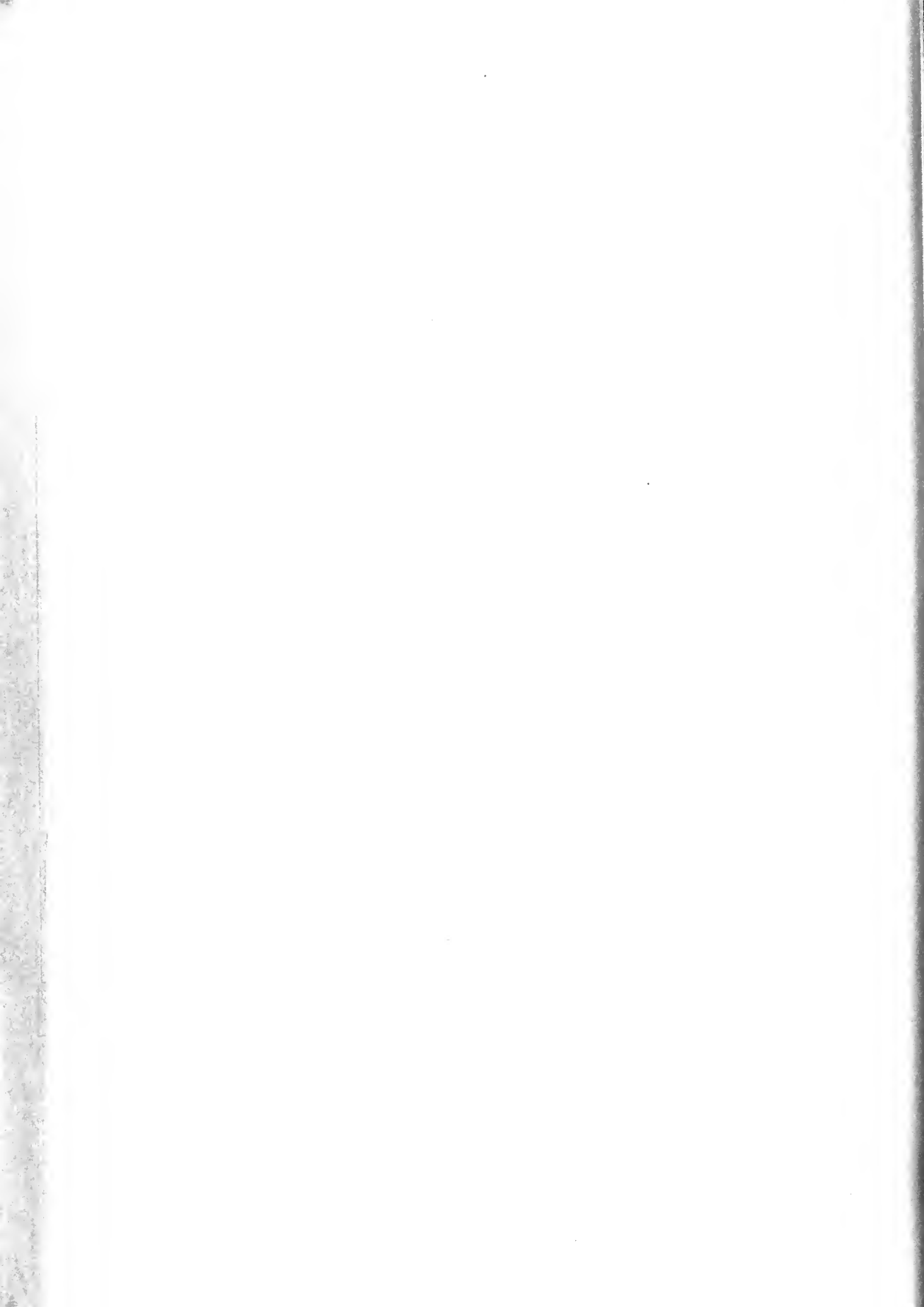
5. Subsections 1 to 3 of section 13 of the said Act are repealed and the following substituted therefor:

Duty of
attending
physician

(1) Where a person is detained under section 8 or 25, the attending physician, after observing and examining the person,

- (a) shall discharge the person from the psychiatric facility if the attending physician is of the opinion that the person is not in need of the treatment provided in a psychiatric facility;

SECTION 5. Subsections 1 to 3 of section 13 of the Act are re-enacted as subsections 1 to 3*b* to clarify the procedure to be followed after an assessment by a physician and to reduce the time periods under certificates of renewal.



- (b) shall admit the person as an informal patient if the attending physician is of the opinion that the person is suffering from mental disorder of such a nature or quality that the person is in need of the treatment provided in a psychiatric facility and is suitable for admission as an informal patient ; or
- (c) shall admit the person as an involuntary patient by completing and filing with the officer in charge a certificate of involuntary admission if the attending physician is of the opinion both that the person is suffering from mental disorder of a nature or quality that likely will result in,
- (i) serious bodily harm to the person,
 - (ii) serious bodily harm to another person, or
 - (iii) imminent and serious physical impairment of the person,
- unless the person remains in the custody of a psychiatric facility and that the person is not suitable for admission as an informal patient.

(2) The physician who completes a certificate of involuntary admission pursuant to clause *c* of subsection 1 shall not be the same physician who completed the application for psychiatric assessment pursuant to section 8.

Physician who completes certificate of involuntary admission

(3) The officer in charge shall release a person who is detained under section 8 or 25 upon the completion of seventy-two hours of such detention unless the attending physician has released the person, has admitted the person as an informal patient or has admitted the person as an involuntary patient by completing and filing with the officer in charge a certificate of involuntary admission.

Release of person by officer in charge

(3a) An involuntary patient may be detained, restrained, observed, examined and cared for in a psychiatric facility,

Authority of certificate

- (a) for not more than two weeks under a certificate of involuntary admission ; and
- (b) for not more than,
 - (i) one additional month under a first certificate of renewal,
 - (ii) two additional months under a second certificate of renewal, and
 - (iii) three additional months under a third or subsequent certificate of renewal,

that is completed and filed with the officer in charge by the attending physician.

Conditions precedent to making of certificate of involuntary admission or certificate of renewal

(3b) The attending physician shall not complete a certificate of involuntary admission or a certificate of renewal unless, after he has examined the patient, he is of the opinion both that the patient is suffering from mental disorder of a nature or quality that likely will result in,

- (a) serious bodily harm to the patient;
- (b) serious bodily harm to another person; or
- (c) imminent and serious physical impairment of the patient,

unless the patient remains in the custody of a psychiatric facility and that the patient is not suitable for admission or continuation as an informal patient.

s. 21 (1), amended

6. Subsection 1 of section 21 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Unauthorized absence

(1) Where a person who is subject to detention is absent without leave from a psychiatric facility, a constable or other peace officer or any one appointed by the officer in charge may return the person to the psychiatric facility or take the person to the psychiatric facility nearest to the place where the person is apprehended,

s. 25, re-enacted

7. Section 25 of the said Act is repealed and the following substituted therefor:

Mentally disordered person coming into Ontario

25. Where the Minister has reason to believe that there may come or be brought into Ontario a person suffering from mental disorder of a nature or quality that likely will result in,

- (a) serious bodily harm to the person; or
- (b) serious bodily harm to another person,

unless the person is placed in the custody of a psychiatric facility, the Minister by an order in the prescribed form may authorize any one to take the person in custody to a psychiatric facility and the order is authority to admit, detain, restrain, observe, examine and care for the person in the psychiatric facility.

s. 25a, enacted

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

SECTION 6. The subsection is amended to provide for taking a person who is absent without leave to the nearest psychiatric facility.

SECTION 7. The re-enactment of the section is complementary to the re-enactment of section 8 of the Act.

SECTION 8. The section prevents simple delivery of a person to a psychiatric facility by requiring the constable, other peace officer or other person to remain and to retain custody until the facility accepts custody.

SECTION 9. New section 26a of the Act relates to the disclosure of information from or the disclosure, transmittal or examination of the clinical record of a patient.

Subsections 6 and 7 relate to the disclosure of material from the clinical record pursuant to a subpoena, order, direction, notice or similar requirement. Subsection 8 provides for the return of material to the officer in charge of the psychiatric facility. Subsection 9 relates to the disclosure, in an action or proceeding in any court, of information in respect of a patient obtained in the course of assessing, caring for or treating or assisting in assessing, caring for or treating the patient.

25a. A constable or other peace officer or any one who takes a person in custody to a psychiatric facility shall remain at the facility and retain custody of the person so taken until the facility accepts the custody of the person.

Duty of constable, other peace officer or other person

9. The said Act is further amended by adding thereto the following section: s. 26a. enacted

26a.—(1) In this section,

Interpretation

- (a) "clinical record" means the clinical record compiled in a psychiatric facility in respect of a patient in the facility, and includes a part of a clinical record;
- (b) "mentally competent" means able to understand the consequences of giving or refusing consent and able to judge whether or not to consent to the disclosure, transmittal or examination of a clinical record;
- (c) "patient" includes former patient, out-patient, and former out-patient.

(2) No person shall disclose, transmit or examine any part of a clinical record, except as provided in subsections 3, 5 and 7. Disclosure of clinical record

(3) The officer in charge or a person designated in writing by the officer in charge may disclose, transmit or permit the examination of any part of a clinical record, Idem

- (a) where the patient has attained the age of majority and is mentally competent, to any person with the consent of the patient;
- (b) where the patient has not attained the age of majority or is not mentally competent, to any person with the consent of the nearest relative of the patient;
- (c) to the attending physician for the purpose of the care or treatment of the patient in a psychiatric facility;
- (d) to the chief executive officer of a health facility currently involved in the direct health care of the patient;
- (e) with the consent of the patient or, where the patient has not attained the age of majority or is not

mentally competent, with the consent of the nearest relative of the patient or, where delay in obtaining the consent of either of them would endanger the life, a limb or a vital organ of the patient, without the consent of either of them, to a person currently involved in the direct health care of the patient in a health facility;

(f) to a person for the purpose of research, academic pursuits or the compilation of statistical data.

Use of material in clinical record for research, study or statistics

(4) Where a clinical record,

(a) is transmitted or copied for use outside the psychiatric facility for the purpose of research, academic pursuits or the compilation of statistical data, the officer in charge shall remove from the part of the clinical record that is transmitted or from the copy, as the case may be, the name of or any means of identifying the patient; and

(b) is disclosed or transmitted to or examined by a person for the purpose of research, academic pursuits or the compilation of statistical data, the person shall not disclose the name of or any means of identifying the patient and shall not use or communicate the information or material in the clinical record for a purpose other than research, academic pursuits or the compilation of statistical data.

Disclosure pursuant to subpoena

(5) Subject to subsections 6 and 7, the officer in charge or a person designated in writing by the officer in charge shall disclose, transmit or permit the examination of a clinical record pursuant to a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court or under any other Act.

Statement by attending physician

(6) Where the disclosure, transmittal or examination of a clinical record is required by a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court or under any other Act and the attending physician states in writing that he is of the opinion that the disclosure, transmittal or examination of the clinical record or of a specified part of the clinical record,

(a) is likely to result in harm to the treatment or recovery of the patient; or

(b) is likely to result in,

(i) injury to the mental condition of a third person, or

(ii) bodily harm to a third person,

no person shall comply with the requirement with respect to the clinical record or the part of the clinical record specified by the attending physician, except pursuant to an order of the court or, in the case of any other Act, the body before which the matter is or may be in issue, made after a hearing held on notice to the attending physician.

(7) On a hearing under subsection 6, the court or body shall consider whether or not the disclosure, transmittal or examination of the clinical record or the part of the clinical record specified by the attending physician, Matters to be considered by court or body

(a) is likely to result in harm to the treatment or recovery of the patient; or

(b) is likely to result in,

(i) injury to the mental condition of a third person, or

(ii) bodily harm to a third person,

and for the purpose the court or body may examine the clinical record, and, if satisfied that such a result is likely, the court or body shall not order the disclosure, transmittal or examination unless satisfied that to do so is essential in the interests of justice.

(8) Where a clinical record is required pursuant to subsection 5 or 6, the clerk of the court or body in which the clinical record is admitted in evidence or, if not so admitted, the person to whom the clinical record is transmitted shall return the clinical record to the officer in charge forthwith after the determination of the matter in issue in respect of which the clinical record was required. Return of clinical record to officer in charge

(9) No person shall disclose in an action or proceeding in any court or before any other body any knowledge or information in respect of a patient obtained in the course of assessing, caring for or treating or assisting in assessing, caring for or treating the patient in the psychiatric facility except, Disclosure in action or proceeding

(a) where the patient has attained the age of majority and is mentally competent, with the consent of the patient;

(b) where the patient has not attained the age of majority or is not mentally competent, with the consent of the nearest relative of the patient; or

(c) where the court or body determines that the disclosure is essential in the interests of justice.

s. 28 (1),
re-enacted

10.—(1) Subsection 1 of section 28 of the said Act is repealed and the following substituted therefor:

Application
for review
by patient,
etc.

(1) An involuntary patient, or any person on his behalf, may apply in the prescribed form to the chairman of the review board having jurisdiction to inquire into whether the patient is suffering from mental disorder of a nature or quality that likely will result in,

(a) serious bodily harm to the patient;

(b) serious bodily harm to another person; or

(c) imminent and serious physical impairment of the patient,

unless the patient remains in the custody of a psychiatric facility.

s. 28 (2),
amended

(2) Subsection 2 of the said section 28 is amended by relettering clauses *a* and *b* as clauses *b* and *c* and by adding thereto the following clause:

(a) when a certificate of involuntary admission respecting the patient comes into force.

s. 28,
amended

(3) The said section 28 is amended by adding thereto the following subsections:

Where
notice
deemed to
have been
given

(4) On the completion of a fourth certificate of renewal and on the completion of every fourth certificate of renewal thereafter, the patient shall be deemed to have applied in the prescribed form pursuant to subsection 1 to the chairman of the review board having jurisdiction.

Effect of
certificate

(5) Notwithstanding that a hearing is required or an appeal is taken against a certificate of involuntary admission or a certificate of renewal, the certificate is effective until confirmed or rescinded on a hearing.

ss. 32-38,
re-enacted

11. Sections 32 to 38 of the said Act are repealed and the following substituted therefor:

Examination
as to
competency
to manage
estate,
upon
admission or
receiving

32.—(1) Forthwith upon the admission of a patient to or the registration of an out-patient in a psychiatric facility, a physician shall examine the patient or out-patient to determine whether or not he is competent to manage his estate.

Idem

(2) The attending physician may examine a patient or out-patient at any time to determine whether or not the patient or out-patient is competent to manage his estate.

SECTION 10.—Subsections 1 and 2. The re-enactment of subsection 1 and the amendment of subsection 2 of section 28 of the Act are complementary to the enactment of new clause c of subsection 1 of section 13 of the Act by this Bill.

Subsection 3. New subsection 4 provides for an automatic review by the review board after a fourth certificate of renewal (six months) and after every fourth renewal (twelve months) thereafter.

SECTION 11. The sections are re-enacted to provide for both patients and out-patients.

Subsection 3 is added to section 32 of the Act to require the physician or attending physician to enter his determination as to competency in the clinical record together with written reasons.

Subsection 4 of section 32 provides for the issuing of a certificate of incompetence to manage his estate in respect of a patient or an out-patient.

Subsection 1 of section 37 provides for an examination within twenty-one days of the discharge of a patient or out-patient and for the issuing of a notice of continuance where the physician is of the opinion, after the examination, that the patient or out-patient will not be competent to manage his estate.

In addition, section 37 of the Act is amended to require the officer in charge to give notice to the Public Trustee of the discharge of a patient in respect of whom a certificate of incompetence is in force



(3) After an examination under subsection 1 or 2, the physician or attending physician, as the case may be, shall enter his determination, together with written reasons therefor, in the clinical record prepared in respect of the patient.

Entry of determination and reasons in clinical record

(4) A physician or attending physician who performs an examination under subsection 1 or 2 and who is of the opinion that the patient or out-patient is not competent to manage his estate shall issue a certificate of incompetence in the prescribed form and the officer in charge shall transmit the certificate to the Public Trustee.

Certificate of incompetence

(5) Where circumstances are such that the Public Trustee should immediately assume management of an estate, the officer in charge shall notify the Public Trustee in the fastest manner possible that a certificate of incompetence has been issued.

Idem, exceptional circumstances

(6) A patient or out-patient may appoint the Public Trustee as committee of the estate of the patient or out-patient.

Appointment by patient

(7) An appointment under subsection 6,

Idem

(a) is not valid unless it is signed and sealed by the patient or out-patient; and

(b) may be revoked by a written revocation signed and sealed by the patient or out-patient.

(8) Where the Public Trustee is committee of the estate of a patient or out-patient at the time of his admission to or receipt in a psychiatric facility, a certificate of incompetence shall be deemed to have been issued and transmitted to the Public Trustee under subsection 4.

Where Public Trustee is committee at time of admission or receipt of patient or out-patient

(9) Subsections 1 to 8 do not apply to a patient or out-patient whose estate is under committeehip under *The Mental Incompetency Act*.

Where subss. 1-8 do not apply R.S.O. 1970, c. 271

33.—(1) Notwithstanding that under *The Mental Incompetency Act* a person other than the Public Trustee has been appointed as the committee of the estate of a patient or out-patient, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the stead of the person appointed under that Act, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of estates.

Where Public Trustee may replace committee appointed under R.S.O. 1970, c. 271

Duty of
Public
Trustee
where
committee
appointed
under
R.S.O. 1970,
c. 271

(2) If at any time a committee of the estate of a patient or out-patient is appointed under *The Mental Incompetency Act*, the Public Trustee thereupon ceases to be committee and shall account for and transfer to the committee so appointed the estate of the patient or out-patient that has come into his hands.

Consent of
Public
Trustee
to order

(3) An order shall not be made under *The Mental Incompetency Act* for the appointment of a committee of a patient or out-patient without the consent of the Public Trustee unless seven days notice of the application has been given to him.

Acts of
Public
Trustee not
affected

(4) The acts of the Public Trustee while committee of a patient or out-patient are not rendered invalid by the making of an order appointing another committee.

Where
Public
Trustee
committee

34. The Public Trustee is committee of the estate of a patient or out-patient and shall assume management thereof,

- (a) upon receipt of a certificate of incompetence;
- (b) upon receipt of notice under subsection 5 of section 32;
- (c) upon receipt of an appointment under subsection 6 of section 32; or
- (d) upon receipt of a notice of continuance under section 37.

Financial
statement

35. Upon the Public Trustee becoming committee of the estate of a patient or out-patient, the officer in charge shall forthwith forward a financial statement in the prescribed form to the Public Trustee.

Cancellation
of certificate
of
incompetence

36. The attending physician may, after examining a patient or out-patient for that purpose, cancel the certificate of incompetence issued in respect of the patient or out-patient and the officer in charge shall forward a notice of cancellation in the prescribed form to the Public Trustee.

Examination
as to
competency
before
discharge

37.—(1) Where the Public Trustee is managing the estate of a patient or out-patient, the attending physician shall examine the patient or out-patient within twenty-one days before he is discharged from a psychiatric facility to determine whether or not he will be competent to manage his estate.

Notice of
continuance

(2) Where the attending physician is of the opinion, after the examination referred to in subsection 1, that the patient or out-patient will not, upon discharge, be competent to



SECTION 12. Subsection 1 of section 39 of the Act is amended to refer to both a patient and an out-patient.

Subsection 2 of the section is amended to reduce the waiting time for successive applications from twelve months to six months.

SECTION 13. The sections are re-enacted to provide for both patients and out-patients.

manage his estate, he shall issue a notice of continuance in the prescribed form and the officer in charge shall forward the notice to the Public Trustee.

(3) The officer in charge shall transmit to the Public Trustee notice of the discharge from the psychiatric facility of a patient or an out-patient in respect of whom a certificate of incompetence is in force.

Where notice of discharge to be transmitted to Public Trustee

38. The Public Trustee ceases to be committee of the estate of a patient or out-patient and shall relinquish management thereof,

Where Public Trustee ceases to be committee

- (a) upon receipt of notice of cancellation of the certificate of incompetence of the patient or out-patient;
- (b) upon receipt of a revocation in writing, signed and sealed by the patient or out-patient, of an appointment referred to in subsection 6 of section 32;
- (c) upon receipt of notice of discharge of the patient or out-patient, unless he has at that time received a notice of continuance; or
- (d) upon the expiration of six months after the discharge of the patient or out-patient, where a notice of continuance was received.

12.—(1) Subsection 1 of section 39 of the said Act is repealed and the following substituted therefor:

s. 39 (1). re-enacted

(1) Where a certificate of incompetence or a notice of continuance has been issued, the patient or out-patient may apply in the prescribed form to the chairman of the review board having jurisdiction to inquire into whether or not the patient or out-patient is competent to manage his estate.

Application to review board as to competency

(2) Subsection 2 of the said section 39 is amended by striking out "twelve-month" in the second line and inserting in lieu thereof "six-month".

s. 39 (2). amended

13. Sections 41, 42, 45, 46 and 48 to 51 of the said Act are repealed and the following substituted therefor:

ss. 41, 42, 45, 46 and 48 to 51. re-enacted

41. Where an action or proceeding is brought or taken against a person,

Service of documents

- (a) who is a patient or out-patient; and

(b) for whose estate a committee has not been appointed by a court,

and the action or proceeding is in connection with the estate of the person, the writ or other document by which the action or proceeding is commenced and any other document requiring personal service,

(c) shall be endorsed with the name of the psychiatric facility in or of which the person is a patient or out-patient;

(d) shall be served,

(i) on the Public Trustee, and

(ii) on the person, or, where the attending physician is of the opinion that personal service on the person would cause or would be likely to cause serious harm to him by reason of his mental condition, on the officer in charge.

Rights and powers of Public Trustee as committee

42. The Public Trustee as committee of a patient or out-patient has and may exercise all the rights and powers with regard to the estate of the patient or out-patient that the patient or out-patient would have if of full age and of sound and disposing mind.

Recitals in documents

45. A recital in a lease, mortgage or conveyance that a person is a patient in or an out-patient of a psychiatric facility and that the Public Trustee is his committee is admissible in evidence as *prima facie* proof of the facts recited.

Purposes for which powers of Public Trustee may be exercised

46. The powers conferred upon the Public Trustee as committee of the estate of a patient or out-patient may be exercised,

(a) until the committee ship is terminated notwithstanding that the patient or out-patient has been discharged from the psychiatric facility;

(b) to carry out and complete any transaction entered into by the patient or out-patient before he became a patient or out-patient in a psychiatric facility;

(c) to carry out and complete any transaction entered into by the committee notwithstanding that the



SECTION 14. New subsection 2 of section 52 of the Act provides for extending the committee of a person's estate by the Public Trustee where the Supreme Court is satisfied that the person will continue to be incompetent to manage his estate.

The present subsection 2 of section 52 is re-enacted as subsection 3 and now refers to subsection 1 or 2.

committeeship has been terminated or that the patient or out-patient has died after the transaction was commenced.

48. Where the Public Trustee is committee of the estate of a patient or out-patient, every gift, grant, alienation, conveyance or transfer that is not made for full and valuable consideration actually paid or secured or that is made at or after the time when the purchaser of transferee had notice of the mental condition of the patient or out-patient, of the fact that he was a patient or out-patient or of the committee-ship shall be deemed to be fraudulent and void as against the Public Trustee.

When gifts, etc., deemed fraudulent

49. Upon the death of a patient or out-patient of whose estate the Public Trustee is committee and until letters probate of the will or letters of administration of the estate of the patient or out-patient are granted to a person other than the Public Trustee and notice thereof is given to the Public Trustee, the Public Trustee may continue to manage the estate and exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue.

Death of patient or out-patient

50. The Public Trustee is liable to render an account as to the manner in which he has managed the property of a patient or an out-patient in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct.

Passing of accounts

51. The Public Trustee may be allowed compensation for services rendered as committee of the estate of a patient or out-patient in an amount not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation.

Compensation of Public Trustee

14. Subsection 2 of section 52 of the said Act is repealed and the following substituted therefor:

s. 52 (2). re-enacted

(2) Where the Supreme Court is satisfied, on application by the Public Trustee with notice to the person, that a person who was discharged as a patient or out-patient subject to a notice of continuance will continue to be incompetent

Application for continuance of committee-ship

to manage his estate after the expiry of the notice of continuance, the court by order may extend the committee-ship of the Public Trustee for such period of time, or may make such other order, as the court considers proper.

Further orders

(3) Where the Public Trustee continues to manage an estate under subsection 1 or 2, the Supreme Court, upon application, may make such further order as it considers just and, in its discretion, may order that the management of the estate by the Public Trustee be relinquished.

ss. 53-55, re-enacted

- 15.** Sections 53 to 55 of the said Act are repealed and the following substituted therefor:

Payments out of patient's or out-patient's moneys

53. The Public Trustee, out of the moneys in his hands belonging to a person who is a patient or out-patient of whose estate the Public Trustee is committee, shall pay the proper charges for maintenance of the person as a patient in or an out-patient of the psychiatric facility and the Public Trustee may also pay such sums as he considers advisable to the patient's or out-patient's family or other persons dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the patient or out-patient.

Payments out of moneys in court

54. Moneys in court to the credit of a patient or out-patient of whose estate the Public Trustee is committee shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of a court or a judge for such purpose.

What Public Trustee not required to do

55. Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a patient or out-patient of whose estate the Public Trustee is committee or to intervene in respect of the estate or any part thereof or to take charge of any property of the patient or out-patient.

s. 56 (1), re-enacted

- 16.** Subsection 1 of section 56 of the said Act is repealed and the following substituted therefor:

Patients or out-patients in another province with estate in Ontario

(1) Where a person who is suffering from a mental disorder is a patient in or an out-patient of a psychiatric facility in another province or territory of Canada and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province or territory who is charged with the duty of managing the

SECTION 15. The sections are re-enacted to provide for both patients and out-patients.

SECTION 16. The subsection is re-enacted to refer to both a patient and an out-patient.

SECTION 17. The section is re-enacted to change the fine from "not less than \$25 and not more than \$500" to not more than \$10,000.

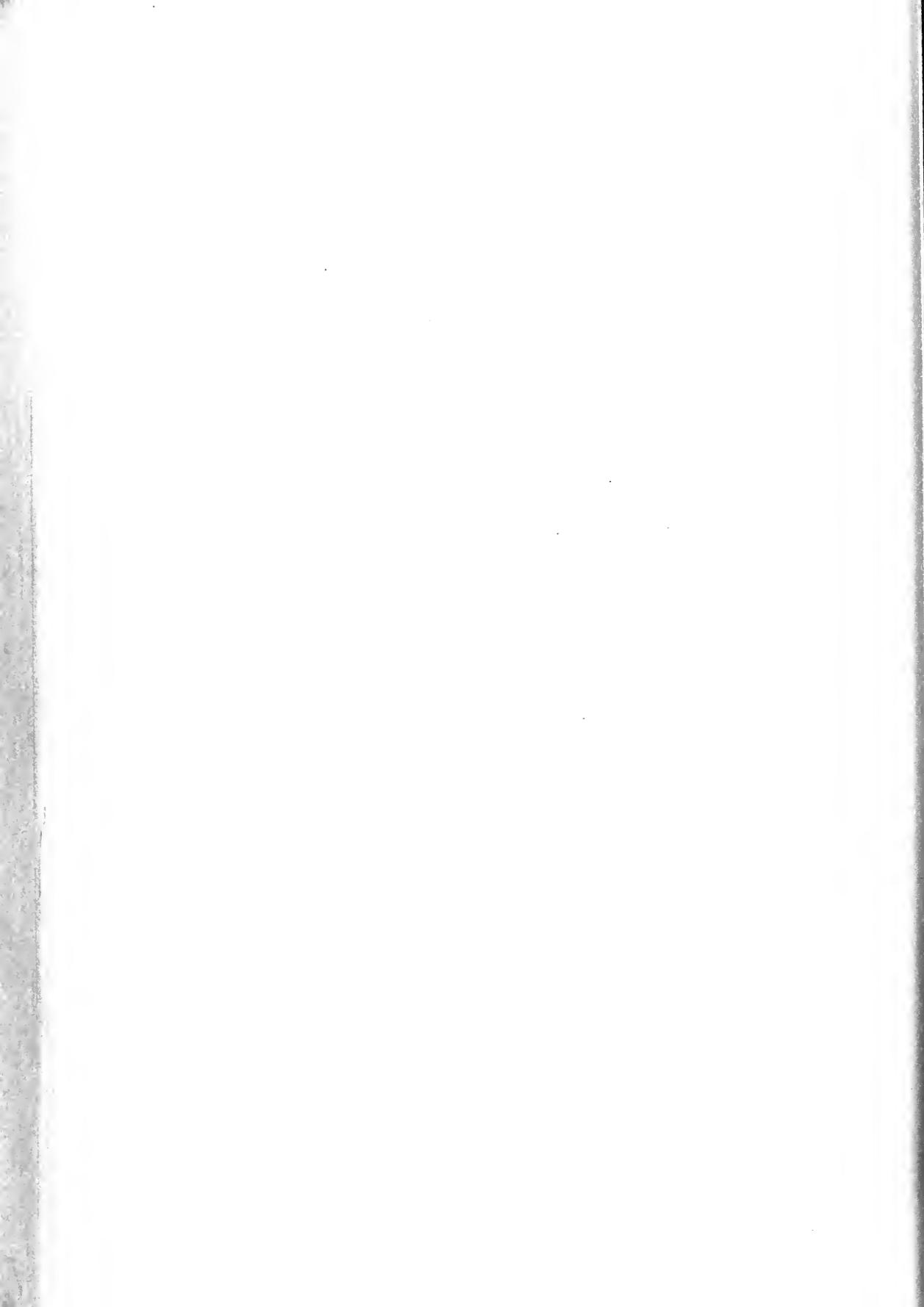
estate of the person in the other province or territory to be committee of the estate in Ontario.

- 17.** Section 60 of the said Act is repealed and the following substituted therefor: ^{s. 60.} _{re-enacted}

60. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000.

- 18.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. ^{Commence-} _{ment}

- 19.** The short title of this Act is *The Mental Health Amendment Act, 1977*. ^{Short title}





An Act to amend
The Mental Health Act

1st Reading

December 13th, 1977

2nd Reading

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Health

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide for the Disclosure of Information
relating to the Cost of Government Programs**

MR. VAN HORNE

T O R O N T O

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to provide for the public disclosure of the cost information upon which decisions to undertake certain government programs are based. The Bill requires that the estimated total cost of each program be disclosed and provides for additional scrutiny of program operations if the estimated total cost is exceeded.

BILL 125

1977

**An Act to provide for the Disclosure of
Information relating to the Cost of
Government Programs**

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) "Auditor" means the Provincial Auditor;
- (b) "program" means a program, project, work, undertaking or service, the implementation of which is considered and approved by the Executive Council;
- (c) "public money" has the same meaning as in *The Financial Administration Act*. R.S.O. 1970,
c. 166

2.—(1) Where the Executive Council approves the implementation of a program that is to be financed wholly or in part with public money from the Consolidated Revenue Fund, the Minister responsible for the program shall forthwith prepare and make publicly available a compendium of cost information in respect of the program. Compendium
of cost
information

(2) The compendium of cost information shall contain a summary of the cost information upon which the decision to implement the program was based and without limiting the generality of the foregoing, the compendium shall contain the following. Contents of
compendium

- (a) the estimated total cost of the program;
- (b) a description of the methods of cost measurement;
- (c) a statement of the purposes and objectives of the program.

Cost
excess
statement

3.—(1) Where the Minister responsible for a program is informed that the cost of the program will exceed or has exceeded the estimated total cost of the program as stated in the compendium of cost information, the Minister shall inquire into the reasons for the increased cost and shall prepare and make publicly available a cost excess statement setting forth the reasons for the cost increase, the amount of excess cost incurred, if any, at the time the statement was prepared, and the revised estimated total cost of the program.

Supple-
mentary
cost excess
statement

(2) Where the Minister is informed that the cost of a program will exceed or has exceeded the revised estimated total cost of the program, the Minister shall forthwith make an inquiry into the reasons therefor and prepare and make available a supplementary cost excess statement setting forth the reasons for the additional cost increase, the amount of excess cost incurred, and the revised estimated total cost of the program.

Auditor's
investi-
gation

4. The Auditor may make an inquiry into any program for which a compendium of cost information is prepared and where a cost excess statement or supplementary cost excess statement is required under this Act, the Auditor shall make an inquiry for the purpose of,

- (a) determining the adequacy of the cost analysis, cost forecasting and cost control methods used in the planning and administration of the program; and
- (b) recommending improvements in these methods to assure more efficient and effective program management,

and the auditor shall report the findings and recommendations arising from such an inquiry to the Minister responsible for the administration of the program and to the standing Public Accounts Committee of the Assembly.

When
compendium,
etc., made
publicly
available

5.—(1) For the purposes of this Act, a compendium or statement shall be deemed to have been made publicly available when,

- (a) the compendium or statement has been laid before the Assembly;
- (b) a copy of the compendium or statement has been filed with the Office of the Auditor;
- (c) a copy of the compendium or statement has been provided to each member of the standing Public Accounts Committee of the Assembly; and

(d) a copy of the compendium or statement is made available for public inspection and reproduction during normal office hours at the central office of the Ministry responsible for administering the program.

(2) If a compendium of cost information, cost excess ^{Idem} statement or supplementary cost excess statement is prepared and the Assembly is not in session, copies of the compendium or statement shall be made available pursuant to subsection 1 notwithstanding the Assembly is not in session and such compendium or statement shall be laid before the Assembly at the commencement of the next ensuing session.

6. This Act comes into force on the day it receives Royal ^{Commence-} Assent. _{ment}

7. The short title of this Act is *The Program Cost Dis-* ^{Short title} *closure Act, 1977.*





An Act to provide for the
Disclosure of Information
relating to the Cost of
Government Programs

1st Reading

December 13th, 1977

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act

MR. WILLIAMS

EXPLANATORY NOTE

The Bill requires a trade union to provide additional information about its financial affairs to members and to the Ontario Labour Relations Board. The union must prepare a statement of salaries, expenses, fees and commissions and a statement of investments to be provided to its members. An audited financial report must be filed annually with the Board and the members of the trade union may obtain copies of the statement from the union upon request and without charge.

In addition, the Bill limits the amount of union funds provided by Ontario members that may be transferred outside of Canada and requires that investments made of union funds be of a type authorized by *The Trustee Act* and *The Pension Benefits Act*.

BILL 126

1977

**An Act to amend
The Labour Relations Act**

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

1. Section 76 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 19, is repealed and the following substituted therefor:

76.—(1) Every trade union shall file with the Board within six months from the end of its fiscal year a financial statement of its affairs to the end of that fiscal year consisting of,

- (a) a balance sheet showing the assets and liabilities of the union as at the end of the fiscal year;
- (b) a statement of income and expenditure for the fiscal year; and
- (c) a statement of surplus for the fiscal year, and

upon the request of any member shall provide the member with a copy of the financial statement without charge.

(2) The financial statement shall be accompanied at the time of filing by an auditor's report thereon signed by the auditor and stating whether in his opinion the financial statement presents fairly the financial position of the union and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

(3) Every trade union local shall provide to each of its members without charge and file with the Board within six months from the end of its fiscal year,

- (a) a statement of salaries, expenses, fees and commissions paid from union funds to its elected officers disclosing to whom the payments were made, in what amount and for what purposes; and
- (b) a statement of investments describing separately each investment made with union funds.

Idem

(4) Every trade union that has a national or regional office located in Ontario shall provide to each of its members without charge and file with the Board within six months from the end of its fiscal year the statements referred to in subsection 3 in respect of the trade union's national or regional officers and its investments.

Where financial statement inadequate

(5) Where the Board, for any reason, determines that a statement referred to in this section is inadequate, the Board may order the trade union to prepare another statement in a form and containing such particulars as the Board considers appropriate.

Offence

(6) A trade union that fails to provide or file financial statements or information as and when required by this section is guilty of an offence under this Act, and every officer, executive or agent of the union who directed, authorized, assented to, acquiesced in or participated in the offence is a party to and guilty of the offence.

s. 76b. enacted

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

Investments

R.S.O. 1970, cc. 470, 342

76b.—(1) A trade union shall not make an investment of union funds unless the investment belongs to a class of investment authorized by or under *The Trustee Act* or *The Pension Benefits Act*.

Funds to be spent in Canada

(2) No trade union shall pay, transfer or invest outside of Canada more than 15 per cent of the funds received by it from union members residing in Ontario.

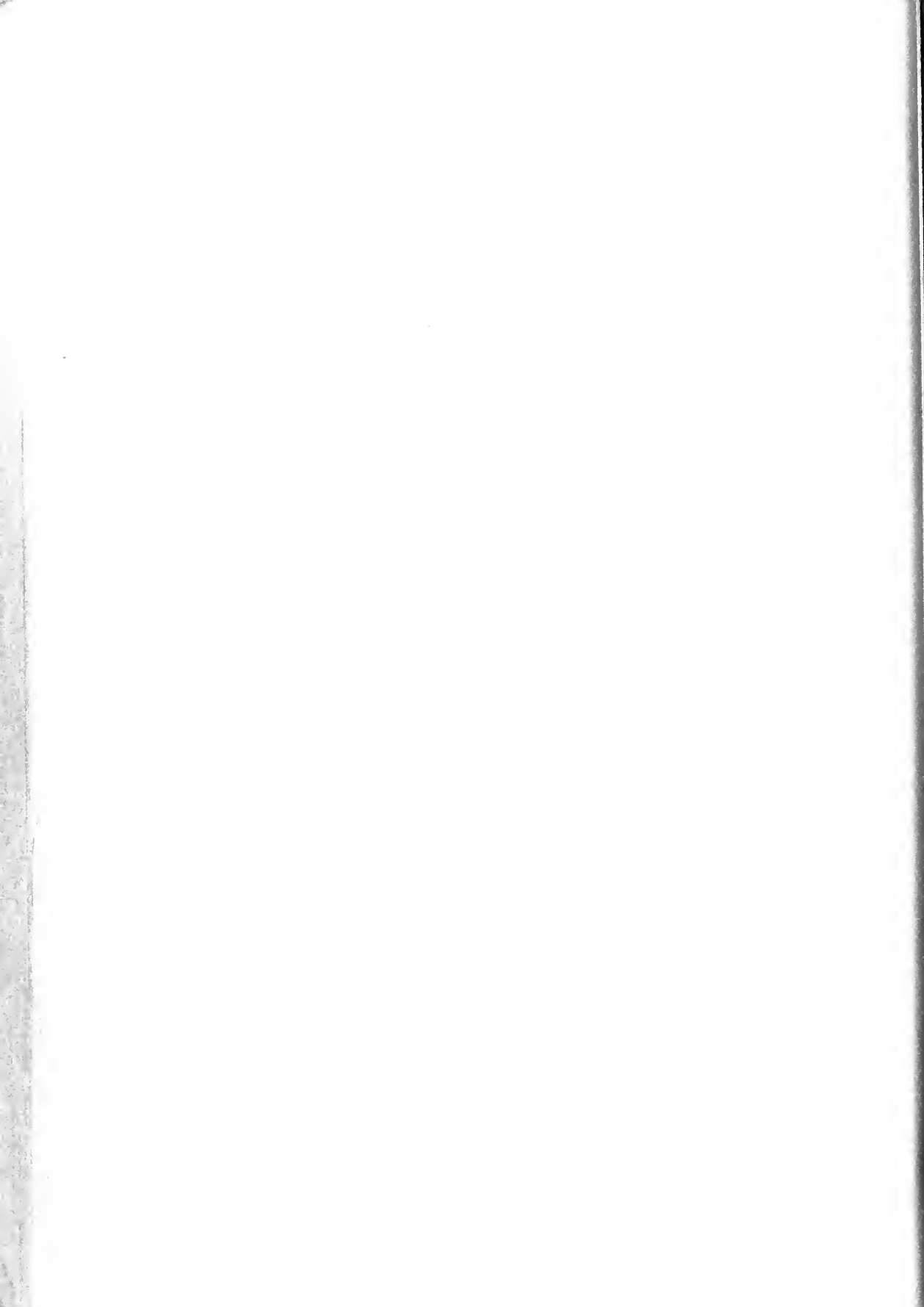
Commencement

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

Short title

4. The short title of this Act is *The Labour Relations Amendment Act, 1977*.







An Act to amend
The Labour Relations Act

1st Reading

December 15th, 1977

2nd Reading

3rd Reading

MR. WILLIAMS

(Private Member's Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Municipal Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

GENERAL

The Bill confers power on all municipalities to pass by-laws licensing, regulating and governing adult entertainment parlours (defined broadly in the Bill as premises in which are provided goods or services designed to appeal to erotic or sexual appetites or inclinations).

Certain additional powers are also granted in respect of the authority to license and regulate body-rub parlours now found in section 368a of the Act.

In addition, the Bill raises the maximum fines that may be levied for contravention of such by-laws and establishes a procedure for the closing, for a period of up to two years, of premises in respect of which any person has been convicted of a breach of any by-law licensing and regulating body-rub parlours or adult entertainment parlours.

SECTION I. Section 368a of the Act now reads as follows:

- 368a.—(1) *By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection 3.*
- (2) *A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.*
- (3) *A by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted.*
- (4) *A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.*
- (5) *Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.*
- (6) *For the purposes of this section,*
- (a) *“body-rub” includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person’s body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and*

BILL 127

1977

An Act to amend The Municipal Act

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

1.—(1) Subsection 2 of section 368*a* of *The Municipal Act*, s. 368*a* (2),
being chapter 284 of the Revised Statutes of Ontario, re-enacted
1970, as enacted by the Statutes of Ontario, 1975,
chapter 56, section 8, is repealed and the following
substituted therefor:

(2) A by-law passed under this section may provide for Signs,
regulating the placement, construction, size, nature and advertising,
and character of signs, advertising, and advertising devices, etc.
including any printed matter, oral or other communication
or thing, posted or used for the purpose of promoting body-
rub parlours or for the prohibition of such signs, advertising,
or advertising devices.

(2) Subsection 3 of the said section 368*a* is amended by s. 368*a* (3),
adding at the commencement thereof "Notwithstanding amended
subsection 6 of section 246".

(3) The said section 368*a* is amended by adding thereto the s. 368*a*,
following subsections: amended

(5*a*) A by-law passed under this section may prohibit any Age
person carrying on or engaged in the trade, calling, business restriction
or occupation for which a licence is required under this
section from permitting any person under an age specified
in the by-law to enter or remain in the body-rub parlour
or any part thereof.

(5*b*) For the purpose of any prosecution or proceeding under *Prima*
a by-law passed under this section, the holding out to the *facie*
public that services described in this section are provided *proof*
in premises or any part thereof, is admissible in evidence as
prima facie proof that the premises or part thereof is a body-
rub parlour.

Other powers not affected

(5c) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

s. 368b. enacted

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

Licensing, regulating, etc., adult entertainment parlours

368b.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof and for revoking or suspending any such licence and for limiting the number of such licences to be granted, in accordance with subsection 3.

Signs, advertising, etc.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting adult entertainment parlours or any class or classes thereof or for the prohibition of such signs, advertising or advertising devices.

Defined areas, limitation on numbers

(3) Notwithstanding subsection 6 of section 246, a by-law passed under this section may define the area or areas of the municipality in which adult entertainment parlours or any class or classes thereof may or may not operate and may limit the number of licences to be granted in respect of adult entertainment parlours or any class or classes thereof in any such area or areas in which they are permitted.

Construction and equipment of premises

(4) A by-law passed under this section may provide that no premises in which an adult entertainment parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of an adult entertainment parlour, he may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Hours of operation

(6) Notwithstanding subsection 2a of section 246 and section 355, a by-law passed under this section may regulate the hours of operation of adult entertainment parlours or any class or classes thereof.

(b) "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

The re-enactment of subsection 2 of section 368a adds "any printed matter, oral or other communication or thing" to the description of advertising or promotional matters that may be regulated.

The amendment to subsection 3 of section 368a is to make it clear that body-rub parlours may be prohibited from operating in a defined area even if one or more are located in that area at the time the by-law comes into force.

Subsections 5a, 5b and 5c are added to enlarge and clarify the powers conferred in respect of licensing and regulating body-rub parlours.

SECTION 2. The new section 368b confers on all municipalities the power to license, regulate, govern, classify and inspect in the manner specified adult entertainment parlours as defined in the section.



(7) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under an age specified in the by-law to enter or remain in the adult entertainment parlour or any part thereof.

Age
restriction

(8) By-laws passed under this section do not apply to premises or trades, callings, businesses or occupations carried on in premises licensed under *The Theatres Act* or licensed under *The Liquor Licence Act, 1975* or licensed under a by-law passed under section 368a of this Act.

Non-
application
of by-laws
R.S.O. 1970.
c. 459
1975, c. 40

(9) In this section,

Interpre-
tation

- (a) "adult entertainment parlour" means any premises or part thereof in which is provided goods or services appealing to or designed to appeal to, erotic or sexual appetites or inclinations;
- (b) "goods" includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter;
- (c) "to provide" when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and "providing" and "provision" have corresponding meanings;
- (d) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings;
- (e) "services" includes activities, facilities, performances, exhibitions, viewings and encounters;
- (f) "services designed to appeal to erotic or sexual appetites or inclinations" includes,
 - (i) services of which a principal feature or characteristic is the nudity or partial nudity of any person,
 - (ii) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

Prima facie
proof

(10) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that goods or services described in this section are provided in premises, or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is an adult entertainment parlour.

Other powers not affected

(11) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

ss. 466a,
470a, 470b,
enacted

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

Statement of clerk, etc., as to licensing or non-licensing

466a. For the purpose of any prosecution or proceeding under a by-law for licensing, regulating, governing, classifying or inspecting any trade, calling, business or occupation, a statement as to the licensing or non-licensing of any premises or person in respect of any trade, calling, business or occupation, purporting to be signed by the clerk of a municipality or of a regional or metropolitan municipality or by the chief administrative officer of a board of commissioners of police or of a licensing commission, is, without proof of the office or signature of the said clerk or officer, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in such prosecution or proceeding.

Offence

470a.—(1) A by-law passed under section 368a or 368b may provide that every person who contravenes the by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

Corporation. maximum penalty

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided therein.

Order closing premises

470b.—(1) Where a person is convicted of carrying on or engaging in, on, in or in respect of any premises or part thereof, a trade, calling, business or occupation, without a licence required by a by-law passed under section 368a or 368b, the court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.

Idem

(2) Where a person is convicted of a contravention of a by-law passed under section 368a or 368b, other than

SECTION 3. The new section 466a provides that the signed statement of the clerk or other chief administrative officer as to the licensing or non-licensing of any premises or person is *prima facie* proof of the facts stated therein for the purposes of any prosecution under a by-law licensing or regulating any trade, calling, business or occupation.

The new section 470a provides that by-laws licensing and regulating body-rub parlours or adult entertainment parlours may provide for a fine of up to \$10,000 in the case of an individual or \$25,000 in the case of a corporation for a contravention of the by-law. Generally, under section 466, the maximum fine that may be levied is \$1,000.

The new section 470b provides, under the circumstances set out therein, for the issue of a court order closing premises for a period of up to two years where a person has been convicted, in respect of those premises, of a contravention of a by-law licensing and regulating body-rub parlours or adult entertainment parlours. Such a closing order **must** be issued where the conviction is for carrying on the business without a licence. It **may** be issued where the conviction is for some other breach of the by-law. Following such an order, the police force having jurisdiction in the area is to bar entry to all entrances to the premises, so long as the order remains in effect. Where such a closing order has been made, a county or district court may, on application of a person who has an interest in the premises, suspend the closing order on the posting of a cash bond of at least \$10,000, such bond being liable to forfeiture if a subsequent conviction is registered. Where the court is satisfied there has been or will be a *bona fide* change in ownership of closed premises and that the new owner can ensure there will be no further contraventions of the by-law, the court may, on application therefor, discharge the closing order.

Where an appeal is taken against a closing order or against the conviction that resulted in the closing order being made, the appellant may apply for a suspension of the closing order or application may be made for a discharge of the closing order, but the fact such an appeal has been commenced does not of itself stay the closing order.



carrying on or engaging in a trade, calling, business or occupation without a licence so to do, and the court decides that the owner or other person occupying the premises or part thereof in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

(3) Upon the application by originating notice of motion of any person who has an interest in the premises ordered closed under subsection 1 or 2 and upon, ^{Suspension of closing order}

- (a) being satisfied that the use to which the premises will be put will not be in contravention of any by-law passed under section 368a or 368b; and
- (b) the posting by the applicant of a cash bond in the sum of \$10,000 or such greater sum as the court determines, for such term as the court determines, for the purpose of assuring that the premises will not be used in contravention of any such by-law,

the court may make an order suspending any order made under subsection 1 or 2 for such period and upon such conditions as are specified by the court.

(4) Where, upon application brought by originating notice of motion, the court is satisfied that, ^{Discharge of closing order}

- (a) there has been or will be a *bona fide* change in effective ownership of the premises subsequent to the commission of an offence described in subsection 1 or 2; and
- (b) the new owner satisfies the court that he can ensure that there will be no contravention of any by-law passed under section 368a or 368b,

the court may discharge an order made under subsection 1 or 2.

(5) Where an order is made under subsection 1 or 2, the police force responsible for policing in the municipality or regional or metropolitan municipality, shall bar entry to all entrances to the premises or part or parts thereof named in the order until the order has been suspended or discharged pursuant to this section. ^{Barring of entry}

Forfeiture
of bond

(6) Where an order made under subsection 1 or 2 is suspended under subsection 3 and a person is thereafter convicted of an offence for contravention of a by-law passed under section 368a or 368b in respect of the premises or part thereof referred to in the order, a judge of the county or district court may, upon summary application, order the forfeiture of the bond and the payment to the Crown of the proceeds and may order that the suspension of the order be lifted and that the order be reinstated.

No appeal

(7) No appeal lies from an order made under subsection 6.

Service of
notice

(8) The municipality or metropolitan or regional municipality which passed a by-law described in subsection 1 or 2, the contravention of which was the basis for an order made under the provisions of either such subsection, is a party to any proceedings instituted under subsection 3, 4 or 6 in respect of such order, and shall be served in accordance with the rules of the court with a copy of the notice initiating the proceedings.

Where
by-law
deemed
passed by
council

(9) For the purposes of subsection 8, where the by-law under which the conviction was made was passed by a board of commissioners of police or by a licensing commission for a municipality, or regional or metropolitan municipality, as the case may be, the by-law shall be deemed to have been passed by the council of the municipality or regional or metropolitan municipality, as the case may be.

Application
for sus-
pension or
discharge of
closing
order

(10) Where an appeal is taken from an order made under subsection 1 or 2 or from a conviction in respect of which the order was made, the appellant may apply under subsection 3 for an order suspending the order made under subsection 1 or 2 until the disposition of the matter under appeal, or any person may apply under subsection 4 for a discharge of the order, but the fact that such an appeal is commenced does not stay the order.

Term of
closing
order

(11) An order made under subsection 1 or 2 shall take effect upon the pronouncement thereof and shall remain in effect during the term of the order, except to the extent that it is suspended pursuant to subsection 3 or until it is discharged pursuant to subsection 4.

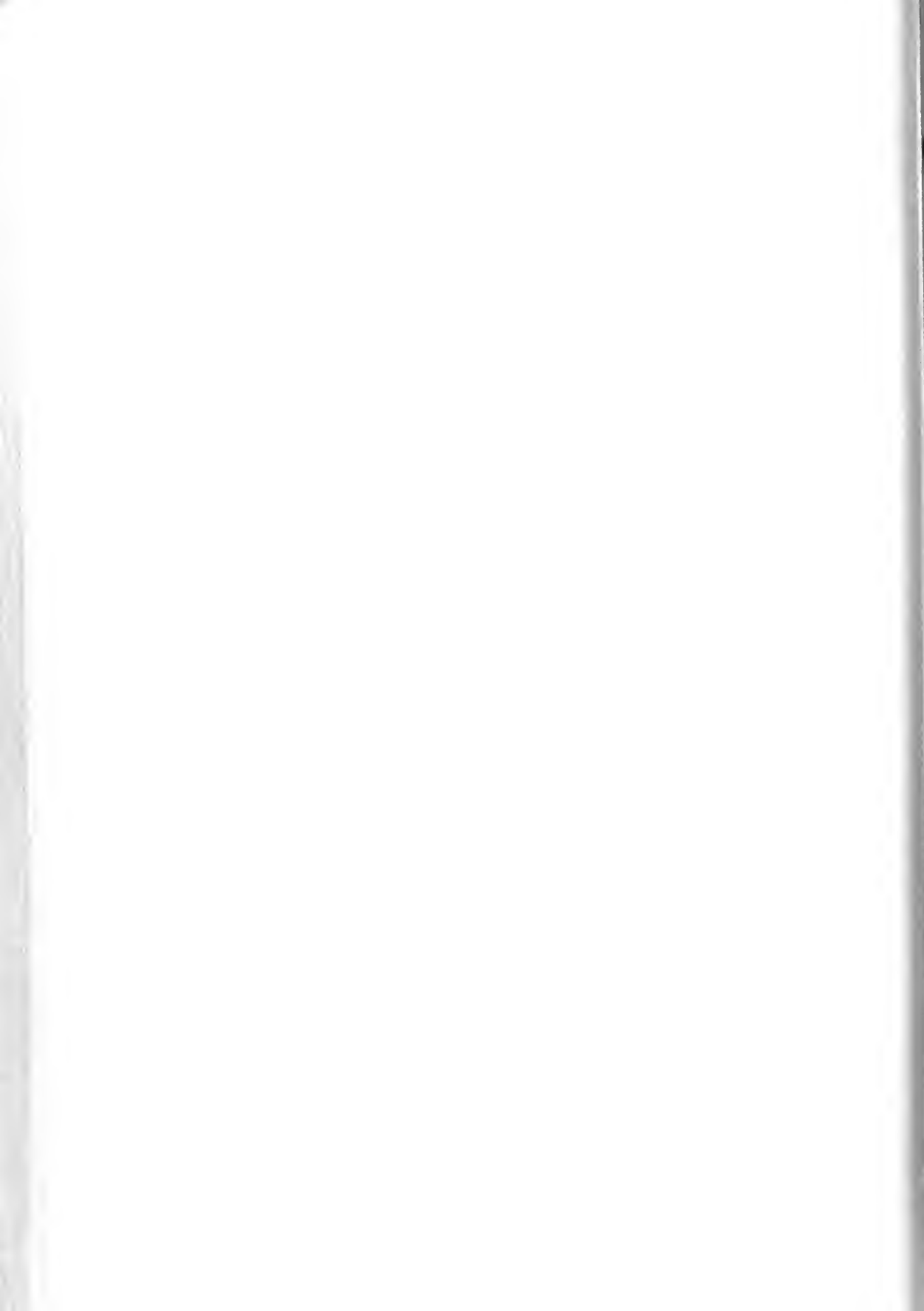
Description
of premises

(12) The description of any premises or part thereof affected by an order made under subsection 1 or 2 shall be sufficiently made in such order by reference to the municipal address of such premises.

(13) An order made under subsection 1 or 2 may be registered in the land registry office in which the title to the place described in the order is recorded. ^{Registration}

(14) In subsections 1 and 2, "court" means a "summary conviction court" or an "appeal court" as defined by *The Summary Convictions Act*, and in subsections 3 and 4, "court" means the county or district court of the county or district in which the premises are situate. ^{Interpretation} ^{R.S.O. 1970, c. 450}

4. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
5. The short title of this Act is *The Municipal Amendment Act, 1977*. ^{Short title}





BILL 127

An Act to amend
The Municipal Act

1st Reading

December 15th, 1977

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Landlord and Tenant Act**

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The Bill is complementary to the Bill to amend *The Municipal Act* that confers additional powers on municipalities related to body-rub parlours and adult entertainment parlours.

Subsection 2 of section 18 of the Act as it is proposed to be amended is set out below showing underlined the words to be added:

- (2) *In every such demise there shall be deemed to be included an agreement that if the tenant or any other person is convicted of keeping a disorderly house within the meaning of the Criminal Code (Canada) on the demised premises or any part thereof, or carries on or engages in, on the demised premises or any part thereof, any trade, calling, business or occupation for which a licence is required under a by-law passed under section 368a or 368b of The Municipal Act for licensing, regulating or governing such trade, calling, business or occupation, except under the authority of a licence issued under such by-law, it is lawful for the landlord at any time thereafter to re-enter into the demised premises or any part thereof and to have again, repossess and enjoy the same as of his former estate.*

The effect is to deem that in every lease of commercial premises there is contained an agreement that if the tenant carries on in the leased premises a business requiring a licence by a by-law passed to license and regulate body-rub parlours or adult entertainment parlours, and does not have such licence, the landlord may terminate the lease and re-enter on the premises.

BILL 128

1977

**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. Subsection 2 of section 18 of *The Landlord and Tenant Act*, <sup>s. 18 (2).
amended</sup> being chapter 236 of the Revised Statutes of Ontario, 1970, is amended by inserting after "thereof" in the fourth line "or carries on or engages in, on the demised premises or any part thereof, any trade, calling, business or occupation for which a licence is required under a by-law passed under section 368a or 368b of *The Municipal Act* for licensing, regulating or governing such trade, calling, business or occupation, except under the authority of a licence issued under such by-law".
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. The short title of this Act is *The Landlord and Tenant Amend- Short title
ment Act, 1977*.

BILL 128

An Act to amend
The Landlord and Tenant Act

1st Reading

December 15th, 1977

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to prohibit Discrimination in Business
Relationships**

THE HON. W. G. DAVIS
Premier

EXPLANATORY NOTE

The purpose of the Bill is to prevent discrimination in the business community on the basis of race, creed, colour, nationality, ancestry, place of origin or geographical location.

Provision is made for orders for compliance, assurances of voluntary compliance and enforcement of orders and assurances.

The right, enforceable by action in court, is also given to compensation for loss or damage and to punitive or exemplary damages incurred as the result of a breach of the Act.

Contravention of the Act will disqualify a person from entering into a contract to provide goods or services to the Crown or an agency of the Crown.

Provision is also made for obtaining an order of the Supreme Court prohibiting the continuation or repetition of a contravention of the Act.

BILL 129

1977

An Act to prohibit Discrimination in Business Relationships

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) "designated information" means information as to the race, creed, colour, nationality, ancestry, place of origin or geographical location of a person;
- (b) "Director" means the Director under *The Ministry of Consumer and Commercial Relations Act*; R.S.O. 1970.
c. 113
- (c) "Minister" means the Minister of Consumer and Commercial Relations;
- (d) "person" includes a partnership, sole proprietorship, unincorporated association and governmental agency;
- (e) "person connected", when used in relation to another person, means an employee, agent, partner or associate of the other person and, where the other person is a corporation, includes a director, officer, shareholder or member of the corporation;
- (f) "Tribunal" means The Commercial Registration Appeal Tribunal under *The Ministry of Consumer and Commercial Relations Act*.

2. The purpose and intent of this Act is to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin or geographical location of persons employed in or engaging in business. Purpose
and intent
of Act

3. This Act does not apply to:

Where Act
does not
apply

1. The withholding of services or employment in the course of a lawful strike, lock-out or other labour dispute.
2. A discriminatory business practice engaged in in accordance with a policy of the Government of Canada or the Government of Ontario directed toward trade with a country other than Canada or persons in a country other than Canada.

Discriminatory
business
practices

4. For the purposes of this Act, the following shall be deemed to be discriminatory business practices:

1. A refusal or an agreement to refuse, by a person in Ontario, to sell goods or services to, to buy goods or services from or otherwise to engage in business with a second person,
 - (a) because of the race, creed, colour, nationality, ancestry, place of origin or geographical location of the second person or of a person connected with the second person; or
 - (b) because of any of the attributes set out in clause *a* of nationals of a country with the government of which the second person conducts, has conducted or may conduct business.
2. A refusal or an agreement to refuse, by a person in Ontario, to sell goods or services to, to buy goods or services from or otherwise to engage in business with a second person because of a business conducted between the second person and a third person, whether supplier, customer or otherwise,
 - (a) because of the race, creed, colour, nationality, ancestry, place of origin or geographical location of the third person or of a person connected with the third person; or
 - (b) because of any of the attributes set out in clause *a* of nationals of a country with the government of which the third person conducts, has conducted or may conduct business.
3. A dismissal, a refusal or failure to employ or to appoint, a suspension of employment of or a refusal or failure to promote a second person, or an agreement to take or to refuse or to fail to take any such action, by a person in Ontario,

- (a) because of the race, creed, colour, nationality, ancestry, place of origin or geographical location of the second person;
- (b) because of any of the attributes set out in clause a of a third person with whom the second person conducts, has conducted or may conduct business; or
- (c) because of any of the attributes set out in clause a of nationals of a country with the government of which the second person conducts, has conducted or may conduct business.

4. Entering in Ontario into a contract that includes a provision that one of the parties to the contract will do an act specified in paragraph 1, 2 or 3 in relation to a person who is not a party to the contract as a condition to entry into the contract.

5.—(1) No person in Ontario shall engage in a discriminatory business practice. Discriminatory business practices prohibited

(2) No person in Ontario shall seek or agree to seek any designated information from a second person in respect of, Seeking designated information prohibited

(a) the second person or a person connected with the second person; or

(b) a third person with whom the second person conducts, has conducted or may conduct business or a person connected with the third person,

as a condition of engaging in business with the second person.

(3) No person in Ontario shall provide or agree to provide to a second person or to a government any designated information in respect of, Providing designated information prohibited

(a) the person or a person connected with the person; or

(b) any third person,

as a condition of engaging in business with the second person or a government.

(4) No person in Ontario shall seek or provide a statement, whether written or oral, to the effect that any goods Negative statements of origin prohibited

or services supplied or rendered by any person or government do not originate in whole or in part in a specific location, territory or country.

Seeking or
providing
informa-
tion for
discrimin-
atory
business
practice

(5) No person in Ontario shall seek or provide information, whether written or oral, for the purpose of engaging in a discriminatory business practice, as to whether or not the person or any other person is a member of or has made contributions to or is otherwise associated with or involved in the activities of a charitable, fraternal or service organization.

Idem

(6) Where information specified in subsection 5 is provided by a person to another person, the information shall be deemed to be provided for the purpose of engaging in a discriminatory business practice unless the person providing the information establishes that it is provided for another purpose.

One act
deemed
practice

(7) A person who performs one act referred to in section 4 shall be deemed to be engaging in a discriminatory business practice.

Report to
Director

(8) Every person who receives a request, whether oral or in writing, to engage in a discriminatory business practice or to do an act that would be a contravention of subsection 2, 3, 4 or 5 of section 5 shall report the request and the response to the request forthwith to the Director and shall provide the Director with such other information in respect of the request as the Director may require.

Order to
cease dis-
criminatory
business
practice

6.—(1) Where the Director has reason to believe that a person is engaging in a discriminatory business practice, the Director may order the person to comply with section 5 in respect of the discriminatory business practice specified in the order.

Application
of
1974, c. 131

(2) Where the Director proposes to make an order under subsection 1, subsections 2 to 7 of section 6 of *The Business Practices Act, 1974* apply with necessary modifications.

Order for
immediate
compliance

(3) Notwithstanding subsection 2, the Director may make an order under subsection 1 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public or of any person and in such case subsections 2 to 5 of section 7 of *The Business Practices Act, 1974* apply with necessary modifications and, subject to subsections 3 and 4 of section 7 of that Act, the order takes effect immediately.

(4) Notwithstanding that, under section 9b of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under subsection 3 or 4, the order takes effect immediately, but the Tribunal may grant a stay until the disposition of the appeal. Stay R.S.O. 1970. c. 113

7.—(1) Any person against whom the Director proposes to make an order to comply with section 5 may enter into a written assurance of voluntary compliance in a form that the Director may prescribe undertaking not to engage in the specified discriminatory business practice after the date thereof. Assurance of voluntary compliance

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director. Assurance deemed order

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director. Undertakings

(4) The Director,

Duties of Director

- (a) shall receive and act on or mediate complaints respecting discriminatory business practices; and
- (b) maintain available for public inspection a record of,
 - (i) assurances of voluntary compliance entered into under this Act, and
 - (ii) orders to cease engaging in discriminatory business practices issued under this Act.

8. Where, upon a statement made under oath, the Director has reason to believe that a person is contravening or is about to contravene any provision of this Act or an order or assurance of voluntary compliance made or given pursuant to this Act, the Director may by order appoint one or more persons to make an investigation as to whether or not such a contravention has occurred or is about to occur and the person or persons appointed shall report the result of the investigation to the Director and subsections 2 to 8 of section 11 of *The Business Practices Act, 1974* apply with necessary modifications. Investigation by Director 1974. c. 131

Right to
compensa-
tion

9.—(1) A person that incurs loss or damage as a result of an act that is a contravention of this Act has the right to compensation for the loss or damage and to punitive or exemplary damages from the person who committed the contravention.

Enforce-
ment of
right

(2) The right to compensation mentioned in subsection 1 may be enforced by action in a court of competent jurisdiction.

Disquali-
fication of
person
supporting
boycott

10.—(1) Every person against whom an order is made under section 6 or 11 or who is convicted of an offence under clause *d* or *e* of subsection 1 of section 16 is ineligible to enter into a contract to provide goods or service to the Crown or any agency of the Crown for a period of five years from the date of the making of the order or of the conviction, as the case may be.

Contractual
provision

(2) A provision in a contract that provides for a matter that is a discriminatory business practice is a nullity and is severable from the contract.

Proceed-
ings to
prohibit
continu-
ation or
repetition
of contra-
vention

11.—(1) Where any provision of this Act is contravened, notwithstanding any other remedy or any penalty, the Minister or any person who complains of injury due to the contravention may apply to a judge of the Supreme Court by originating motion for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the judge, will result or is likely to result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Variation
or rescission
of order

(2) A person against whom an order has been made under subsection 1 may apply to a judge of the Supreme Court for an order varying or rescinding the order made under subsection 1.

Service of
notice

12. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

13. Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 8 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 or any proceeding under or pursuant to this Act;
- (b) to his counsel or to the court in any proceeding under or pursuant to this Act;
- (c) to inform the person involved of a discriminatory business practice and of any information relevant to the person's rights under this Act; or
- (d) with the consent of the person to whom the information relates.

14. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Certificate
of Director
as evidence

15. The Lieutenant Governor in Council may make regulations exempting any person or class of persons from any provision of this Act.

Regulations

16.—(1) Every person who, knowingly,

Offences

- (a) furnishes false information in an investigation under this Act;
- (b) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act;
- (c) obstructs a person making an investigation under section 8;
- (d) contravenes any provision of subsection 2, 3, 4, 5 or 8 of section 5; or
- (e) contravenes any provision of section 13,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Corporation (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Directors and officers (3) Where a corporation has been convicted of an offence under subsection 1 or 2,

(a) each director of the corporation; and

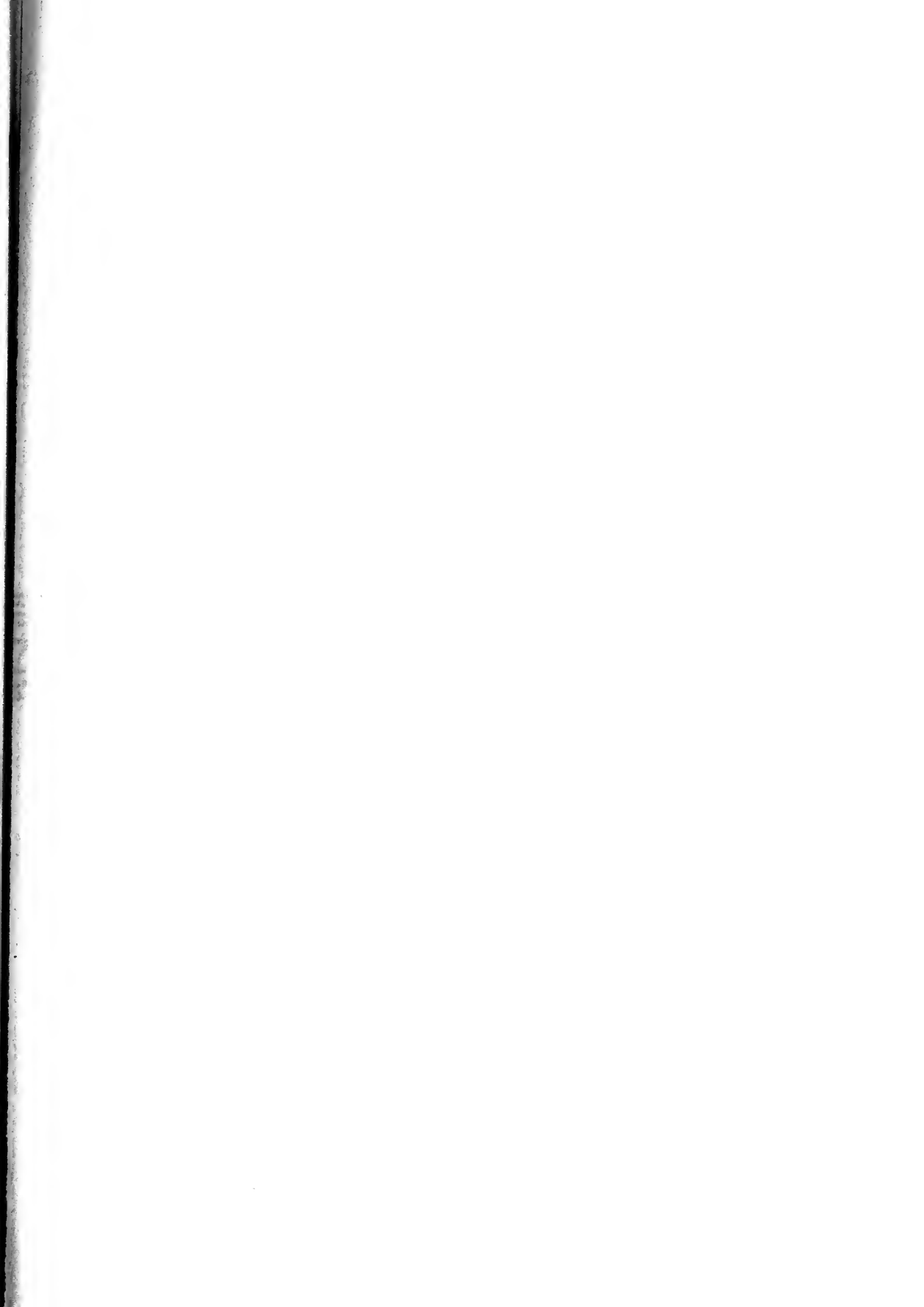
(b) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

Limitation period (4) No proceeding under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Commencement **17.** This Act comes into force on the day it receives Royal Assent.

Short title **18.** The short title of this Act is *The Discriminatory Business Practices Act, 1977*.



BILL 129

An Act to prohibit
Discrimination in Business
Relationships

1st Reading

December 16th, 1977

2nd Reading

3rd Reading

THE HON. W. G. DAVIS
Premier

(Government Bill)

BILL 130

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act for granting to Her Majesty certain sums of
money for the Public Service for the fiscal year ending
the 31st day of March, 1978**

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



BILL 130

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MOST GRACIOUS SOVEREIGN:

WHEREAS it appears by messages from the Honourable Preamble
Pauline M. McGibbon, Lieutenant Governor of the Province of Ontario, and from the estimates and supplementary estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1978; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) There may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$12,349,226,300 granted for fiscal year 1977-78 \$12,349,226,300 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1977, to the 31st day of March, 1978, as set forth in the Schedule to this Act, and, subject to subsection 2, such sum shall be paid and applied only in accordance with the votes and items of the estimates and supplementary estimates upon which the Schedule is based.

(2) Where, in the fiscal year ending the 31st day of Exception March, 1978, powers and duties are assigned and transferred from one minister of the Crown to another minister of the Crown, the appropriate sums in the votes and items of the estimates and supplementary estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the ministry administered

by the minister to whom the powers and duties are so assigned and transferred.

Accounting
for
expenditure

2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

Commence-
ment

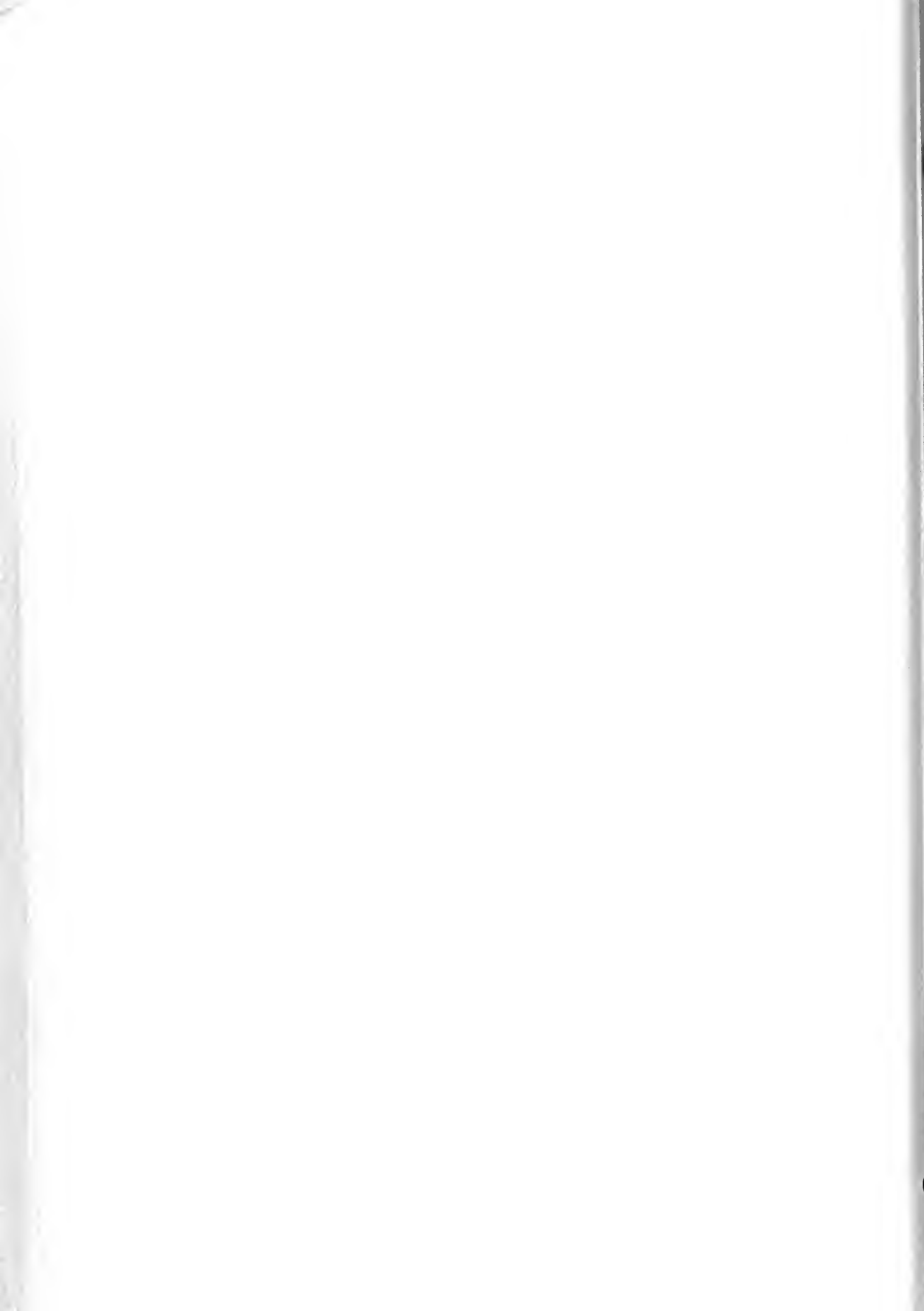
3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Supply Act, 1977*.

SCHEDULE

	ESTIMATES	SUPPLE- MENTARY ESTIMATES	TOTAL
	\$	\$	\$
Office of the Lieutenant Governor.	100,000		100,000
Office of The Assembly	14,621,500	3,347,600	17,969,100
Office of the Premier	1,478,000		1,478,000
Cabinet Office	1,077,000		1,077,000
Management Board	87,095,000		87,095,000
Office of the Provincial Auditor . . .	1,956,000		1,956,000
Office of the Ombudsman	3,560,000	633,500	4,193,500
Government Services	287,053,500		287,053,500
Northern Affairs	120,628,000	5,590,000	126,218,000
Revenue	201,574,000		201,574,000
Treasury, Economics and Intergovernmental Affairs	420,364,000	500,000	420,864,000
Justice Policy	463,000		463,000
Attorney General	131,025,700		131,025,700
Consumer and Commercial Relations	63,660,000		63,660,000
Correctional Services	153,871,000		153,871,000
Solicitor General	146,968,000		146,968,000
Resources Development Policy	3,126,000		3,126,000
Agriculture and Food	165,390,000		165,390,000
Energy	14,620,000		14,620,000
Environment	267,428,000	1,670,000	269,098,000
Housing	382,399,000		382,399,000
Industry and Tourism	58,440,000		58,440,000
Labour	31,768,000		31,768,000
Natural Resources	224,646,000	4,000,000	228,646,000
Transportation and Communications	1,063,144,000	9,200,000	1,072,344,000
Social Development Policy	2,214,000		2,214,000
Colleges and Universities	1,272,782,000		1,272,782,000
Community and Social Services . . .	1,077,198,000	3,665,500	1,080,863,500
Culture and Recreation	165,988,000	29,000,000	194,988,000
Education	1,991,007,000	102,825,000	2,093,832,000
Health	3,833,150,000		3,833,150,000
TOTAL	12,188,794,700	160,431,600	12,349,226,300



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31st day of March, 1978

1st Reading

December 16th, 1977

2nd Reading

December 16th, 1977

3rd Reading

December 16th, 1977

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